



Queensland

Petroleum and Other Legislation Amendment Act 2004

Act No. 26 of 2004



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Queensland

Petroleum and Other Legislation Amendment Act 2004

Act No. 26 of 2004

An Act to amend the *Petroleum Act 1923* and the *Petroleum and Gas (Production and Safety) Act 2004*, and for other purposes

[Assented to 12 October 2004]

The Parliament of Queensland enacts—**Part 1 Preliminary****1 Short title**

This Act may be cited as the *Petroleum and Other Legislation Amendment Act 2004*.

2 Commencement

- (1) Part 3 and the schedule commence immediately after the date of assent for the *Petroleum and Gas (Production and Safety) Act 2004*.¹
- (2) The remaining provisions of this Act commence immediately after the commencement of the *Petroleum and Gas (Production and Safety) Act 2004*, section 32.

Part 2 Amendment of Petroleum Act 1923**3 Act amended in pt 2**

This part amends the *Petroleum Act 1923*.

4 Amendment of s 2 (Definitions)

- (1) Section 2, definitions, *corporation sole, entry permission, executive officer, licence, licensee, mark the land, on, permit, permittee, Petroleum Advisory Board, pipeline licence, private*

¹ Part 3 (Amendment of Petroleum and Gas (Production and Safety) Act 2004) and the schedule (Minor amendments)

land, refinery permission, representative and unitisation arrangement—

omit.

(2) Section 2—

insert—

‘1923 Act petroleum tenure means an authority to prospect or lease under this Act.

2004 Act means the *Petroleum and Gas (Production and Safety) Act 2004*.

2004 Act ATP means an authority to prospect under the 2004 Act.

2004 Act lease means a petroleum lease under the 2004 Act.

2004 Act petroleum tenure means a 2004 Act ATP or 2004 Act lease.

2004 Act start day means the day the 2004 Act, section 32, commences.

appeal period, for a decision, means the period provided for under section 105 for starting an appeal against the decision.

area—

1. The *area* of a 1923 Act petroleum tenure is any land to which the tenure is subject, as recorded in the petroleum register.
2. However, the *area* of a 1923 Act petroleum tenure does not include any excluded land for the tenure.
3. The *area* of a 2004 Act petroleum tenure is the land to which the tenure is subject, as recorded in the petroleum register under that Act.
4. The *area* of a mining tenement is the land to which the tenement is subject.

authorised activity—

1. An *authorised activity*, for a 1923 Act petroleum tenure, is an activity that its holder is, under this Act or the tenure, entitled to carry out in relation to the tenure.

2. An *authorised activity*, for a coal or oil shale mining tenement, is an activity that its holder is, under the Mineral Resources Act or the tenement, entitled to carry out in relation to the tenement.

block means the land, identified in the way approved by the chief executive, resulting from a notional division of the earth's surface—

- (a) by 2 meridians of longitude 5 minutes apart, each meridian being a multiple of 5 minutes of longitude from the meridian of Greenwich; and
- (b) by 2 parallels of latitude 5 minutes apart, each parallel being a multiple of 5 minutes of latitude from the equator.

capability criteria, for a 1923 Act petroleum tenure, means the extent to which the Minister is of the opinion that its holder is capable of carrying out authorised activities for the tenure, having regard to the holder's—

- (a) financial and technical resources; and
- (b) ability to manage petroleum exploration and production.

coal exploration tenement see section 76M(1).

coal mining lease see section 76M(2).

coal or oil shale mining lease means a coal mining lease or oil shale mining lease under the Mineral Resources Act.

coal or oil shale mining tenement means a coal mining or oil shale mining tenement under the Mineral Resources Act.

coal seam gas see section 76K(1).

commercial viability report see section 75F(1).

Commonwealth Native Title Act means the *Native Title Act 1993* (Cwlth).

compensation agreement—

- (a) for part 6I—see section 79C(1).
- (b) for part 6K—see section 79Q(1).

compensation liability—

- (a) for part 6I—see section 79B(2); or
- (b) for part 6K—see section 79P(3).

conditions of a 1923 Act petroleum tenure means—

- (a) the conditions stated in it from time to time; and
- (b) the tenure holder's obligations under this Act; and
- (c) any condition of the tenure under this Act; and
- (d) a condition that a tenure holder must ensure each person acting for the holder who carries out an authorised activity for the tenure complies with its conditions to the extent they apply to the carrying out of the activity.²

coordinated development agreement see section 177(4).

coordination arrangement means a coordination arrangement under the 2004 Act.

CSG assessment criteria see section 76U(1)(b).

CSG statement see section 76U(1)(a).

current term, of an authority to prospect, see section 171.

dangerous situation means a situation relating to petroleum, or fuel gas as defined under the 2004 Act, in which an inspector under the 2004 Act reasonably believes an imminent risk of material harm to persons or property is likely if action is not taken to avoid, eliminate or minimise the risk.

development plan—

1. The *development plan* for a lease is—
 - (a) for a lease in force before the 2004 Act start day—its current program for development and production under former section 50 that, under section 156, is taken to be its development plan; or
 - (b) for a lease granted after the 2004 Act start day—the proposed program for development and

² For who may carry out an authorised activity for the holder, see section 75E (Who may carry out authorised activity for holder).

production of petroleum for the application for the lease, lodged under section 40(2)(b).

2. However, if, under part 6, division 2, a later development plan is approved for the lease, the later development plan is the development plan for the lease.

drill, other than for sections 48, 83, 84 and 89—

- (a) includes to bore; and
- (b) for, a water supply bore, includes excavating the bore.

eligible claimant, for compensation, see section 79P(2).

enter a place includes the exercise of the rights in relation to the place under section 74X.

entry notice—

- (a) for part 6H—see section 78M(1)(a); and
- (b) for part 6I—see section 79I.

entry period—

- (a) for part 6H—see section 78O(1)(b); and
- (b) for part 6I—see section 79K.

Environmental Protection Act means the *Environmental Protection Act 1994*.

excluded land for—

- (a) an authority to prospect, means excluded land for the authority, decided under section 18A; or
- (b) a lease, means excluded land for the lease, decided under section 40C.³

explore, for petroleum, means to carry out an activity for the purpose of finding petroleum in a natural underground reservoir.

Examples—

- conducting a geochemical, geological or geophysical survey

3 See also section 154 (Area of land in area of coal mining lease or oil shale mining lease becomes excluded land).

- drilling a well for petroleum or the investigation of the geological structure or stratigraphy in the well
- carrying out testing in relation to a well
- taking a sample for chemical or other analysis

fee includes tax.

first tenure, for part 6J, see section 79M(1).

geothermal exploration permit means a geothermal exploration permit under the *Geothermal Exploration Act 2004*.

holder, of a 1923 Act petroleum tenure, means each person recorded in the petroleum register as its holder.

incidental coal seam gas see section 76K(2).

independent viability assessment see section 75H(2).

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

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

later development plan requirements see section 53.

later work program requirements see section 25.

licensed water bore driller means an individual who holds a water bore driller's licence under the Water Act.

mandatory condition for—

- (a) an authority to prospect, means a condition of the authority imposed under part 6A, division 2 or 4 as a mandatory condition or prescribed under section 90; or
- (b) a lease, means—

- (i) a condition of the lease imposed under part 6A, division 3 or 4 as a mandatory condition or prescribed under section 90 as a mandatory condition; or
- (ii) the reservations, conditions and covenants of the lease imposed under section 47.

Mineral Resources Act means the *Mineral Resources Act 1989*.

mining interest means—

- (a) a mining tenement under the Mineral Resources Act; or
- (b) a tenure held from the State under another Act about mining, under which the holder is authorised to carry out mining or a related mineral or energy resources activity under the Mineral Resources Act.

mining lease see the Mineral Resources Act, schedule.

mining tenement means a mining tenement under the Mineral Resources Act.

natural underground reservoir—

1. A *natural underground reservoir* is a part of a geological formation or structure—
 - (a) in which petroleum has accumulated; or
 - (b) that is suitable to store petroleum.
2. A geological formation or structure mentioned in item 1 does not cease to be a *natural underground reservoir* merely because it has been modified for petroleum production or storage.
3. In items 1 and 2, a geological formation includes a coal seam.

noncompliance action means action of a type mentioned in section 80T.

notice means a written notice.

notifiable road use, for a 1923 Act petroleum tenure, see section 78Y(1).

occupier, of a place, means a person—

- (a) who, under an Act, has a right to occupy the place, other than under a mining interest; or
- (b) to whom an occupier under paragraph (a) has given the right to occupy the place.

oil shale see section 76L.

oil shale exploration tenement see section 76N(1).

oil shale mining lease see section 76N(2).

on, land or another place, includes across, attached to, in, under or over the land or place.

operate, a pipeline—

1. *Operate*, a pipeline, includes use, inspect, test, maintain, repair, alter, add to and replace the pipeline.
2. For item 1, using a pipeline includes using it to transport petroleum.

operating plant see the 2004 Act, section 670.⁴

original notional sub-blocks of an authority to prospect—

1. The *original notional sub-blocks*, of an authority to prospect, are the sub-blocks stated in the instrument for the authority at the following time—
 - (a) if the authority was granted before the 2004 Act start day—immediately after its first renewal after that day;
 - (b) if the authority was granted after the 2004 Act start day—when it was originally granted.
2. However, the *original notional sub-blocks* do not include any sub-block stated in the instrument that is completely within the area of a lease under this Act or a 2004 Act lease.

⁴ 2004 Act, section 670 (What is an operating plant)

3. For item 1, if the instrument—
 - (a) states that the authority's area includes land within a block; but
 - (b) does not include or exclude any particular sub-block within that block;

the reference to the block is a reference to all sub-blocks within the block, other than any sub-block that is completely within the area of another 1923 Act petroleum tenure or a 2004 Act petroleum tenure.

owner—

1. An *owner*, of land, means each person as follows in relation to the land—
 - (a) for freehold land—a registered owner;
 - (b) for land for which a person is, or will on performing conditions, be entitled to a deed of grant in fee simple—the person;
 - (c) if an estate in fee simple of land is being purchased from the State—the purchaser;
 - (d) for a public road—the public road authority for the road;
 - (e) for land that is busway land, light rail land, rail corridor land or a cane railway or other railway—the public land authority for the land;
 - (f) for required land under the *Transport Infrastructure Act 1994*, section 436—the chief executive of the department in which that Act is administered;
 - (g) for a forest entitlement area, State forest or timber reserve under the *Forestry Act 1959*—the chief executive of the department in which that Act is administered;
 - (h) for a conservation park or resources reserve under the *Nature Conservation Act 1992* (the *NCA*) for which there are trustees—

- (A) if, under the NCA, the park or reserve has trustees whose powers are not restricted—the trustees; or
 - (B) otherwise—the chief executive of the department in which the NCA is administered;
- (i) for DOGIT land under the *Aboriginal Land Act 1991* or the *Torres Strait Islander Land Act 1991*—a trustee for the land;
 - (j) for land held under a lease under the *Local Government (Aboriginal Lands) Act 1978*, section 3⁵—a relevant local government;
 - (k) for Torres Strait Islander land under the *Torres Strait Islander Land Act 1991* that is taken to be a reserve because of section 84(2) or 84(4)(b)⁶ of that Act—each grantee of the land;
 - (l) for land under the *Land Act 1994* for which there are trustees—a trustee;
 - (m) for transport land under the *Transport Planning and Coordination Act 1994*—the chief executive of the department in which that Act is administered;
 - (n) for land vested in the Minister administering the *Education (General Provisions) Act 1989*—that Minister;
 - (o) for land vested in the Queensland Housing Commission or another Minister or a chief executive responsible for constructing public buildings—the Minister administering the relevant Act;
 - (p) for land held from the State under another Act under an interest less than fee simple (other than

5 *Local Government (Aboriginal Lands) Act 1978*, section 3 (Grant of leases to councils)

6 *Torres Strait Islander Land Act 1991*, section 84 (Application of Mineral Resources Act)

- occupation rights under a permit under the *Land Act 1994*)—the person who holds the interest;
- (q) for any of the following land under the NCA, the chief executive of the department in which the NCA is administered—
- (i) a national park;
 - (ii) a national park (Aboriginal land);
 - (iii) a national park (scientific);
 - (iv) a national park (Torres Strait Islander land);
 - (v) a national park (recovery);
 - (vi) a forest reserve.
2. Also, a mortgagee of land is the *owner* of land if—
- (a) the mortgagee is acting as mortgagee in possession of the land and has the exclusive management and control of the land; or
 - (b) the mortgagee, or a person appointed by the mortgagee, is in possession of the land and has the exclusive management and control of the land.
3. If land has more than 1 owner, a reference in this Act to its owner of the land is a reference to each of its owners.

permitted dealing see section 80E.

petroleum register means the register the chief executive keeps under section 80C.

petroleum royalty means petroleum royalty imposed under the 2004 Act, section 590.

place includes land.

plan period, for a development plan, means the period for which the plan applies.

private land—

1. *Private land* is—
 - (a) freehold land; or

- (b) an interest in land less than fee simple held from the State under another Act.
2. However, land is not *private land* to the extent of any of the following interests in relation to the land—
- (a) a mining interest;
 - (b) an occupation right under a permit under the *Land Act 1994*;
 - (c) land owned by a public land authority.

produced, for petroleum, means to recover or release it to ground level from a natural underground reservoir in which it has been contained or from which it is extracted.

program period, for a work program, means the period for which the program applies.

provisions of a 1923 Act petroleum tenure—

1. A reference in this Act to a 1923 Act petroleum tenure includes a reference to its provisions.
2. A reference in this Act to the provisions of a 1923 Act petroleum tenure is a reference to its mandatory or other conditions and any thing written in it.

public land means land other than—

- (a) private land; or
- (b) land to the extent of any of the following interests in relation to land—
 - (i) a mining interest;
 - (ii) an occupation right under a permit under the *Land Act 1994*.

public land authority means—

- (a) for a public road—the road authority for the road; or
- (b) if a local government or other authority is, under an Act, charged with the control of the land—the local government or other authority; or

- (c) otherwise—the chief executive of the department administering the Act under which entry to the land is administered.

public road means an area of land that—

- (a) is open to, or used by, the public; and
- (b) is developed for, or has as one of its main uses—
- (i) the driving or riding of motor vehicles; or
 - (ii) pedestrian traffic; and
- (c) is controlled by a public road authority.

Examples of an area of land that may be included in a road—

- a bridge, culvert, ford, tunnel or viaduct
- a pedestrian or bicycle path

public road authority, for a public road, means—

- (a) for a State-controlled road—the chief executive of the department in which the *Transport Infrastructure Act 1994* is administered; or
- (b) for another public road—the local government having the control of the road.

recipient, for part 6F, see section 78A(1).

relevant environmental authority, for a 1923 Act petroleum tenure, means an environmental authority under the Environmental Protection Act granted for all of the authorised activities for the tenure that are environmentally relevant activities under the Environmental Protection Act.

relinquishment condition—

1. Generally, the *relinquishment condition*, for an authority to prospect is the relinquishment condition under section 74A(1).
2. However if part 10, division 2 applies and the authority is an authority to which section 173 or 174 applies, the *relinquishment condition* for the authority is the *relinquishment condition* under that section.

3. The *relinquishment condition* for a lease is the relinquishment condition under section 77M(4).

remedial powers see section 80L(2).

report means a written report.

required information, for part 6E, division 3, see section 76C.

road use direction see section 79(1).

safety management plan see the 2004 Act, schedule 2.

second tenure, for part 6J, see section 79M(1).

security includes bond, deposit of an amount as security, guarantee, indemnity or other surety, insurance, mortgage and undertaking.

services of the State has the same meaning that the term has in relation to the State of Queensland under the *Copyright Act 1968* (Cwlth), section 183(1).⁷

share, of a 1923 Act petroleum tenure, means any interest held by a person as a holder of the tenure in all of the area of the tenure.

specific purpose mining lease means a mining lease that, under the Mineral Resources Act, section 234(1)(b), is granted for a purpose other than mining.

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

structure means anything built or constructed, whether or not attached to land.

sub-block means the land, identified in the way approved by the chief executive, resulting from a notional division of a block into 25 areas, each sub-block being bounded by 2 meridians of longitude 1 minute apart and 2 parallels of latitude 1 minute apart.

submission means a written submission.

⁷ *Copyright Act 1968* (Cwlth), section 183 (Use of copyright material for the services of the Crown)

the public interest means a consideration of each of the following—

- (a) government policy;
- (b) value of commodity production (including time value);
- (c) employment creation;
- (d) total return to the State and to Australia (including royalty and rent), assessed on both a direct and indirect basis, so that, for example, downstream value adding is included;
- (e) social impacts;
- (f) the overall economic benefit for the State, or a part of the State, in the short and long term;
- (g) impacts on aesthetic, amenity, cultural or environmental values.

transfer, of a well, water observation bore or water supply bore, see section 75N(2).

transitional notional sub-blocks, of an authority to prospect, see section 172.

tribunal means the Land and Resources Tribunal.

usual relinquishment see section 74C(3).

waiver of entry notice—

- (a) for part 6H—see section 78M(3); and
- (b) for part 6I—see section 79J.

Water Act means the *Water Act 2000*.

Water Act regulator means the chief executive of the department that administers the Water Act.

water observation bore—

1. A water observation bore is a bore to monitor water levels.
2. A reference to a water observation bore includes its casing, wellhead and any other works constructed in connection with the bore.

water supply bore means—

- (a) a bore, and its casing, wellhead and any other works constructed in connection with it, that, under section 86, is or may be used to obtain water mentioned in that section; or
- (b) a well that, under part 6D, division 2, has been converted to a water supply bore.

well—

- 1. A *well* is a hole in the ground made or being made by drilling, boring or any other means—
 - (a) to explore for or produce petroleum; or
 - (b) to inject petroleum into a natural underground reservoir; or
 - (c) through which petroleum may be produced.
- 2. A *well* includes the casing for the well and any wellhead for the well attached to it.
- 3. To remove any doubt, it is declared that a *well* does not include any of the following—
 - (a) a water observation bore;
 - (b) a water supply bore;
 - (c) a seismic shot hole or shallow hole drilled to work out a geological structure.

wellhead means the casing head, and includes any casing hanger or spool, or tubing hanger, and any flow control equipment up to and including the wing valves.

work program, for an authority to prospect means—

- (a) its work program as approved under section 151; or
- (b) its conditions about expenditure or work that, under section 155, are taken to be its work program; or

- (c) its later work program approved under part 4, division 2, as amended from time to time under that division.⁸.
- (3) Section 2, definition *drilling*, after ‘drilling’—
insert—
‘, for sections 48, 83, 84 and 89.’
- (4) Section 2, definition *occupier*—
relocate to section 51(3), as inserted under this Act.
- (5) Section 2, definition *petroleum*—
insert—
(g) alginite;
(h) coal;
(i) lignite;
(j) peat;
(k) shale or other rock from which a gasification or retorting product as defined in the 2004 Act may be extracted or produced;
(l) torbanite.’.
- (6) Section 2, definition *sublease*, ‘unitisation arrangement’—
omit, insert—
‘coordination arrangement’.

5 Replacement of s 3 (Words and expressions used in Mineral Resources Act)

Section 3—
omit, insert—

⁸ See also sections 25D (Authority taken to have work program until decision on whether to approve proposed work program), 25N (Continuing effect of authority for renewal application) and 155 (Conditions of an authority to prospect about expenditure or work becomes its work program).

‘3 Relationship with Mineral Resources Act

- ‘(1) This section does not apply to a coal or oil shale mining tenement.⁹
- ‘(2) Subject to subsections (3) to (6), the Mineral Resources Act does not limit or otherwise affect—
- (a) the power under this Act to grant or renew a lease or renew an authority to prospect over land (the *overlapping land*) in the area of a mining tenement under the Mineral Resources Act; or
 - (b) a lease or authority to prospect already granted under this Act over land (also the *overlapping land*) in the area of an existing mining tenement.
- ‘(3) If the mining tenement is a mining lease (other than a transportation mining lease), an authorised activity for the authority to prospect or lease under this Act may be carried out on the overlapping land only if—
- (a) the mining lease holder has agreed in writing to the carrying out of the activity; and
 - (b) a copy of the agreement has been lodged at the following office (the *relevant office*)—
 - (i) the office of the department for lodging the agreement, as stated in a gazette notice by the chief executive;
 - (ii) if no office is gazetted under subparagraph (i)—the office of the chief executive; and
 - (c) the agreement is still in force.
- ‘(4) If the mining tenement is an exploration permit, mineral development licence or transportation mining lease, an authorised activity for the authority to prospect may be carried out on the overlapping land only if—

⁹ See also the Mineral Resources Act, section 3A (Relationship with petroleum legislation).

For the relationship between this Act and the Mineral Resources Act in relation to coal or oil shale mining tenements, see part 6F (Provisions for coal seam gas).

- (a) the mining tenement holder has agreed in writing to the carrying out of the activity, a copy of the agreement has been lodged at the relevant office and the agreement is still in force; or
 - (b) carrying out the activity does not adversely affect the carrying out of an authorised activity for the tenement that has already started.
- ‘(5) If the mining tenement is an exploration permit or a mineral development licence and the overlapping land is in the area of the lease under this Act, an authorised activity for the mining tenement may be carried out on the overlapping land only if—
- (a) the lessee has agreed in writing to the carrying out of the activity; and
 - (b) a copy of the agreement has been lodged at the relevant office; and
 - (c) the agreement is still in force.
- ‘(6) In this section—
- transportation mining lease* means a mining lease granted under the Mineral Resources Act section 316.¹⁰

‘4 **Relationship with Nature Conservation Act 1992**

‘This Act is subject to the *Nature Conservation Act 1992*, sections 27 and 79QA¹¹.’.

6 **Amendment of s 7 (Application of Act)**

Section 7(1)—

omit.

7 **Insertion of new s 7B**

Part 1, after section 7A—

¹⁰ Mineral Resources Act section 316 (Mining lease for transportation through land)

¹¹ *Nature Conservation Act 1992*, sections 27 (Prohibition on mining) and 79QA (Prohibition on mining in forest reserves)

insert—

‘7B Notes in text

‘A note in the text of this Act is part of this Act.’.

8 Omission of pt 2 (Petroleum Advisory Board)

Part 2—

omit.

9 Amendment of s 10 (Reservations in grants)

Section 10, ‘permits and’—

omit.

10 Omission of ss 11–16

Sections 11 to 16—

omit.

11 Replacement of pt 4, heading (Prospecting permits and leases)

Part 4, heading—

omit, insert—

‘Part 4 Authorities to prospect

‘Division 1 General provisions’.

12 Omission of s 17 (Permits and leases)

Section 17—

omit.

13 Amendment of s 18 (Authority to prospect)

(1) Section 18(1)—

omit.

- (2) Section 18(2), ‘such authority’—

omit, insert—

‘an authority to prospect’.

- (3) Section 18(5), (6) and (8)—

omit.

14 Insertion of new s 18A

After section 18—

insert—

‘18A Minister’s power to decide excluded land for authority to prospect

- ‘(1) The Minister may decide excluded land for an authority to prospect.
- ‘(2) However, the power under subsection (1) may be exercised only when the Minister is deciding whether to—
- (a) grant or renew the authority; or
 - (b) approve any later work program for the authority.
- ‘(3) Also, excluded land—
- (a) must be within the sub-blocks stated in the instrument for the authority; and
 - (b) can not be—
 - (i) a whole block; or
 - (ii) land in the area of another 1923 Act petroleum tenure.
- ‘(4) For subsection (3)(a), if the instrument—
- (a) states that the authority’s area includes land within a block; but
 - (b) does not include or exclude any particular sub-block within that block;

the reference to the block is a reference to all sub-blocks within the block, other than any sub-block that is completely within the area of another 1923 Act petroleum tenure or a 2004 Act petroleum tenure.

- ‘(5) Excluded land may be described in a way the Minister considers appropriate, including, for example, by area or by reference to a stated type of land.
- ‘(6) Land ceases to be excluded land for an authority to prospect if—
 - (a) the block in which the land is located is relinquished or, for any other reason, ceases to be in the area of the authority; or
 - (b) a lease under this Act or a 2004 Act lease is granted over any of the area of the authority and the land is excluded land for the lease.’.

15 Replacement of s 20 (Renewal of authority to prospect)

Section 20—

omit, insert—

‘20 Area of authority to prospect reduced on grant of lease

- ‘(1) Land ceases to be included in the area of an authority to prospect if a lease is granted over the land.
- ‘(2) If a lease is granted over all of the area of an authority to prospect, the authority ends.’.

16 Amendment of s 21 (Surrender of authority to prospect)

- (1) Section 21(1), after ‘holder of an authority to prospect may’—
insert—
‘, with the Minister’s approval,’.
- (2) Section 21—
insert—

- ‘(1A) However, the Minister’s approval is not required if the surrender is the surrender of a part of the area of the authority that overlaps with the area of a lease under this Act or a 2004 Act lease.’.
- (3) Section 21(3), ‘in the Wardens Court’—
omit.
- (4) Section 21(4)—
omit, insert—
- ‘(4) The holder may obtain the approval only by an application—
- (a) made in the approved form; and
 - (b) lodged at—
 - (i) the office of the department for lodging authority to prospect surrender applications, as stated in a gazette notice by the chief executive; or
 - (ii) if no office is gazetted under subparagraph (i)—the office stated in the approved form; or
 - (iii) if the approved form does not state an office—the office of the chief executive; and
 - (c) accompanied by—
 - (i) the fee prescribed under a regulation; and
 - (ii) a report by the applicant about authorised activities for the authority carried out on the area the subject of the application, and the results of the activities.’.

17 Omission of s 22 and 23

Sections 22 and 23—

omit.

18 Amendment of s 24 (Qualification of permittees and lessees)

- (1) Section 24, heading, ‘permittees and lessees’—

omit, insert—

‘1923 Act petroleum tenure holders’.

- (2) Section 24, ‘a permit or lease’—

omit, insert—

‘a 1923 Act petroleum tenure’.

- (3) Section 24—

insert—

‘(ba) any government owned corporation;’.

- (4) Section 24—

relocate and renumber in part 1 as section 7AA.

19 Replacement of s 25 (Limit to number of permits and leases)

Section 25—

omit, insert—

‘Division 2 Work programs

‘Subdivision 1 Requirements for proposed later work programs

‘25 Operation of sdiv 1

‘This subdivision provides for requirements (the *later work program requirements*) for a proposed work program for an authority to prospect.¹²

‘25A General requirements

- ‘(1) The proposed program must include each of the following—

¹² For initial work programs see sections 151 (Unfinished authority to prospect applications for which a Commonwealth Native Title Act s 29 notice has been given) and 155 (Conditions of an authority to prospect about expenditure or work becomes its work program).

- (a) an overview of the activities proposed to be carried out under the authority or proposed authority during all of its term;
 - (b) for each year of the program period, a statement about—
 - (i) the extent and nature of petroleum exploration and testing for petroleum production proposed to be carried out during the year; and
 - (ii) generally where the activities are proposed to be carried out; and
 - (iii) the estimated cost of the activities;
 - (c) maps that show where the activities are proposed to be carried out;
 - (d) any other information relevant to the matters mentioned in section 25E(2);¹³
 - (e) reasons that the program is considered appropriate;
 - (f) a statement about the extent to which the current work program for the authority to prospect has been complied with;
 - (g) if there have been any amendments to the authority or its current work program, a statement about—
 - (i) whether the changes have been incorporated in the proposed program; and
 - (ii) any effect the changes have on the proposed program;
 - (h) a statement about the effect of any petroleum discovery on the proposed program;
 - (i) another matter prescribed under a regulation.
- ‘(2) A regulation may impose requirements about the form in which the matters mentioned in subsection (1) must be given.
- ‘(3) In this section—
year, of the program period, means—

13 Section 25E (Deciding whether to approve proposed program)

- (a) the period starting on the day the program period starts and ending on the first anniversary of that day; and
- (b) each subsequent period of 12 months or less during the program period, starting on each anniversary of that day and ending on—
 - (i) the next anniversary of that day; or
 - (ii) if the program period ends before the next anniversary—the day the program period ends.

‘25B Program period

- ‘(1) The proposed program must state its period.
- ‘(2) The period must not be longer than—
 - (a) if the term of the rest, or the renewed term, of the authority is less than 4 years—the rest of its term or renewed term; or
 - (b) if the term of the rest, or the renewed term, of the authority is 4 years or more, the following—
 - (i) generally—4 years from the start of the period;
 - (ii) if the Minister approves a longer period—the longer period.
- ‘(3) However, the Minister can not approve a period longer than the rest of the term or renewed term of the authority.

‘Subdivision 2 Approval of proposed later work programs

‘25C Application of sdiv 2

‘This subdivision applies if, under this Act, a proposed later work program is lodged for approval.¹⁴

¹⁴ For requirements to lodge a proposed later work program, see sections 25M (Requirements for making application), 74K (Obligation to lodge proposed later work program) and 80T (Types of noncompliance action that may be taken).

'25D Authority taken to have work program until decision on whether to approve proposed work program

- '(1) This section applies until—
- (a) if the proposed program is approved—the authority to prospect holder is given notice of the approval; or
 - (b) if approval of the proposed program is refused—when the refusal takes effect.¹⁵
- '(2) Despite the ending of the program period for the current work program for the authority to prospect—
- (a) the authority is taken to have a work program; and
 - (b) the holder may carry out any authorised activity for the authority.

'25E Deciding whether to approve proposed program

- '(1) The Minister may approve or refuse to approve the proposed program.
- '(2) The matters that must be considered in deciding whether to approve the proposed program include each of the following—
- (a) the appropriateness of the proposed program, having regard to—
 - (i) the potential of the area of the authority to prospect for petroleum discovery; and
 - (ii) the extent and nature of the proposed petroleum exploration;

Examples—

- proposed geological, geophysical or geochemical surveying
- the number of wells the authority to prospect holder proposes to drill, and their type

15 For when the decision takes effect, see section 25F (Steps after, and taking effect of, decision).

- (iii) when and where the authority to prospect holder proposes to carry out the exploration;
- (b) the capability criteria;
- (c) the extent to which the current work program has been complied with;
- (d) any amendments made to the authority or its current work program, and the reasons for the changes;
- (e) any notice under section 75Y,¹⁶ commercial viability report or independent viability assessment for the authority.

‘25F Steps after, and taking effect of, decision

- ‘(1) On approval of the proposed later work program, the holder must be given notice of the approval.
- ‘(2) On refusal to approve the later work program, the holder must be given an information notice about the decision to refuse.
- ‘(3) An approval takes effect when the holder is given the notice or, if the notice states a later day of effect, on that later day.
- ‘(4) A refusal does not take effect until the end of the appeal period for the refusal.¹⁷

‘Subdivision 3 Amending work programs

‘25G Restrictions on amending work program

- ‘(1) An authority to prospect holder may amend the work program for the authority only if—
 - (a) an application for approval of the amendment has been made under this subdivision and the amendment has been approved under this subdivision;¹⁸ and

16 Section 75Y (Notice about discovery and commercial viability)

17 See sections 105 (Period to appeal) and 107 (Stay of operation of decision).

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

- (b) if the amendment is to extend the period of the work program—the requirements under subsection (2) have been complied with.
- ‘(2) For subsection (1)(b), the requirements are each of the following—
- (a) the work program can not be the initial work program for the authority;
 - (b) the period of the work program, or any earlier work program for the authority, must not have previously been extended;
 - (c) the extension can not be for a term that ends after—
 - (i) 1 year after the current period of the work program; or
 - (ii) 12 years after the authority originally took effect;
 - (d) within 3 months before the making of the application—
 - (i) a person (the *designated person*) become a holder of the authority; or
 - (ii) a person (also the *designated person*) applied for approval of a transfer of a share in the authority and the transfer has, under section 573,¹⁹ been approved;
 - (e) the share, or proposed share, of the designated person in the authority is at least 50%;
 - (f) the designated person is not, under the Corporations Act, section 64B,²⁰ an entity connected with another person who is a holder of the authority.
- ‘(3) In this section—
- initial work program* means—
- (a) a work program approved under section 151; or

19 Section 573 (Deciding application)

20 Corporations Act, section 64B (Entities connected with a corporation)

- (b) conditions about expenditure or work that, under section 155, are taken to be the work program for the authority.

‘25H Applying for approval to amend

- ‘(1) An authority to prospect holder may apply for approval to amend the work program for the authority.
- ‘(2) However, the application can not be made less than 20 business days before the end of the period stated in the plan for carrying out work under the existing work program.

‘25I Requirements for making application

‘The application must be—

- (a) lodged at—
 - (i) the office of the department for lodging work program amendment applications, as stated in a gazette notice by the chief executive; or
 - (ii) if no office is gazetted—the office of the chief executive; and
- (b) accompanied by the fee prescribed under a regulation.

‘25J Deciding application

- ‘(1) If the proposed amendment—
 - (a) does not relate to the work program for the authority to prospect provided for under section 155;²¹ and
 - (b) is to substitute the carrying out of an authorised activity (the *original activity*) with another authorised activity;the Minister may approve the amendment if satisfied the other activity is at least of an equivalent value to the original activity.

²¹ Section 155 (Conditions of an authority to prospect about expenditure or work becomes its work program)

- ‘(2) If the application is to extend the period of the work program for the authority, the Minister may approve the amendment only if satisfied —
- (a) the requirements under section 25G(2) have been complied with; and
 - (b) the designated person mentioned in section 25G(2) is likely to provide additional financial or technical resources for the authority; and
 - (c) the work program will be completed within the period of the extension.

Note—

For additional provisions about relinquishment that apply if the period is extended, see sections 74A(1)(c) and 74J.²²

- ‘(3) Otherwise, the Minister may approve the amendment only if satisfied it is necessary because of a circumstance—
- (a) not related to—
 - (i) the applicant’s financial or technical resources or ability to manage petroleum exploration; or
 - (ii) the results of exploration; and
 - (b) the happening of which is or was beyond the applicant’s control; and
 - (c) that could not have been prevented by a reasonable person in the applicant’s position.
- ‘(4) Also, if the amendment is approved under subsection (2), any relinquishment day for the authority may be deferred for a period that relates to a circumstance mentioned in subsection (3).
- ‘(5) A deferral under subsection (4)—
- (a) can not be for longer than 12 years after the authority took effect; and

²² Sections 74A (Standard relinquishment condition) and 74J (Penalty relinquishment if work program not completed within extended period)

- (b) does not defer any later relinquishment day for the authority.
- ‘(6) If, under this section, an amendment is approved, a condition may be imposed on the authority requiring its holder to relinquish, by a notice lodged at the following office, at least a stated percentage of the original notional sub-blocks of the authority on or before a stated day—
- (a) the office of the department for lodging relinquishment notices, as stated in a gazette notice by the chief executive;
 - (b) if no office is gazetted under paragraph (a)—the office of the chief executive.

‘25K Steps after, and taking effect of, decision

- ‘(1) On approval of the proposed amendment, the holder must be given notice of the approval.
- ‘(2) On refusal to approve the proposed amendment, the holder must be given an information notice about the decision to refuse.
- ‘(3) An approval takes effect when the holder is given the notice or, if the notice states a later day of effect, on that later day.

‘Division 3 Renewals

‘25L Conditions for renewal application

- ‘(1) An authority to prospect holder may apply to renew the authority only if none of the following is outstanding—
 - (a) annual rent for the authority;
 - (b) a civil penalty under section 74W for nonpayment of annual rent;
 - (c) interest payable under section 102²³ on annual rent or a civil penalty;

23 Section 102 (Interest on amounts owing to the State under this Act)

- (d) petroleum royalty for petroleum produced under the authority and any unpaid petroleum royalty interest on it;
 - (e) security required for the authority, as required under section 78E.²⁴
- ‘(2) Also the application can not be made—
- (a) if any of the following provides that the authority is to be renewed under another Act—
 - (i) an agreement mentioned in the Commonwealth Native Title Act, section 31(1)(b);²⁵
 - (ii) an indigenous land use agreement registered on the register of indigenous land use agreement under the Commonwealth Native Title Act;²⁶ or
 - (b) if section 173²⁷ applies and the relinquishment condition under that section has not been complied with; or
 - (c) if a part of the area of the authority overlaps with the area of a lease under this Act or a 2004 Act lease; or
 - (d) more than 60 business days before the end of the term of the authority; or
 - (e) after the authority has ended.

‘25M Requirements for making application

- ‘(1) The application must—
- (a) be in the approved form; and
 - (b) be lodged at—
 - (i) the office of the department for lodging authority to prospect renewal applications, as stated in a gazette notice by the chief executive; or

24 Section 78E (Power to require security for 1923 Act petroleum tenure)

25 Commonwealth Native Title Act, section 31 (Normal negotiation procedure)

26 See the 2004 Act, section 908 (Right to apply for petroleum tenure).

27 Section 173 (Relinquishment condition if authority includes a reduction requirement)

- (ii) if no office is gazetted under subparagraph (i)—the office stated in the approved form; or
 - (iii) otherwise—the office of the chief executive; and
- (c) state whether or not the work program for the authority to prospect has been complied with; and
- (d) if the work program has not been complied with—state details of, and the reasons for, each noncompliance; and
- (e) include a proposed later work program for the renewed authority; and
- (f) include a statement about how and when the applicant proposes to consult with, and keep informed, each owner and occupier of private or public land on which authorised activities for the renewed authority are, or are likely to be, carried out;²⁸ and
- (g) address the capability criteria; and
- (h) include information about the matters that, under sections 80J and 80K,²⁹ must or may be considered in deciding the application; and
- (i) state whether or not the applicant has complied with part 6E,³⁰ for reports required to be lodged in relation to the authority; and
- (j) be accompanied by—
 - (i) the application fee prescribed under a regulation; and
 - (ii) if the application is made less than 20 business days before end of the term of the authority—an amount that is 10 times the application fee.

28 See section 74V (Obligation to consult with particular owners and occupiers).

29 Sections 80J (Deciding application) and 80K (Criteria for decisions)

30 Part 6E (Reporting)

- ‘(2) The proposed work program must comply with the later work program requirements.³¹

‘25N Continuing effect of authority for renewal application

- ‘(1) This section applies if before the application is decided the term of the authority to prospect ends.
- ‘(2) Despite the ending of the term, the authority continues in force until the earlier of the following to happen—
- (a) the start of any renewed term of the authority;
 - (b) a refusal of the application takes effect;³²
 - (c) the application is withdrawn;
 - (d) the authority is cancelled under this Act.³³
- ‘(3) If the authority is renewed, subsection (2) is taken never to have applied for the period from the end of the term of the authority being renewed, as stated in that authority.³⁴

‘25O Deciding application

- ‘(1) The Minister may grant or refuse the renewal.
- ‘(2) However—
- (a) before deciding to grant the renewal, the Minister must decide whether to approve the applicant’s proposed later work program for the renewed authority to prospect;³⁵ and
 - (b) the renewal can not be granted unless—
 - (i) the proposed program has been approved; and

31 See division 2, subdivision 1 (Requirements for proposed later work programs).
For approval of the proposed program, see part 4, division 2, subdivision 2 (Approval of proposed later work programs).

32 See section 25T (When refusal takes effect).

33 See also section 25D (Authority taken to have work program until decision on whether to approve proposed work program).

34 See section 25Q (Other provisions and taking effect of renewed authority).

35 See part 4, division 2, subdivision 2 (Approval of proposed later work programs).

- (ii) the applicant satisfies the capability criteria; and
 - (iii) the Minister is satisfied the applicant has substantially complied with the authority to prospect being renewed; and
 - (iv) a relevant environmental authority for the renewed authority to prospect has been issued.
- ‘(3) The Minister may, as a condition of deciding to grant the application, require the applicant to do all or any of the following within a stated reasonable period—
- (a) pay the annual rent for the first year of the renewed authority;
 - (b) give security for the renewed authority, as required under section 78E.³⁶
- ‘(4) If the applicant does not comply with the requirement, the application may be refused.

‘25P Term and area of renewed authority

- ‘(1) Each renewed authority to prospect must state its term and area.
- ‘(2) The term can not—
- (a) end after—
 - (i) 1 November 2021; or
 - (ii) 12 years from when the renewed authority to prospect takes effect under section 25Q.
 - (b) be longer than the term of the authority that immediately preceded the renewed term.
- ‘(3) Subsection (2)(b) applies despite—
- (a) whether the authority to prospect has previously been renewed; and
 - (b) any previous renewal of the authority.

36 Section 78E (Power to require security for 1923 Act petroleum tenure)

- ‘(4) The area can not be more than the area of the authority to prospect being renewed immediately before the renewed authority is to take effect.

‘25Q Other provisions and taking effect of renewed authority

- ‘(1) A renewed authority to prospect may state—
- (a) conditions or other provisions of the renewed authority, other than conditions or provisions that are—
 - (i) inconsistent with the mandatory conditions for authorities to prospect; or
 - (ii) the same as, or substantially the same as, or inconsistent with, any relevant environmental condition for the renewed authority; and
 - (b) relinquishment days for the renewed authority.
- ‘(2) To remove any doubt, it is declared that the conditions of the renewed authority may be different from the conditions or other provisions of the authority to prospect being renewed.
- ‘(3) The provisions of the renewed authority may exclude or restrict the carrying out of an authorised activity for the renewed authority.
- ‘(4) The first relinquishment day for the renewed authority must not be later than 4 years after the day the renewed authority is to take effect.
- ‘(5) If relinquishment days are not stated, its relinquishment days are taken to be—
- (a) the day that is the fourth anniversary of the day the renewed authority starts under subsection (6) or (7); and
 - (b) each day during its term that is a 4 yearly interval after that day.
- ‘(6) If the renewed authority is decided before the end of the term of the authority to prospect being renewed as stated in that authority (the *previous term*), the term of the renewed authority is taken to start from the end of the previous term.

- ‘(7) If the renewed authority is decided after the previous term, the term of the renewed authority starts immediately after the end of the previous term, but—
- (a) the conditions of the renewed authority do not start until the authority holder is given notice of them; and
 - (b) until the notice is given, the conditions of the authority to prospect being renewed apply to the renewed authority as if they were its conditions.

‘25R Criteria for decisions

- ‘(1) The matters that must be considered in deciding whether to grant the renewal or deciding the provisions of the renewed authority include—
- (a) the matters mentioned in section 25E(2);³⁷ and
 - (b) whether the applicant continues to satisfy the capability criteria.
- ‘(2) In this section—
- satisfies*, the capability criteria, means the Minister continues to have the opinion mentioned in the definition of capability criteria in section 2 about the holder of the authority to prospect being renewed.

‘25S Information notice about refusal

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

‘25T When refusal takes effect

‘A refusal of the application does not take effect until end of the appeal period for the decision to refuse.³⁸

37 Section 25E (Deciding whether to approve proposed program)

38 See sections 105 (Period to appeal) and 107 (Stay of operation of decision).

‘Division 4 Expiry of part**‘25U Expiry of pt 4 and ending of authorities to prospect**

- ‘(1) This part expires on 1 November 2021.
- ‘(2) All authorities to prospect end on 1 November 2021.’.

20 Omission of pt 5, other than s 35

Part 5, other than section 35—
omit.

21 Amendment of s 35 (Rights to water etc.)

- (1) Section 35, heading—
omit, insert—

‘35 Miscellaneous rights’.

- (2) Section 35, ‘permittee’—
omit, insert—
‘holder of an authority to prospect’.
- (3) Section 35, ‘permittee’s’—
omit, insert—
‘holder’s’.
- (4) Section 35, as amended—
relocate to division 1, as inserted under this Act, and
renumber as section 24.

22 Insertion of new pt 6, div 1, hdg

After part 6, heading—
insert—

‘Division 1 General provisions for leases’.

23 Amendment of s 40 (Lease to holder of authority to prospect or permittee)

(1) Section 40, heading ‘or permittee’—

omit.

(2) Section 40(1), ‘or a permittee’—

omit.

(3) Section 40(1), ‘or permit’—

omit.

(4) Section 40—

insert—

‘(1A) The right to apply under subsection (1) applies only to the extent that the area of the proposed lease is not in the area of a coal or oil shale mining tenement.³⁹’.

(5) Section 40—

insert—

‘(4A) The lease can not have a term of more than 30 years.’.

(6) Section 40—

insert—

‘(9) This section expires on 1 November 2021.’.

24 Insertion of new ss 40A and 40B

After section 40—

insert—

‘40A Continuing effect, for s 40 application, of authority to prospect and its work program

‘(1) This section applies if, other than for subsection (2), the relevant authority to prospect would, other than by

³⁹ For an authority to prospect in the area of a coal or oil shale mining tenement, see the 2004 Act, chapter 15, part 3, division 4 (Transition, by application, from 1923 Act ATP to petroleum lease under this Act).

cancellation under this Act, end before an application under section 40 is granted.

- ‘(2) The authority continues in force in relation to the area the subject of the application until the earlier of the following to happen—
 - (a) the start of the term of the lease the subject of the application;
 - (b) the application is withdrawn.
- ‘(3) While the authority continues in force under subsection (2), and despite any ending of the program period for its work program—
 - (a) the authority is taken to have a work program; and
 - (b) its holder may carry out any authorised activity for the authority.

‘40B Minister’s power to decide excluded land for lease

- ‘(1) The Minister may, at any time, decide excluded land for a lease or a lease proposed to be granted under section 40.
- ‘(2) However, the power under subsection (1) may be exercised only when the Minister is deciding whether to—
 - (a) grant or renew the lease; or
 - (b) approve any later development plan for the lease.
- ‘(3) However, excluded land—
 - (a) must be within any sub-block that the lease states is included in the area of the lease; and
 - (b) can not be a whole sub-block.
- ‘(4) For subsection (3)(a), if the instrument—
 - (a) states that the lease’s area includes land within a block; but
 - (b) does not include or exclude any particular sub-block within that block;

the reference to the block is a reference to all sub-blocks within the block, other than any sub-block that is completely

within the area of another 1923 Act petroleum tenure or a 2004 Act petroleum tenure.

- ‘(5) Excluded land may be described in a way the Minister considers appropriate, including, for example, by area or by reference to a stated type of land.
- ‘(6) Land ceases to be excluded land for a lease if, for any reason, the sub-block in which the land is located ceases to be in the area of the lease.’.

25 Omission of ss 41–43

Sections 41 to 43—

omit.

26 Amendment of s 44 (Form etc. of lease)

Section 44—

insert—

- ‘(d) be subject to the mandatory conditions for leases and any conditions decided by the Governor in Council.’.

27 Amendment of s 45 (Entitlement to renewal of lease)

- (1) Section 45, before subsection (1)—

insert—

‘(1AA) This section does not apply to a lease that ends after 1 November 2021.’.

- (2) Section 45(1), ‘this Act,’—

omit, insert—

‘this Act and the 2004 Act, chapter 6,⁴⁰’.

- (3) Section 45, after subsection (1)—

insert—

40 2004 Act, chapter 6 (Petroleum royalty)

- ‘(1A) However, subsection (1) only applies if—
- (a) the lease is a lease that has any number as follows—
 - (i) 1 to 18, inclusive;
 - (ii) 21 to 93, inclusive;
 - (iii) 98;
 - (iv) 101;
 - (v) 115 to 117, inclusive;
 - (vi) 204; or
 - (b) the lease is prescribed under a regulation notified before the 2004 Act start day.
 - (c) the lease is not a lease mentioned in paragraph (a) or (b) and, before the 2004 Act start day, a notice under the Commonwealth Native Title Act, section 29,⁴¹ was given for the renewal;⁴² or
 - (d) an agreement as follows provides for the renewal of the lease under this Act and the negotiations for the agreement started before the 2004 Act start day—
 - (i) an agreement mentioned in the Commonwealth Native Title Act, section 31(1)(b);⁴³
 - (ii) an indigenous land use agreement registered on the register of indigenous land use agreement under the Commonwealth Native Title Act.⁴⁴
- (4) Section 45(2), after ‘, is to’—
insert—
 ‘by an application’.
- (5) Section 45(2)(b)—
omit, insert—

41 Commonwealth Native Title Act section 29 (Notification of parties affected)

42 See also section 906 (Non-renewability of particular leases).

43 Commonwealth Native Title Act, section 31 (Normal negotiation procedure)

44 See the 2004 Act, section 908 (Right to apply for petroleum tenure).

- ‘(b) state whether or not the development plan for the lease⁴⁵ has been complied with; and
 - (c) if the development plan for the lease has not been complied with—state details of, and the reasons for, each noncompliance.’.
- (6) Section 45—
insert—
- ‘(2A) The application must—
- (a) be in the approved form; and
 - (b) include a proposed later development plan for the renewed lease; and
 - (c) be lodged at—
 - (i) the office of the department for lease renewal applications, as stated in a gazette notice by the chief executive; or
 - (ii) if no office is gazetted under subparagraph (i)—the office stated in the approved form; or
 - (iii) if the approved form does not state an office—the office of the chief executive; and
 - (d) be accompanied by—
 - (i) the application fee prescribed under a regulation; and
 - (ii) if the application is made less than 40 business days before the end of the term of the lease—an amount that is 10 times the application fee.
- ‘(2B) The proposed plan must comply with the later development plan requirements.’.

28 Replacement of s 46 (Rent)

Section 46—

⁴⁵ See also section 156 (Program for development and production for a lease becomes its development plan).

omit, insert—

‘46 Annual rent

‘(1) A lessee must pay the State the annual rent, as prescribed under a regulation.

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

29 Amendment of s 47 (Reservations, conditions and covenants of lease)

Section 47(1)(c), from ‘the prescribed royalty’—

omit, insert—

‘the State petroleum royalty, as required under the 2004 Act, chapter 6;⁴⁶’.

30 Omission of ss 49 and 50

Sections 49 and 50—

omit.

31 Amendment of s 51 (Use and occupation of mining area on private or improved land)

Section 51—

insert—

‘(3) In this section—’.

32 Amendment of s 52 (Surrender and determination of lease)

Section 52—

insert—

‘(1A) The consent may be given only on the application of the lessee.

46 2004 Act, chapter 6 (Petroleum royalty)

- ‘(1B) The application must be—
- (a) in the approved form; and
 - (b) lodged at—
 - (i) the office of the department for lease surrender applications, as stated in a gazette notice by the chief executive; or
 - (ii) if no office is gazetted under subparagraph (i)—the office stated in the approved form; or
 - (iii) if the approved form does not state an office—the office of the chief executive; and
 - (c) be accompanied by—
 - (i) the fee prescribed under a regulation; and
 - (ii) a report by the applicant about the activities carried out on the area the subject of the application, and the results of the activities.^{47’}.

33 Insertion of new s 52A

After section 52—

insert—

‘52A Application of 2004 Act provisions about coextensive natural underground reservoirs

‘The 2004 Act, chapter 2, part 2, division 1, subdivision 2⁴⁸ applies to a lease as if a reference in the subdivision to a petroleum lease were a reference to a lease under this Act.^{49’}.

47 For provisions about applying to convert the surrendered authority, or part of the surrendered authority, to a 2004 Act ATP, see the 2004 Act chapter 15, part 3, division 7 (Later grant of petroleum tenure to replace equivalent 1923 Act petroleum tenure).

48 2004 Act, chapter 2, part 2, division 1, subdivision 2 (Provisions for coextensive natural underground reservoirs)

49 See however section 168 (Deferral of s 52A for existing leases).

34 Replacement of s 53 (Proceedings for forfeiture)

Section 53—

omit, insert—

‘Division 2 Development plans**‘Subdivision 1 Requirements for proposed later development plans****‘53 Operation of sdiv 1**

‘This subdivision provides for requirements (the *later development plan requirements*) for a proposed later development plan for a lease.⁵⁰

‘53A General requirements

- ‘(1) The proposed plan must provide for each of the following—
- (a) an overview of the activities proposed to be carried out under the lease or proposed lease during all of its term;
 - (b) for each year of the plan period—
 - (i) the nature and extent of activities proposed to be carried out under the lease or proposed lease during the year; and
 - (ii) where the activities are proposed to be carried out; and
 - (iii) the estimated cost of the activities;
 - (c) for each natural underground reservoir in the area of the lease of which the applicant is aware, each of the following—

⁵⁰ For the requirements to lodge a proposed later development plan, see sections 40 (Lease to holder of authority to prospect), 45 (Entitlement to renewal of lease), 74Q (Obligation to lodge proposed later development plan) and 80T (Types of noncompliance action that may be taken).

- (i) the location and a verifiable estimate of the amount of petroleum in the reservoir;
 - (ii) the standards and procedures used to make the estimate;
 - (iii) the rate and amount of production proposed from the reservoir;
 - (iv) approximately when the proposed production is to start;
 - (v) a schedule for the proposed production during the plan period;
 - (d) maps that show the matters mentioned in paragraph (b)(i) and (ii) and (c)(i);
 - (e) any other information relevant to the development plan criteria;
 - (f) reasons that the plan is considered appropriate;
 - (g) another matter prescribed under a regulation.
- ‘(2) Also, the proposed plan must—
- (a) highlight any significant changes from the current development plan for the lease; and
 - (b) if the current development plan for the lease has not been complied with—state the details of, and the reasons for, each noncompliance.
- ‘(3) If the effect of the proposed plan is to significantly change an activity provided for under the current development plan, the proposed plan must also state reasons for the change.
- ‘(4) Also, for a significant change that is a cessation or reduction of petroleum production, the proposed plan must include an evaluation of—
- (a) petroleum production potential in the area of the lease; and
 - (b) market opportunities for petroleum production in the area of the lease.
- ‘(5) A regulation may impose requirements about the form of the proposed plan.

‘(6) In this section—

year, of the plan period, means—

- (a) the period starting on the day the plan period starts and ending on the first anniversary of that day; and
- (b) each subsequent period of 12 months or less during the plan period, starting on each anniversary of that day and ending on—
 - (i) the next anniversary of that day; or
 - (ii) if the plan period ends before the next anniversary—the day the plan period ends.

‘53B Plan period

‘(1) The proposed plan must state its period.

‘(2) The period must not be longer than—

- (a) if the remaining term, or the renewed term, of the lease is less than 5 years—the term of the lease; or
- (b) if the remaining term, or the renewed term, of the lease is 5 years or more—5 years from the start of the term.

‘Subdivision 2 Approval of proposed later development plans

‘53C Application of sdiv 2

‘This subdivision applies if under this Act, a proposed later development plan is lodged for approval.⁵¹

‘53D Lease taken to have development plan until decision on whether to approve proposed development plan

‘(1) This section applies until—

51 See section 74Q (Obligation to lodge proposed later development plan)

- (a) if the proposed plan is approved—the holder is given notice of the approval; or
 - (b) if approval of the proposed plan is refused—when the refusal takes effect.⁵²
- ‘(2) Despite the ending of the plan period for the current development plan for the lease—
- (a) the lease is taken to have a development plan; and
 - (b) the holder may carry out any authorised activity for the lease.

‘53E Deciding whether to approve proposed plan

- ‘(1) The Minister may approve or refuse to approve the proposed plan.
- ‘(2) The matters that must be considered in deciding whether to approve the proposed plan include each of the following—
- (a) the potential of the area of the lease for petroleum production and related activities;
 - (b) the nature and extent of the activities;
 - (c) when and where the activities are proposed to be carried out;
 - (d) whether petroleum production sought under the lease will be optimised in the best interests of the State, having regard to the public interest;
 - (e) the extent to which the current development plan for the lease has been complied with;
 - (f) if the proposed plan provides for a significant change that is a cessation or reduction of petroleum production—
 - (i) whether the cessation or reduction is reasonable; and

52 For when the decision takes effect, see section 53G (Steps after, and taking effect of, decision).

- (ii) whether the lessee has taken all reasonable steps to prevent the cessation or reduction.

‘53F Power to require relinquishment

- ‘(1) This section applies if the proposed plan provides for a significant change that is a cessation or reduction of petroleum production.
- ‘(2) The Minister may approve the proposed plan, but—
 - (a) decide (a *deferral decision*)—
 - (i) to defer the taking of effect of the approval until the lessee relinquishes, by a notice lodged at the following office (the *relevant office*), a stated part or percentage of the area of the lease on or before a stated day—
 - (A) the office of the department for lodging relinquishment notices, as stated in a gazette notice by the chief executive;
 - (B) if no office is gazetted under subparagraph (A)—the office of the chief executive; and
 - (ii) that the decision to approve the proposed plan is replaced by a decision not to approve it if the notice is not lodged on or before the stated day; or
 - (b) impose a condition on the lease requiring its holder to relinquish, by a notice lodged at the relevant office, a stated part or percentage of the area of the lease at stated times or intervals.
- ‘(3) The public interest must be considered before making a deferral decision or imposing the condition.
- ‘(4) A relinquishment under subsection (2)(a)(i) takes effect on the day after the notice is lodged.

‘53G Steps after, and taking effect of, decision

- ‘(1) On approval of the proposed later development plan, the holder must be given notice of the approval.

- ‘(2) The approval takes effect when the holder is given the notice or, if the notice states a later day of effect, on that later day.
- ‘(3) The holder must be given an information notice about—
- (a) a decision to refuse to approve the proposed plan; or
 - (b) a decision, under section 53F, to make a deferral decision or impose a condition.
- ‘(4) A refusal does not takes effect until the end the appeal period for the decision to refuse.⁵³’.

35 Omission of pt 7, hdg (Provisions applicable to permits and leases)

Part 7, heading—

omit.

36 Replacement of pt 7, div 1 (Signing applications)

Part 7, division 1—

omit, insert—

‘Division 3 Miscellaneous provision’.

37 Omission of pt 7, div 2, hdg (Royalties)

Part 7, division 2, heading—

omit.

38 Omission of ss 55 and 56

Sections 55 and 56—

omit.

53 See sections 105 (Period to appeal) and 107 (Stay of operation of decision).

39 Omission of ss 58–60

Section 58 to 60—

*omit.***40 Omission of pt 7, div 3, hdg (Assignments and other dealings with permits and leases)**

Part 7, division 3, heading—

*omit.***41 Replacement of ss 61–64**

Sections 61 to 64—

*omit, insert—***‘61 Obstruction of 1923 Act petroleum tenure holder**

‘(1) A person must not, without reasonable excuse, obstruct a 1923 Act petroleum tenure holder from—

- (a) entering or crossing land to carry out an authorised activity for the tenure if part 6H or 6I, to the extent it is relevant,⁵⁴ has been complied with in relation to the entry; or
- (b) carrying out an authorised activity for the tenure on the land.

Maximum penalty—100 penalty units.

‘(2) If a person has obstructed a 1923 Act petroleum tenure holder from carrying out an activity mentioned in subsection (1) and the holder decides to proceed with the carrying out of the activity, the holder must warn the person that—

- (a) it is an offence to obstruct the holder unless the person has a reasonable excuse; and
- (b) the holder considers the person’s conduct is an obstruction.

‘(3) In this section—

⁵⁴ Part 6H (Private land) or 6I (Public land)

obstruct includes assault, hinder or resist and attempt or threaten to assault, hinder or resist.’.

42 Amendment of s 65 (Reservations in favour of State)

(1) Section 65(1), ‘permit,’—

omit.

(2) Section 65(1)(b), ‘permit or’—

omit.

43 Omission of pt 7, div 4, hdg (Refinery and entry permissions and pipeline licences)

Part 7, division 4, heading—

omit.

44 Omission of ss 66–72

Sections 66 to 72—

omit.

45 Amendment of s 73 (Recovery of amounts payable to the State)

Section 73, ‘under this part’—

omit, insert—

‘under this Act’.

46 Replacement of ss 74–82

Sections 74 to 82—

omit, insert—

‘Part 6A Key mandatory conditions and related provisions

‘Division 1 Preliminary

‘74 Operation of div 1

‘This division provides for the key mandatory conditions for 1923 Act petroleum tenures.

Note—

1. Parts 4, 6, 6B to 6K and 10 also impose mandatory conditions on 1923 Act petroleum tenures.
2. For what is a ‘mandatory condition’, see the definition of that term in section 2.

‘Division 2 Specific mandatory conditions for authorities to prospect and related provisions

‘Subdivision 1 Standard relinquishment condition and related provisions

Note—

For an authority to prospect in force immediately before the 2004 Act start day, see part 10, division 2.⁵⁵

‘74A Standard relinquishment condition

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

- (a) on or before each of its relinquishment days; and

⁵⁵ Part 10, division 2 (Relinquishment condition until first renewal after 2004 Act start day, and related provisions)

- (b) if section 74E(3)⁵⁶ applies—on the day provided for under that subsection; and
 - (c) if, under part 4, division 2, subdivision 3,⁵⁷ the period of the work program for the authority has been extended—the day on which the extended period ends.
- ‘(2) However, if, under section 25J(4),⁵⁸ a relinquishment day for the authority (the *original day*) is deferred for a stated period, for the relinquishment condition—
- (a) the relinquishment that was required on or before the original day is taken to have been deferred until the end of the stated period; but
 - (b) the relinquishments required under the relinquishment condition on any later relinquishment days for the authority must be made as if the deferral has not been granted.
- ‘(3) A relinquishment required under the relinquishment condition—
- (a) must be made by notice (the *relinquishment notice*) lodged at—
 - (i) the office of the department for lodging relinquishment notices, as stated in a gazette notice by the chief executive; or
 - (ii) if no office is gazetted under subparagraph (i)—the office of the chief executive; and
 - (b) takes effect on the day after lodgment under paragraph (a).
- ‘(4) This section does not prevent the holder from relinquishing, by relinquishment notice, more than the part provided for under this subdivision.

56 Section 74E (Adjustments for sub-blocks that can not be counted)

57 Part 4, division 2, subdivision 3 (Amending work programs)

58 Section 25J (Deciding application)

‘74B Consequence of failure to comply with relinquishment condition

- ‘(1) If the holder does not comply with the relinquishment condition the holder must be given a notice requiring the holder to comply with the condition within 20 business days after the giving of the notice.
- ‘(2) If the holder does comply with the requirement, the authority to prospect is cancelled.
- ‘(3) However, the cancellation does not take effect until the holder is given a notice stating that the authority to prospect is cancelled because of the operation of subsection (2).

‘74C Part usually required to be relinquished

- ‘(1) This section is subject to section 74E.⁵⁹
- ‘(2) The relinquishment for each relinquishment day, and any other day mentioned in section 74A(1)(b) or (c) that applies to the authority, must be such that by that day at least 8.33% of the original notional sub-blocks of the authority to prospect have been relinquished for each year that has passed since the authority originally took effect.
- ‘(3) The sub-blocks required to be relinquished under this section is the *usual relinquishment*.

‘74D Sub-blocks that can not be counted towards relinquishment

- ‘(1) The following can not be counted as sub-blocks relinquished for the relinquishment condition—
 - (a) sub-blocks relinquished under a condition imposed under section 25J(6);⁶⁰
 - (b) sub-blocks in an area that, under section 20,⁶¹ has ceased to be included in the area of an authority to prospect;

59 Section 74E (Adjustments for sub-blocks that can not be counted)

60 Section 25J (Deciding application).

61 Section 20 (Area of authority to prospect reduced on grant of lease)

- (c) sub-blocks the subject of a lease application or an application for a 2004 Act lease;
- (d) sub-blocks relinquished under a penalty relinquishment.

‘(2) In this section—

penalty relinquishment means a relinquishment that is—

- (a) made under section 74J or under a requirement under section 80T(1)(b);⁶² and
- (b) more than the sub-blocks required to be relinquished under the relinquishment condition.

‘74E Adjustments for sub-blocks that can not be counted

- ‘(1) This section applies for a relinquishment day if, after taking away all sub-blocks that, under section 74D, can not be counted for the relinquishment condition, the balance of the sub-blocks of the authority to prospect are less than the sub-blocks required to be relinquished under the usual relinquishment.
- ‘(2) The relinquishment condition is taken to have been complied with if the authority holder gives a relinquishment notice for all of the balance.
- ‘(3) However, if—
 - (a) a sub-block not counted for the relinquishment condition was the subject of a lease application; and
 - (b) the result of the application is that it is refused;
 the authority holder must, within 20 business days after the appeal period for the decision to refuse, give a relinquishment notice for that sub-block.

‘74F Relinquishment must be by blocks

- ‘(1) A relinquishment under the relinquishment condition can only be by blocks.

62 Sections 74J (Penalty relinquishment if work program not completed within extended period) and 80T (Types of noncompliance action that may be taken)

- ‘(2) However, if a block contains an area that, under section 74D, can not be counted as a relinquishment, subsection (1) is complied with if all of the rest of the land within the block is relinquished.

‘74G Ending of authority to prospect if all of area relinquished

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

‘Subdivision 2 Work programs

‘74H Requirement to have work program

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

Note—

1. The only ‘work program’ for an authority to prospect is its current initial work program provided for under section 151 or 155 or its later work program, as approved under part 4, division 2. See the definition of that term in section 2.
2. For the requirements to lodge a proposed later work program see sections 25M, 74K and 80T.
3. For approval of proposed later development plans see part 4, division 2, subdivision 2.⁶³

63 Sections 2 (Definitions), 151 (Unfinished authority to prospect applications for which a Commonwealth Native Title Act s 29 notice has been given) and 155 (Conditions of an authority to prospect about expenditure or work becomes its work program)

Sections 25M (Requirements for making application), 74K (Obligation to lodge proposed later work program) and 80T (Types of noncompliance action that may be taken)

Part 4, division 2, subdivision 2 (Approval of proposed later work programs)

'74I Compliance with exploration activities in work program

'An authority to prospect holder must carry out the exploration activities proposed in the work program.

'74J Penalty relinquishment if work program not completed within extended period

'If—

- (a) under part 4, division 2, subdivision 3,⁶⁴ the period of the work program for an authority to prospect has been extended; and
- (b) the work program is not completed on or before the day on which the extended period ends;

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

'74K Obligation to lodge proposed later work program

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

Note—

1. For approval of the proposed program, see part 4, division 2, subdivision 2.
2. If the holder wishes to renew the authority, a proposed later work program must be included in the renewal application. See section 25M(1).⁶⁵

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

- (a) is lodged at—
 - (i) the office of the department for lodging proposed later work programs, as stated in a gazette notice by the chief executive;

64 Part 4, division 2, subdivision 3 (Amending work programs)

65 Section 25M (Requirements for making application)

- (ii) if no office is gazetted under subparagraph (i)—the office of the chief executive; and
 - (b) complies with the later work program requirements;⁶⁶ and
 - (c) is accompanied by the relevant fee.
- ‘(3) A proposed later work program must be lodged at least 20, but no more than 60, business days before the end of the program period for the current work program for the authority (the *current work program period*).
- ‘(4) However, if before the end of the current work program period, a decision is made not to approve a proposed later work program lodged under subsection (3), the holder may, within the period, lodge another proposed later work program.
- ‘(5) If the holder does not lodge any proposed later work program before the end of the current plan period or if subsection (4) applies and the holder does not lodge another proposed later work program within the current work program period—
- (a) the holder must be given a notice requiring the holder to lodge a proposed later work program for the authority within 20 business days after the giving of the notice; and
 - (b) the holder must comply with the requirement.
- ‘(6) In this section—
- relevant fee*, for the lodgment of the proposed program, means—
- (a) if the proposed program is lodged within the time required under subsection (3)—the fee prescribed under a regulation; or
 - (b) if the proposed program is lodged after the time required under subsection (3)—
 - (i) if it is lodged under subsection (4)—nil; or

⁶⁶ See part 4, division 2, subdivision 1 (Requirements for proposed later work programs).

- (ii) if it is not lodged under subsection (4) and it is lodged before the end of the current work program period—an amount that is 10 times the prescribed fee; or
- (iii) if it is not lodged under subsection (4) and it is lodged after the end of the current work program period—an amount that is 20 times the prescribed fee.

‘74L Consequence of failure to comply with notice to lodge proposed later work program

- ‘(1) If an authority to prospect holder does not comply with a requirement under section 74K(5)(a), the authority is cancelled.
- ‘(2) However, the cancellation does not take effect until the holder is given a notice stating that the authority has been cancelled because of the operation of subsection (1).

‘Subdivision 3 Miscellaneous conditions

‘74M Restriction on flaring or venting

- ‘(1) An authority to prospect holder must not flare or vent petroleum in a gaseous state produced under the authority unless the flaring or venting is authorised under this section.
- ‘(2) Flaring the gas is authorised if it is not commercially or technically feasible to use it—
 - (a) commercially under the authority; or
 - (b) for an authorised activity for the authority.
- ‘(3) Venting the gas is authorised if—
 - (a) it is not safe to use the gas for a purpose mentioned in subsection (2)(a) or (b) or to flare it; or
 - (b) flaring it is not technically practicable.

‘74N Petroleum royalty and annual rent

- ‘(1) From the 2004 Act start day, the holder must pay the State—
- (a) petroleum royalty as required under the 2004 Act, chapter 6;⁶⁷ and
 - (b) annual rent, as prescribed under a regulation.
- ‘(2) The annual rent must be paid in the way, and on or before the day, prescribed under a regulation under the 2004 Act.

‘Division 3 Specific mandatory conditions for leases and related provisions**‘Subdivision 1 Development plans****‘74O Requirement to have development plan**

‘A lessee must have a development plan for the lease.

Note—

1. For what is the ‘development plan’ for a lease, see the definition of that term in section 2.
2. For the requirements to lodge a proposed later development plan see sections 40, 45, 74Q and 80T.
3. For approval of proposed later development plans see part 6, division 2, subdivision 3.⁶⁸

‘74P Compliance with development plan

- ‘(1) A lessee must comply with the development plan for the lease.⁶⁹

67 2004 Act, chapter 6 (Petroleum royalty)

68 Sections 40 (Lease to holder of authority to prospect), 45 (Entitlement to renewal of lease), 74Q (Obligation to lodge proposed later development plan) and 80T (Types of noncompliance action that may be taken)

Part 6, division 2, subdivision 3 (Approval of proposed later development plans)

69 See also section 53D (Lease taken to have development plan until decision on whether to approved proposed development plan).

- ‘(2) However, subsection (1) does not apply to a failure to comply with the plan that is an act or omission by the holder to ensure compliance with an insufficiency of supply direction under the *Gas Supply Act 2003*.

‘74Q Obligation to lodge proposed later development plan

- ‘(1) This section imposes an obligation on a lessee to lodge a proposed later development plan for the lease.

Note—

1. For approval of the proposed plan, see part 6, division 2, subdivision 3.⁷⁰
2. If the holder wishes to renew the lease, a proposed later development plan must be included in the renewal application. See section 25M.⁷¹

- ‘(2) The obligation is complied with only if the proposed later development plan—
- (a) is lodged at—
 - (i) the office of the department for lodging proposed later development plans, as stated in a gazette notice by the chief executive; or
 - (ii) if no office is gazetted under subparagraph (i)—the office of the chief executive; and
 - (b) complies with the later development plan requirements; and
 - (c) is accompanied by the relevant fee.
- ‘(3) A proposed later development plan must be lodged—
- (a) for a petroleum lease granted after the commencement of this section—within 6 months after the grant; or
 - (b) otherwise—

70 Part 6, division 2, subdivision 3 (Approval of proposed later development plans)

71 Section 25M (Requirements for making application)

- (i) at least 40, but no more than 80, business days before the end of the plan period for its current development plan (the *current plan period*); or
 - (ii) as soon as practicable after the holder proposes or becomes aware of a significant change to the nature and extent of an authorised activity that is not already dealt with under the current development plan for the lease.
- ‘(4) However, if before the end of the current plan period, a decision is made not to approve a proposed later development plan lodged under subsection (3), the holder may, within the period, lodge another proposed later development plan.
- ‘(5) If the holder does not lodge any proposed later development plan before the end of the current work program period or if subsection (4) applies and the holder does not lodge another proposed later work program within the current work program period—
 - (a) the holder must be given a notice requiring the holder to lodge a proposed later development plan for the lease within 20 business days after the giving of the notice; and
 - (b) the holder must comply with the requirement.
- ‘(6) In this section—
relevant fee, for the lodgment of the proposed plan, means—
 - (a) if the proposed plan is lodged within the time required under subsection (3)—the fee prescribed under a regulation; or
 - (b) if the proposed plan is lodged after the time required under subsection (3) and—
 - (i) if it is lodged under subsection (4)—nil; or
 - (ii) if it is not lodged under subsection (4) and it is lodged before the end of the current plan period—an amount that is 10 times the prescribed fee; or

- (iii) it is not lodged under subsection (4) and it is lodged after the end of the current plan period—an amount that is 20 times the prescribed fee.

‘74R Consequence of failure to comply with notice to lodge proposed later development plan

- ‘(1) If a lessee does not comply with a requirement under section 74Q(5)(a), the lease is cancelled.
- ‘(2) However, the cancellation does not take effect until the holder is given a notice stating that the lease has been cancelled because of the operation of subsection (1).

‘Subdivision 2 Other mandatory conditions for leases

‘74S Restriction on flaring or venting

- ‘(1) A lessee must not flare or vent petroleum in a gaseous state produced under the lease unless the flaring or venting is authorised under this section.
- ‘(2) Flaring the gas is authorised if it is not commercially or technically feasible to use it—
 - (a) commercially under the lease; or
 - (b) for an authorised activity for the lease.
- ‘(3) Venting the gas is authorised if—
 - (a) it is not safe to use the gas for a purpose mentioned in subsection (2)(a) or (b) or to flare it; or
 - (b) flaring it is not technically practicable.
- ‘(4) Venting the incidental coal seam gas is also authorised if—
 - (a) it is being used, or is proposed to be used, under a greenhouse abatement scheme; and
 - (b) if subsection (1) were to apply, the direct or indirect benefit the holder would otherwise obtain because of the use of the gas under the scheme would be reduced.

‘(5) In this section—

greenhouse abatement scheme means—

- (a) the *Electricity Supply Act 1995* (NSW), part 8A;⁷² or
- (b) the Commonwealth’s Greenhouse Gas Abatement Program; or
- (c) another scheme about the abatement of greenhouse gases prescribed under a regulation.

‘74T **Obligation to commence production**

‘A lessee must start petroleum production under the lease on or before the later of the following—

- (a) the end of 2 years after the lease takes effect;
- (b) any production commencement day for the lease.

‘Division 4 **Provisions for all 1923 Act petroleum tenures**

‘Subdivision 1 **Preliminary**

‘74U **Application of div 4**

‘This division applies to any 1923 Act petroleum tenure holder.

⁷² See, in particular, the *Greenhouse Gas Benchmark Rule (Generation) No. 2 of 2003*, paragraph 10.1 (Total greenhouse gas emissions), made under the *Electricity Supply Act 1995* (NSW), section 97K (Greenhouse gas benchmark rules).

‘Subdivision 2 General mandatory conditions

‘74V Obligation to consult with particular owners and occupiers

- ‘(1) The holder must consult, or use reasonable endeavours to consult, with each owner and occupier of private or public land on which authorised activities for the tenure are, or are likely to be, carried out.
- ‘(2) The consultation must be about the carrying out of authorised activities for the tenure to the extent they relate to the owners and occupiers.
- ‘(3) The consultation must be carried out in the way and at the times—
 - (a) provided for in the tenure; or
 - (b) if the lease does not provide for how the consultation must be carried out—approved by the Minister.
- ‘(4) This section does not limit part 6H or 6I.⁷³
- ‘(5) A failure to comply with this section does not prevent authorised activities for the tenure from being carried out.

‘74W Civil penalty for nonpayment of annual rent

- ‘(1) If the holder does not pay the annual rent as required under section 46 or 74N, the holder must also pay the State a civil penalty.
- ‘(2) The amount of the penalty is 15% of the rent.
- ‘(3) The penalty—
 - (a) must be paid on the day after the last day for payment of the rent; and
 - (b) is still payable even if the holder later pays the rent.

73 Part 6H (Private land) or 6I (Public land)

‘74X Obligation to prevent spread of declared pests

- ‘(1) A 1923 Act petroleum tenure holder must take reasonable steps to ensure the holder and anyone else acting for the holder does not disperse the reproductive material of any declared pest when—
- (a) entering or leaving land in the area of the authority; or
 - (b) carrying out an authorised activity for the authority.
- ‘(2) However, subsection (1) does not apply if the dispersal is authorised under the *Land Protection (Pest and Stock Route Management) Act 2002*.

- ‘(3) In this section—

declared pest means any of the following—

- (a) a declared pest animal or declared pest plant under the *Land Protection (Pest and Stock Route Management) Act 2002*;
- (b) an animal or plant declared under a relevant local law to be—
 - (i) a declared pest animal or declared pest plant; or
 - (ii) the equivalent (however called) of a declared pest animal or declared pest plant for the local law.

relevant local law means a local law of a local government the area of which includes the place at which the dispersal takes place.

reproductive material, of an animal or plant, means any part of the animal or plant that is capable of asexual or sexual reproduction.

Examples of reproductive material of an animal—

egg or part of an egg, semen

Examples of reproductive material of a plant—

1. seed or part of a seed
2. bulb or part of a bulb, rhizome, stolon or tuber
3. stem or leaf cutting

'74Y Requirement to consider using formed roads

- '(1) This section applies if, under this Act, a 1923 Act petroleum tenure holder proposes to enter any land.
- '(2) The holder must consider using any formed road that is available for the entry if using the road is practicable.
- '(3) If the holder decides not to use the formed road, the holder must take reasonable steps to consult with the owner of the land before entering the land.
- '(4) A failure to comply with this section does not invalidate or otherwise affect the entry.

'74Z Obligation to comply with Act and prescribed standards

- '(1) The holder must—
 - (a) comply with this Act; and
 - (b) in carrying out an authorised activity for the tenure, comply with—
 - (i) any standard that the tenure provides for the activity; and
 - (ii) to the extent that the tenure does not provide a standard for the activity—any standard prescribed under a regulation for carrying out the activity.
- '(2) In this section—
standard includes an Australian Standard or a code or protocol.

'75 Obligation to survey if Minister requires

- '(1) The Minister may, by notice to the holder, require the holder to survey or re-survey the area of the tenure within a stated reasonable period.
- '(2) The holder must cause the survey or re-survey to be carried out by a person registered as a cadastral surveyor under the *Surveyors Act 2003*.

- ‘(3) The holder must pay any costs incurred in complying with the notice.

‘Division 5 **Mandatory conditions and related provisions for when 1923 Act petroleum tenure ends or area reduced**

‘75A **Obligation to decommission pipelines**

- ‘(1) A 1923 Act petroleum tenure holder must, before the decommissioning day, decommission, in the way prescribed under a regulation, any pipeline in the area of the tenure.

Maximum penalty—1 000 penalty units.⁷⁴

- ‘(2) However, subsection (1)—
- (a) does not apply if the pipeline was constructed or operated under another 1923 Act petroleum tenure; and
 - (b) ceases to apply if the operation of the pipeline becomes an authorised activity for 1923 Act petroleum tenure or a 2004 Act petroleum tenure.
- ‘(3) In this section—

decommissioning day means the later of the following days—

- (a) the earlier of the following—
 - (i) the day the tenure ends;
 - (ii) the day the land ceases to be in the area of the tenure;
- (b) if, before the day provided for under paragraph (a), the Minister fixes a day—that day;
- (c) if, before a day fixed under paragraph (b), the Minister fixes a later day—that day.

⁷⁴ See also section 79X(2) and (3) (General provision about ownership while tenure is in force for pipeline).

‘75B Obligation to remove equipment and improvements

‘(1) This section applies for equipment or improvements in the area of the tenure that are being, or have been, used for an authorised activity for the tenure.

‘(2) However, this section does not apply for—

- (a) a well, pipeline, water observation bore or water supply bore;⁷⁵or
- (b) equipment or improvements on land that, under section 20,⁷⁶ ceases to be in the area of an authority to prospect.

‘(3) The holder of the tenure must, before the removal day, remove the equipment or improvements from the land, unless the owner of the land otherwise agrees.

Maximum penalty—1 000 penalty units.

‘(4) To remove any doubt, it is declared that subsection (3) applies even if the equipment or improvements are not owned by the holder.⁷⁷

‘(5) In this section—

equipment includes machinery and plant.

removal day means the later of the following days—

- (a) the earlier of the following—
 - (i) the day the tenure ends;
 - (ii) the day the land ceases to be in the area of the tenure;
- (b) if, before the day provided for under paragraph (a), the Minister fixes a day—that day;

75 For wells, water observation bores and supply bores, see part 6D (Wells, water supply bores and water observation bores).

For pipelines, see sections 79X (General provision about ownership while tenure is in force for pipeline) and 75A (Obligation to decommission pipelines).

76 Section 20 (Area of authority to prospect reduced on grant of lease)

77 For ownership of the equipment or improvements see section 80B (Ownership of equipment and improvements).

- (c) if, before a day fixed under paragraph (b), the Minister fixes a later day—that day.

‘75C Authorisation to enter to facilitate compliance with s 74X or this division

- ‘(1) The Minister may, by notice, authorise a former holder of a 1923 Act petroleum tenure to enter any of the following land to comply with, or remedy a contravention of, section 74X or this division—
- (a) the land to which section 74X or this division applies (*primary land*);
 - (b) any other land (*secondary land*) necessary or desirable to cross for access to the primary land.⁷⁸
- ‘(2) Parts 6H (other than division 3), 6I and 6K⁷⁹ and section 74X and the definition *conditions* in section 2 apply to the former holder for the purpose of the authorisation as if—
- (a) the tenure were still in force (the *notional tenure*); and
 - (b) the former holder is the holder of the notional tenure; and
 - (c) the primary land and any secondary land are in the area of the notional tenure; and
 - (d) the compliance or the remedying of the contravention were authorised activities for the notional tenure.
- ‘(3) However, the power under this section does not include the power to enter a structure, or a part of a structure, used for residential purposes without the consent of the occupier of the structure or part of the structure.
- ‘(4) If the former holder intends to enter the land and any occupier of the land is present at the land, the former holder also must show, or make a reasonable attempt to show, the occupier the former holder’s authorisation under this section.

78 See also section 80L (Power of authorised person to ensure compliance).

79 Parts 6H (Private land), 6I (Public land) and 6K (General compensation provisions)

‘Part 6B Provisions relating to authorised activities

‘75D General restriction on carrying out authorised activities

‘The carrying out of an authorised activity for a 1923 Act petroleum tenure is subject to—

- (a) the provisions of the tenure; and
- (b) compliance with the tenure holder’s rights and obligations under this Act.

‘75E Who may carry out authorised activity for holder

‘(1) An authorised activity for a 1923 Act petroleum tenure may be carried out for its holder by any of the following persons acting within the scope of the person’s authority from the holder—

- (a) if the holder is a corporation—its officers and employees;
- (b) the holder’s employees or partners who are individuals;
- (c) agents of, or contractors for, the holder;
- (d) officers and employees of, or agents of, or contractors for, agents or contractors mentioned in paragraph (c).

Example—

A lessee may also enter into a coordination arrangement under which another party to the arrangement may carry out an authorised activity for the lease. See the 2004 Act, section 234(1).

‘(2) The authority may be express, or implied from—

- (a) the nature of the relationship between the person and the holder; or
- (b) the duties the person performs for the holder; or
- (c) the duties a person mentioned in subsection (1) customarily performs.

‘Part 6C Commercial viability assessment

‘75F Minister’s power to require commercial viability report

- ‘(1) The Minister may, by notice (a *report requirement*), require a 1923 Act petroleum tenure holder to lodge at the relevant office a written report (a *commercial viability report*) about all or a stated part of the tenure’s area if—
- (a) the holder is not producing petroleum in the area or stated part; and
 - (b) the Minister is of the opinion that—
 - (i) it may be commercially viable to produce petroleum in the area or stated part; or
 - (ii) it may, within the next 15 years, be commercially viable to produce petroleum in the area or stated part.
- ‘(2) The notice must state each of the following—
- (a) the Minister’s opinion under subsection (1)(b)(i) or (ii);
 - (b) the facts and circumstances forming the basis for the opinion;
 - (c) that the Minister requires the holder to give the Minister a commercial viability report about the area;
 - (d) a reasonable period for giving the report.
- ‘(3) In this section—
- relevant office* means—
- (a) the office of the department for lodging the commercial viability report, as stated in a gazette notice by the chief executive; or
 - (b) if no office is gazetted under paragraph (a)—the office of the chief executive.

‘75G Required content of commercial viability report

- ‘(1) A commercial viability report must do all of the following—
- (a) identify each natural underground reservoir in the area the subject of the relevant report requirement;
 - (b) give an estimate of the amount of petroleum in each reservoir;
 - (c) state the standards and procedures used to make the estimate;
 - (d) state whether, in the opinion of the relevant 1923 Act petroleum tenure holder, it is commercially viable to produce petroleum in the area;
 - (e) if the holder’s opinion is that it is not commercially viable to produce petroleum in the area—state whether, in the holder’s opinion, it will, within the next 15 years, be commercially viable to produce petroleum in the area;
 - (f) give data, and an analysis of the data, that supports each opinion.
- ‘(2) The supporting data and analysis must include—
- (a) technical data relating to the geology of, and natural underground reservoirs in the area; and
 - (b) market and financial data relevant to the opinions.

‘75H Minister’s power to obtain independent viability assessment

- ‘(1) This section applies for a 1923 Act petroleum tenure, whether or not its holder has lodged a commercial viability report about the tenure.
- ‘(2) The Minister may obtain an independent assessment of the commercial viability of petroleum production in all or part of the area of the tenure (an *independent viability assessment*).
- ‘(3) However, before seeking the assessment, the Minister must give the holder a notice stating the following—
- (a) that the Minister proposes to obtain the assessment;

- (b) the Minister's reasons for seeking the assessment;
 - (c) the likely costs of obtaining the assessment;
 - (d) whether the State will, under section 75I, seek to recover the costs;
 - (e) that the holder may, within a stated reasonable period, lodge submissions about the proposed assessment at—
 - (i) the office of the department for lodging the submissions, as stated in a gazette notice by the chief executive; or
 - (ii) if no office is gazetted under subparagraph (i)—the office of the chief executive.
- '(4) Any submissions lodged by the holder within the stated period must be considered.
- '(5) The Minister must after receiving the assessment, give the holder a copy.

'75I Costs of independent viability assessment

'If—

- (a) the Minister has incurred costs in obtaining, under section 75H, an independent viability assessment about a 1923 Act petroleum tenure; and
- (b) the notice under section 75H about the assessment stated that the State will seek to recover the costs; and
- (c) the Minister has given the 1923 Act petroleum tenure holder a notice requiring the holder to pay a reasonable amount for the costs;

the holder must pay the State the reasonable amount for the costs.

‘Part 6D Wells, water supply bores and water observation bores

‘Division 1 Restrictions on drilling

‘75J Requirements for drilling well

- ‘(1) A person drilling a well must comply with any requirements prescribed under a regulation that apply to the drilling of the well.

Maximum penalty—300 penalty units.

- ‘(2) The requirements may include provisions to prevent the drilling adversely affecting the carrying out of future coal mining under the Mineral Resources Act.

‘75K Restriction on who may drill water observation bore or water supply bore

‘A person must not drill a water observation bore or water supply bore unless—

- (a) the person is a licensed water bore driller; or
- (b) the Water Act, section 816(2)(a) or (c)⁸⁰ applies.

Maximum penalty—300 penalty units.

‘Division 2 Converting well to water supply bore

‘75L Restrictions on making conversion

‘A 1923 Act petroleum tenure holder may convert a well in the area of the tenure to a water supply bore only if—

- (a) the well has been modified for the purpose of taking water; and

80 Water Act, section 816 (Unauthorised water bore activities)

- (b) the modification was carried out by a licensed water bore driller.

Maximum penalty—500 penalty units.

‘75M Notice of conversion

‘If a 1923 Act petroleum tenure holder converts a well to a water supply bore, the holder must, within 10 business days after the conversion, lodge a notice at the following office stating the information prescribed under a regulation—

- (a) the office of the department for lodging the notice, as stated in a gazette notice by the chief executive;
- (b) if no office is gazetted under paragraph (a)—the office of the chief executive.

Maximum penalty—50 penalty units.

‘Division 3 Transfers of wells, water observation bores and water supply bores

‘Subdivision 1 General provisions

‘75N Operation of div 3

- ‘(1) This division permits, in particular circumstances, the transfer of the following in relation to a well, water observation bore or water supply bore—
 - (a) the control of, and responsibility for, the well or bore;
 - (b) the ownership of any works constructed in connection with the well or bore.

- ‘(2) In this division, a *transfer* of a well, water observation bore or water supply bore is a reference to a transfer in relation to the well or bore mentioned in subsection (1).⁸¹

‘75O Transfer only permitted under div 3

‘A purported transfer of a well, water observation bore or water supply bore is of no effect unless—

- (a) the transfer is permitted under this division; and
- (b) the requirements under this subdivision for making the transfer have been complied with.

‘75P Effect of transfer

- ‘(1) If a well, water observation bore or water supply bore is transferred under this division, any obligation the transferor had under this Act or another law in relation to the well or bore ceases.
- ‘(2) However, if the transferor is someone other than the State, subsection (1) does not apply to the Environmental Protection Act.⁸²

‘Subdivision 2 Permitted transfers

‘75Q Transfer of water observation bore or water supply bore to landowner

- ‘(1) A 1923 Act petroleum tenure holder may, by complying with the requirements under subsection (2), transfer a water observation bore or water supply bore in the area of the tenure to the landowner.
- ‘(2) For subsection (1), the requirements are that each of the following have been lodged at the relevant office—

81 For the ownership of works mentioned in subsection (1)(b) generally, see section 80B (Ownership of equipment and improvements).

82 For transfers by the State, see section 75W (Responsibility for well or bore after decommissioning).

- (a) a notice issued by the Water Act regulator stating—
 - (i) that the construction of the bore was carried out under the Water Act and any relevant water bore driller’s licence under that Act;⁸³ and
 - (ii) whether or not the Water Act requires the owner to hold a Water Act licence to take water from the bore to be transferred;
 - (b) if the Water Act requires the owner to hold a Water Act licence to take water from the bore to be transferred—a copy of the licence;
 - (c) a notice in the approved form;
 - (d) the transfer fee prescribed under a regulation.
- ‘(3) The approved form must require the signed consent of the landowner to the transfer.
- ‘(4) In this section—
- construction**, for a water supply bore, includes any modification under section 75L.
- landowner** means the owner of the land on which the bore is located.
- relevant office** means—
- (a) the office of the department for lodging documents mentioned in subsection (2) under this section, as stated in a gazette notice by the chief executive; or
 - (b) if no office is gazetted under paragraph (a)—the office of the chief executive.

‘75R Transfer of well to holder of geothermal exploration permit or mining tenement

‘A 1923 Act petroleum tenure holder may transfer a well in the area of the tenure to the holder of a geothermal exploration permit or a mining tenement if—

83 For relevant conditions, see the *Water Regulation 2002*, section 23(1) (Conditions of water bore driller’s licence—Act s 302).

- (a) the well is in the area of the permit or tenement; and
- (b) a notice in the approved form and the transfer fee prescribed under a regulation have been lodged at—
 - (i) the office of the department for lodging the notice, as stated in a gazette notice by the chief executive; or
 - (ii) if no office is gazetted under subparagraph (i)—the office of the chief executive.

‘75S Transfer of water observation bore to 1923 Act petroleum tenure holder

‘A 1923 Act petroleum tenure holder may transfer a water observation bore in the area of the tenure to the holder of another 1923 Act petroleum tenure or a 2004 Act petroleum tenure if—

- (a) the bore is in the area of the other tenure; and
- (b) a notice in the approved form and the transfer fee prescribed under a regulation have been lodged at—
 - (i) the office of the department for lodging the notice, as stated in a gazette notice by the chief executive; or
 - (ii) if no office is gazetted under subparagraph (i)—the office of the chief executive.

‘Subdivision 3 Notice of transfer

‘75T Notice of transfer to Water Act regulator or Mineral Resources Act chief executive

- ‘(1) If a transfer is made under section 75Q the chief executive must give the Water Act regulator notice of the transfer.
- ‘(2) If a transfer is made under section 75R, the chief executive must give the chief executive that administers the Mineral Resources Act notice of the transfer.

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

‘Division 4 **Decommissioning of wells, water observation bores and water supply bores**

‘75U **Obligation to decommission**

- ‘(1) This section applies to a person (the *responsible person*) who holds a 1923 Act petroleum tenure, for each well, water observation bore or water supply bore in the area of the tenure.⁸⁴
- ‘(2) The responsible person must ensure the well or bore is decommissioned from use under this Act before—
- (a) the tenure ends; or
 - (b) the land on which the well or bore is located ceases to be in the area of the tenure.
- ‘(3) However subsection (2) does not apply for land that, under section 20,⁸⁵ ceases to be in the area of an authority to prospect.
- ‘(4) For subsection (2), the well or bore is decommissioned from use under this Act only if—
- (a) it has been plugged and abandoned in the way prescribed under a regulation; and
 - (b) the decommissioning complies with the Water Act, sections 816 and 817;⁸⁶ and
 - (c) the responsible person has lodged a notice about the decommissioning.⁸⁷

84 For when the holder owns the well or bore see division 3, subdivision 1 and section 80B (Ownership of equipment and improvements).

85 Section 20 (Area of authority to prospect reduced on grant of lease)

86 Water Act, sections 816 (Unauthorised water bore activities) and 817 (Contravening requirements for mining and petroleum drilling)

87 See also section 80L (Power of authorised person to ensure compliance).

- ‘(5) The notice must be—
- (a) in the approved form; and
 - (b) lodged at—
 - (i) the office of the department for lodging the notice, as stated in a gazette notice by the chief executive; or
 - (ii) if no office is gazetted under subparagraph (i)—the office stated in the approved form; or
 - (iii) otherwise—the office of the chief executive.

‘75V Right of entry to facilitate decommissioning

- ‘(1) This section applies if—
- (a) a responsible person under section 75U has not carried out decommissioning on land as required under that section; and
 - (b) the relevant 1923 Act petroleum tenure has ended; or
 - (c) the land on which the well or bore is located is no longer in the area of the tenure.
- ‘(2) The responsible person may enter the following land to carry out the decommissioning—
- (a) land (the *primary land*) on which the decommissioning must be, or was required to be, carried out;
 - (b) any other land it is reasonably necessary to cross for access to the primary land.
- ‘(3) Parts 6H, 6I and 6K⁸⁸ apply to the responsible person, in the following way—
- (a) if the tenure has ended, as if—
 - (i) it were still in force; and
 - (ii) the responsible person is its holder;

88 Parts 6H (Private land), 6I (Public land) and 6K (General compensation provisions)

- (b) as if the primary land and other land mentioned in subsection (2)(b) is in the area of the tenure;
- (c) as if the decommissioning is an authorised activity for the tenure.

‘75W Responsibility for well or bore after decommissioning

- ‘(1) This section applies if a 1923 Act petroleum tenure holder has, under section 75U,⁸⁹ decommissioned a well, water observation bore or water supply bore.
- ‘(2) Despite the decommissioning, the holder continues to be responsible under this Act for the well or bore until the earlier of the following times (the *relevant time*)—
 - (a) when the tenure ends;
 - (b) when the land on which the well or bore is located ceased to be in the area of the tenure.
- ‘(3) At the relevant time the well or bore is taken to have been transferred to the State.
- ‘(4) Subsection (3) applies despite—
 - (a) the exploration bore being on or part of land owned by someone else; or
 - (b) the sale or other disposal of the land.
- ‘(5) After the relevant time, the State may transfer the well or bore.
- ‘(6) However—
 - (a) the transfer from the State can only be to—
 - (i) the owner of the land on which the well or bore is located; or
 - (ii) the holder of a geothermal exploration permit or mining tenement the area of which includes that land; and

89 For ownership before decommissioning, see section 80B (Ownership of equipment and improvements).

- (b) the transfer from the State and the use of the well or bore by the transferee is subject to this Act and any other relevant Act or law.

‘Part 6E Reporting

‘Division 1 General reporting provisions⁹⁰

‘75X Requirement to report outcome of testing

- ‘(1) This section applies if a 1923 Act petroleum tenure holder carries out testing for petroleum from any well in the area of the authority.
- ‘(2) The holder must, within 40 business days after the testing ends, lodge a report stating the outcome of the test at—
 - (a) the office of the department for lodging testing outcome reports, as stated in a gazette notice by the chief executive; or
 - (b) if no office is gazetted under paragraph (a)—the office of the chief executive.
- ‘(3) The report must also state how much associated water was taken during the testing.

‘75Y Notice about discovery and commercial viability

- ‘(1) If a 1923 Act petroleum tenure holder makes a petroleum discovery, the holder must, within 5 business days, lodge a notice of the discovery.
- ‘(2) For subsection (1), if a 1923 Act petroleum tenure holder explores or tests for coal seam gas—

⁹⁰ See also section 770 (Requirement for giving of copy of relinquishment report).

- (a) the discovery of the presence of coal seam gas in a coal seam is not, of itself, a petroleum discovery; and
 - (b) the holder discovers coal seam gas only if it is actually produced from a petroleum well used for the exploration or testing.
- ‘(3) A notice under subsection (1) must also state the geological significance of the discovery.
- ‘(4) The holder, must within the relevant period, lodge a notice about whether or not petroleum production from the reservoir the subject of the notice is commercially viable, or potentially commercially viable, for the holder.
- ‘(5) A notice under this section must be lodged at—
- (a) the office of the department for lodging the notice, as stated in a gazette notice by the chief executive; or
 - (b) if no office is gazetted under paragraph (a)—the office of the chief executive.
- ‘(6) In this section—
- relevant period* means—
- (a) the period of 45 business days after the discovery; or
 - (b) if the chief executive has, within the 45 business days, agreed to a longer period—the longer period.

‘75Z Relinquishment report

- ‘(1) If part of the area of a 1923 Act petroleum tenure is relinquished as required or authorised under this Act,⁹¹ its holder must, within 6 months, lodge a report—
- (a) describing—
 - (i) the authorised activities for the tenure carried out in the part; and
 - (ii) the results of the activities; and

91 See part 6A, division 2 (Specific mandatory conditions for authorities to prospect and related provisions).

- (b) including other information prescribed under a regulation.

Maximum penalty—200 penalty units.

- ‘(2) The report must be lodged at—
 - (a) the office of the department for lodging relinquishment reports, as stated in a gazette notice by the chief executive; or
 - (b) if no office is gazetted under paragraph (a)—the office of the chief executive.⁹²

‘76 End of tenure report

- ‘(1) If a 1923 Act petroleum tenure ends, the person who held the tenure immediately before it ended must, within 6 months, lodge a report—
 - (a) including each of the following—
 - (i) a summary of all authorised activities for the tenure that have been carried out since it took effect;
 - (ii) a summary of the results of the activities;
 - (iii) an index of all reports lodged, as required under this Act, in relation to the activities;
 - (iv) a summary of all significant hazards created to future safe and efficient mining that, under the 2004 Act section 690(1)(g) or 706⁹³ or a regulation under that Act, are required to be reported;
 - (v) for each hazard mentioned in the summary under subparagraph (iv)—a reference to the report that contains details of the hazard;
 - (vi) data on the amount and location of all petroleum and water produced from the area of the tenure;

92 See also section 77O (Requirement for giving of copy of relinquishment report).

93 2004 Act, section 690 (Content requirements for safety reports) or 706 (Requirement to report prescribed incident)

- (vii) any data related to data mentioned in subparagraph (vi) that may help the understanding of the amount and location of any remaining petroleum (including areas of ‘free gas’) and water from reservoirs produced;
- (viii) any data required to be reported under this Act that has not been previously reported; and
- (b) stating any other information prescribed under a regulation.

Maximum penalty—150 penalty units.⁹⁴

- ‘(2) A report under subsection (1) must be lodged at—
 - (a) the office of the department for lodging the report, as stated in a gazette notice by the chief executive; or
 - (b) if no office is gazetted under paragraph (a)—the office of the chief executive.

‘Division 2 Records and samples

‘76A Requirement to keep records and samples

- ‘(1) A 1923 Act petroleum tenure holder must, for the period and in the way prescribed under a regulation, keep the records and samples about authorised activities carried out under the tenure as prescribed under a regulation.

Maximum penalty—500 penalty units.

- ‘(2) For subsection (1), the prescribed records may be—
 - (a) basic exploration data; or

Examples of basic exploration data—

- seismic acquisition and processing reports
- information obtained from airborne geophysical surveying

94 See also section 76F(3) (Obligation to lodge annual reports).

- other information about petroleum or other materials at or below ground level
 - a well completion report for an exploration or appraisal well
- (b) opinions, conclusions, technical consolidations and advanced interpretations based on basic exploration data.

‘76B Requirement to lodge records and samples

‘(1) A person who, under section 76A, is required to keep a record or sample, must, for the services of the State, lodge a copy of the record and a part of the sample within 6 months after the earlier of the following (the *required time*)—

- (a) the day the record or sample was acquired or made;
- (b) the day the relevant 1923 Act petroleum tenure ends.

Maximum penalty—500 penalty units.

‘(2) The copy of the record and part of the sample must be lodged at the following office (the *relevant office*)—

- (a) the office of the department for lodging the copy of the record and part of the sample, as stated in a gazette notice by the chief executive;
- (b) if no office is gazetted under paragraph (a)—the office of the chief executive.

‘(3) If the chief executive gives the person a notice asking the person for more of the sample, the person must lodge it at the relevant office within the reasonable time stated in the notice (also the *required time*) unless the holder has a reasonable excuse.

Maximum penalty—500 penalty units.

‘(4) The chief executive may extend the required time by up to 1 year if—

- (a) the person asks for the extension before the required time; and
- (b) the chief executive is satisfied the extension is necessary.

- ‘(5) However, the extension must not end later than—
- (a) for subsection (1)—6 months after the required time; or
 - (b) for subsection (2)—1 year after the required time.
- ‘(6) Without limiting subsection (1), the use to which the State may put the copy of the record and the part of the sample include the building of a publicly available database to facilitate petroleum exploration for the services of the State.

‘Division 3 Releasing required information

‘76C **Meaning of *required information***

‘*Required information*, for a 1923 Act petroleum tenure, is information (in any form) about authorised activities carried out under the tenure that the tenure holder has lodged under this Act, including, for example—

- (a) a sample; and
- (b) data and other matters mentioned in section 76G(2).

‘76D **Public release of required information**

- ‘(1) The mere fact of the existence of a 1923 Act petroleum tenure is taken to be an authorisation from its holder to the chief executive to do the following, after the end of any confidentiality period prescribed under a regulation—
- (a) publish, in the way prescribed under a regulation, required information for the tenure for public use, including, for example, to support petroleum exploration, production and development;
 - (b) on payment of a fee prescribed under a regulation, make it available to any person.
- ‘(2) Any confidentiality period prescribed under subsection (1) ceases if the information is about an authorised activity carried out solely in an area that is no longer in the area of the tenure.

Example—

The required information is a well completion report about a well drilled on particular land in the area of an authority to prospect. Subsection (1) ceases to apply if all of that land is relinquished under a relinquishment condition.

- ‘(3) The authorisation is not affected by the ending of the tenure.

‘76E Chief executive may use required information

- ‘(1) The mere fact of the existence of a 1923 Act petroleum tenure is taken to be an authorisation from its holder to the chief executive to use required information for—
- (a) purposes reasonably related to this Act that are required for the tenure; or
 - (b) the services of the State.
- ‘(2) The authorisation is not affected by the ending of the tenure.

‘76F Obligation to lodge annual reports

- ‘(1) Each 1923 Act petroleum tenure holder must, within 2 months after each of the tenure’s anniversary days, lodge a report (an *annual report*) for the 12 months that ended on the last anniversary day that includes the information about the authority prescribed under a regulation.

Maximum penalty—150 penalty units.

- ‘(2) If a 1923 Act petroleum tenure ends, its former holder must, within 2 months, lodge a report that includes the information prescribed under subsection (1) for the period from the authority’s last anniversary day to when it ended.

Maximum penalty—150 penalty units.

- ‘(3) A report under this section must be lodged at—
- (a) the office of the department for lodging annual reports, as stated in a gazette notice by the chief executive; or
 - (b) if no office is gazetted under paragraph (a)—the office of the chief executive.
- ‘(4) In this section—

anniversary day, for a 1923 Act petroleum tenure, means each day that is the anniversary of the day the authority took effect.

‘76G Power to require information or reports about authorised activities to be kept or given

‘(1) A regulation, or the chief executive, may, for the services of the State, require a 1923 Act petroleum tenure holder to—

- (a) keep stated information, or types of information, about authorised activities carried out under the tenure; or

Example of a way of keeping information—

in a stated digital format

- (b) lodge a notice giving stated information, or types of information, or stated reports at stated times or intervals about authorised activities carried out under the tenure.

Example of a stated time—

for a report about a well, 6 months after its completion

‘(2) For subsection (1), the information or report required to be given or kept may be—

- (a) basic exploration data; or

Examples of basic exploration data—

- seismic acquisition, processing and interpretation reports
- information obtained from airborne geophysical surveying
- other information about petroleum or other materials at or below ground level
- a well completion report for an exploration or appraisal well

- (b) opinions, conclusions, technical consolidations and advanced interpretations based on basic exploration data.

‘(3) A notice under subsection (1)(b)—

- (a) may state—

- (i) a format required for giving the information; and
- (ii) a degree of precision required for the giving of the information; and

- (b) must be lodged at—
 - (i) the office of the department for lodging reports under this section, as stated in a gazette notice by the chief executive; or
 - (ii) if no office is gazetted under subparagraph (i)—the office of the chief executive.
- ‘(4) A person of whom a requirement under subsection (1) has been made must comply with the requirement.
Maximum penalty—100 penalty units.
- ‘(5) In this section—
information includes documents, records and samples.

‘Part 6F Provisions for coal seam gas

‘Division 1 Preliminary

‘Subdivision 1 Introduction

‘76H Main purposes of pt 6F

‘The main purposes of this part are, in conjunction with the 2004 Act, chapter 3 and the Mineral Resources Act, part 7AA,⁹⁵ to—

- (a) clarify rights to explore for and produce coal seam gas; and
- (b) address issues arising for coal seam gas exploration and production, and, in particular, issues arising when a 1923 Act petroleum tenure and a coal or oil shale mining tenement are granted over the same area; and

⁹⁵ 2004 Act, chapter 3 and the Mineral Resources Act, part 7AA (Provisions for coal seam gas)

- (c) ensure petroleum exploration and production is—
 - (i) carried out safely; and
 - (ii) does not compromise the safe and efficient mining of coal seams or oil shale; and
- (d) provide security of tenure to protect existing operations and investments relating to coal, oil shale and petroleum;⁹⁶ and
- (e) provide certainty of tenure for future investments relating to coal, oil shale and petroleum; and
- (f) optimise the development and use of the State’s coal, oil shale and petroleum resources to maximise the benefit for all Queenslanders; and
- (g) ensure petroleum exploration and production does not compromise the ability to mine coal seams economically in the future; and
- (h) ensure, if it is commercially and technically feasible, the grant of leases that may affect coal or oil shale mining, or proposed coal or oil shale mining, optimises the commercial use of coal, oil shale and petroleum resources in a safe and efficient way.

‘76I How main purposes are achieved

- ‘(1) The main purposes of this part are achieved, in this part, the 2004 Act, chapter 3 or the Mineral Resources Act, part 7AA, by—
 - (a) providing for processes to decide the priority of overlapping lease applications and coal or oil shale mining tenement applications and potential applications; and
 - (b) facilitating the obtaining of a lease over land in the area of a coal mining lease or oil shale mining lease; and

⁹⁶ For existing operations, see also the Mineral Resources Act, part 19, division 6 (Transitional provisions for *Petroleum and Gas (Production and Safety) Act 2004*).

- (c) imposing additional requirements for deciding the overlapping applications; and
 - (d) imposing restrictions on the authorised activities for particular 1923 Act petroleum tenures; and
 - (e) imposing additional—
 - (i) requirements relating to development plans for petroleum exploration or production under a lease; and
 - (ii) conditions on authorities to prospect and leases; and
 - (f) granting the following the right to apply for a lease—
 - (i) particular coal or oil shale mining tenement holders;
 - (ii) others who apply jointly with the holders.
- ‘(2) The following are also relevant to the achievement of the purposes—
- (a) the definition of *petroleum* in section 2—
 - (b) the 2004 Act, sections 800(2) and 802(1)(c);
 - (c) the 2004 Act, chapter 2, part 8;
 - (d) the 2004 Act, chapter 9;
 - (e) the Mineral Resources Act, sections 3A, and 6, part 7AA and part 19, division 6.⁹⁷

‘76J Relationship with other provisions of Act

- ‘(1) Requirements and restrictions under this part apply as well as any relevant requirements under another provision of this Act.

⁹⁷ 2004 Act, sections 800 (Restriction on petroleum tenure activities), 802 (Restriction on pipeline construction or operation), chapter 2, part 8 (Petroleum activities coordination) and chapter 9 (Safety)

Mineral Resources Act, sections 3A (Relationship with petroleum legislation) and 6 (Meaning of *mineral*), part 7AA (Provisions for coal seam gas) and part 19, division 6 (Transitional provisions for Petroleum and Gas (Production and Safety) Act 2004)

- ‘(2) If this part imposes a requirement for, or a restriction on, the renewal of a 1923 Act petroleum tenure, the tenure can not be renewed if the restriction applies or if the requirement has not been complied with.
- ‘(3) If this part imposes a requirement for, or a restriction on, the carrying out of an authorised activity for a 1923 Act petroleum tenure, despite the other provision, the activity is not an authorised activity for the tenure while the restriction applies or if the requirement has not been complied with.
- ‘(4) If a provision of this part conflicts with the other provision, the provision of this part prevails to the extent of the inconsistency.

‘Subdivision 2 Definitions for pt 6F

‘76K What is *coal seam gas* and *incidental coal seam gas*

- ‘(1) *Coal seam gas* is petroleum (in any state) occurring naturally in association with coal or oil shale, or in strata associated with coal or oil shale mining.
- ‘(2) *Incidental coal seam gas* is incidental coal seam gas as defined under the Mineral Resources Act, section 318CM(2).⁹⁸

‘76L What is *oil shale*

‘*Oil shale* is any shale or other rock (other than coal) from which a gasification or retorting product may be extracted or produced.

‘76M What is a *coal exploration tenement* and a *coal mining lease*

- ‘(1) A *coal exploration tenement* is an exploration permit or mineral development licence under the Mineral Resources Act granted for coal.

⁹⁸ Mineral Resources Act, section 318CM (Limited entitlement to mine coal seam gas)

- ‘(2) A *coal mining lease* is—
- (a) a mining lease for coal; or
 - (b) a special coal mining lease granted under any of the following Acts, an agreement provided for under any of the Acts or any amendment of an agreement provided for under any of the Acts—
 - (i) the *Central Queensland Coal Associates Agreement Act 1968*;
 - (ii) the *Thiess Peabody Mitsui Coal Pty. Ltd. Agreements Acts 1962*; or
 - (c) a specific purpose mining lease for a purpose associated with, arising from or promoting the activity of coal mining, whether or not it is also granted for a purpose other than coal mining.
- ‘(3) Subsections (1) and (2)(a) apply whether or not the lease, permit or licence is also granted for another mineral.

‘76N What is an *oil shale exploration tenement* and an *oil shale mining lease*

- ‘(1) An *oil shale exploration tenement* is an exploration permit or mineral development licence granted for oil shale.
- ‘(2) An *oil shale mining lease* is—
- (a) a mining lease for oil shale; or
 - (b) a specific purpose mining lease for a purpose associated with, arising from or promoting the activity of oil shale mining, whether or not it is also granted for a purpose other than oil shale mining.
- ‘(3) Subsections (1) and (2)(a) apply whether or not the lease, permit or licence is also granted for another mineral.

‘76O What is a *coal or oil shale mining tenement*

‘A *coal or oil shale mining tenement* is—

- (a) a coal exploration tenement; or

- (b) an oil shale exploration tenement; or
- (c) a coal mining lease or oil shale mining lease.

‘Division 2 Additional provisions for authorities to prospect

‘Subdivision 1 Grant of authority to prospect in area of coal or oil shale exploration tenement

‘76P Provisions for authority to prospect

- ‘(1) The Mineral Resources Act does not limit or otherwise affect the power under this Act to grant an authority to prospect over land (the *overlapping land*) in the area of a coal or oil shale exploration tenement.
- ‘(2) However, an authorised activity for the authority to prospect can not be carried out on the overlapping land if—
 - (a) carrying it out adversely affects the carrying out of an authorised activity for the coal or oil shale exploration tenement; and
 - (b) the authorised activity for the coal or oil shale exploration tenement has already started.

‘Subdivision 2 Restriction on authorised activities on coal mining lease or oil shale mining lease land

‘76Q Application of sdiv 2

‘This subdivision applies if land in the area of a coal mining lease or oil shale mining lease is in the area of an authority to prospect.

'76R Restriction

- '(1) An authorised activity for the authority may be carried out on the land only if—
- (a) the mining lease holder has agreed in writing to the carrying out of the activity; and
 - (b) a copy of the agreement has been lodged at—
 - (i) the office of the department for lodging the agreement, as stated in a gazette notice by the chief executive; or
 - (ii) if no office is gazetted under subparagraph (i)—the office of the chief executive; and
 - (c) the agreement is still in force.⁹⁹
- '(2) Subsection (1) does not apply, or ceases to apply, if the same person holds the authority and the mining lease.

'Subdivision 3 Condition**'76S Compliance with obligations under Mineral Resources Act**

'If an obligation under the Mineral Resources Act, section 318AW or 318DB,¹⁰⁰ applies to an authority to prospect holder, it is a condition of the authority that the holder must comply with the obligation.

⁹⁹ See also the Mineral Resources Act, section 403 (Offences regarding land subject to mining claim or mining lease).

¹⁰⁰ Mineral Resources Act, section 318AW (Authority to prospect holder's obligations) or 318DB (Authority to prospect holder's obligation to negotiate)

‘Division 3 Renewal provisions

‘Subdivision 1 Lease area overlapping with coal or oil shale exploration tenement

‘76T Application of sdiv 1

- ‘(1) This subdivision applies if—
- (a) all or part of land in the area of a lease is in the area of a coal or oil shale exploration tenement; and
 - (b) the lessee wishes to apply under section 45¹⁰¹ to renew the lease.
- ‘(2) However, this subdivision does not apply if—
- (a) the lessee is a holder of the tenement; or
 - (b) the application is to be made with the tenement holder’s written consent.

‘76U Additional requirements for making application

- ‘(1) The application must include the following—
- (a) a statement (a *CSG statement*) that complies with section 76V;
 - (b) other information that addresses the matters mentioned in subsection (2) (the *CSG assessment criteria*).
- ‘(2) The CSG assessment criteria are—
- (a) the requirements of the 2004 Act, chapter 9;¹⁰² and
 - (b) the initial development plan requirements; and
 - (c) the legitimate business interests of the applicant and the coal or oil shale exploration tenement holder (the *parties*); and

101 Section 45 (Entitlement to renewal of lease)

102 2004 Act, chapter 9 (Safety)

Examples of a party's legitimate business interests—

- contractual obligations
 - the effect on, and use of, existing infrastructure or mining or production facilities
 - exploration expenditure on relevant overlapping tenures
- (d) the effect of the renewed lease on the future development of coal or oil shale resources from the land, including for example, each of the following—
- (i) the proposed timing and rate of petroleum production and the development of coal or oil shale resources from the land;
 - (ii) the potential for the parties to make a coordination arrangement about—
 - (A) petroleum production under the renewed lease; and
 - (B) coal or oil shale mining and any incidental coal seam gas mining under any future mining lease over the land;
 - (iii) the attempts required of the applicant under section 76W(1)(b) and any changes of the type mentioned in section 76W(1)(c);
 - (iv) the economic and technical viability of the concurrent or coordinated petroleum production and the development of any coal or oil shale resources in the land;
 - (v) the extent, nature and value of petroleum production and the development of any coal or oil shale resources in the land; and
- (e) having regard to the public interest in petroleum production from, and the development of any coal or oil shale resources in, the land.

'76V Content requirements for CSG statement

- '(1) A CSG statement must—
- (a) assess—

- (i) the likely effect of proposed petroleum production on the future development of coal or oil shale resources from the land; and
 - (ii) the technical and commercial feasibility of coordinated petroleum production and coal or oil shale mining from the land; and
 - (b) include a proposed safety management plan for all operating plant, or proposed operating plant, for proposed petroleum production under the lease that may affect possible future safe and efficient mining under the coal mining lease or oil shale mining lease.
- ‘(2) The proposed safety management plan must—
- (a) comply with the requirements under the 2004 Act, sections 388 and 675,¹⁰³ for a safety management plan; and
 - (b) include proposals for the minimisation of potential adverse effects on possible future safe and efficient mining under a future mining lease.

‘76W Applicant’s obligations

- ‘(1) The applicant must—
- (a) within 10 business days after making the application, give the coal or oil shale exploration tenement holder a copy of the application, other than any part of the application that relates to the capability criteria; and
 - (b) use reasonable attempts to—
 - (i) consult with the tenement holder about the applicant’s proposed later development plan and proposed safety management plan; and
 - (ii) make an appropriate arrangement with the tenement holder about advanced testing carried

103 2004 Act, sections 388 (Additional content requirements) and 675 (Content requirements for safety management plans)

out, or proposed to be carried out, by the tenement holder (a *testing arrangement*);¹⁰⁴ and

Example of advanced testing—

bulk sampling

- (c) change the proposed plans to give effect to any reasonable proposal by the tenement holder that will optimise the safe and efficient production of—
 - (i) petroleum under the renewed lease; and
 - (ii) coal or oil shale under any future mining lease over the land; and
- (d) within 4 months after the making of the application, lodge a notice stating each of the following—
 - (i) the details of the consultation;
 - (ii) the results of the consultation;
 - (iii) any comments the applicant wishes to make about any submissions lodged by the tenement holder, under section 77;¹⁰⁵
 - (iv) any changes to the proposed later development plan or proposed safety management plan;
 - (v) if a testing arrangement has been made—details of the arrangement;
 - (vi) if a testing arrangement has not been made—details of the attempts made to make a testing arrangement;
 - (vii) the applicant's assessment of the potential for the applicant and the tenement holder to make a coordination arrangement about—
 - (A) petroleum production under the renewed lease; and

104 See also division 7 (Confidentiality of information).

105 Section 77 (Submissions by coal or oil shale exploration tenement holder)

- (B) coal or oil shale mining and any incidental coal seam gas mining under any future mining lease over the land.
- ‘(2) However, the obligations under subsection (1)(b)(ii) and (c) apply only to the extent the provisions or arrangements are commercially and technically feasible for the applicant.
- ‘(3) For subsection (1)(b)(ii), if the exploration tenement is an exploration permit, it is appropriate for the agreement to give the permit holder the right to carry out advanced testing to satisfy the Minister under the Mineral Resources Act, section 186(1)(b).¹⁰⁶
- ‘(4) However, subsection (3) does not require the applicant to agree to testing having a duration of more than 12 months.
- ‘(5) A notice under subsection (1)(d) must be lodged at—
- (a) the office of the department for lodging the notice, as stated in a gazette notice by the chief executive; or
 - (b) if no office is gazetted under paragraph (a)—the office of the chief executive.

‘76X Minister may require further negotiation

- ‘(1) The Minister may, after receiving the notice under section 76W(1)(d), require the applicant to conduct negotiations with the coal or oil shale exploration tenement holder with a view to—
- (a) making a testing arrangement mentioned in section 76W(1)(b)(ii); or
 - (b) making changes of a type mentioned in section 76W(1)(c).
- ‘(2) The applicant must use all reasonable attempts to comply with the requirement.

106 See Mineral Resources Act, section 186(1)(b) (Minister may grant or reject application for mineral development licence).

‘76Y Consequence of applicant not complying with obligations or requirement

‘If the Minister is reasonably satisfied the applicant has not complied with an obligation under section 76W or 76X, the application may be refused.¹⁰⁷

‘76Z Obligations of coal or oil shale exploration tenement holder

‘The coal or oil shale exploration tenement holder must—

- (a) within 20 business days after receiving a copy of the application, give the applicant basic information the tenement holder has about the following that the applicant may reasonably need to comply with section 76W—
 - (i) the type of exploration activities carried out, or proposed to be carried out under the tenement;
 - (ii) coal or oil shale resources in the land; and
- (b) after receiving a copy of the application, make reasonable attempts to reach an agreement with the applicant about the matters mentioned in section 76W(1)(b) that provides the best resource use outcome without significantly affecting the parties’ rights or interests.¹⁰⁸

‘77 Submissions by coal or oil shale exploration tenement holder

- ‘(1) The coal or oil shale exploration tenement holder may lodge submissions about the application at—
 - (a) the office of the department for lodging the submissions, as stated in a gazette notice by the chief executive; or
 - (b) if no office is gazetted under paragraph (a)—the office of the chief executive.

107 See also division 7 (Confidentiality of information).

108 See also division 7 (Confidentiality of information).

- ‘(2) However, the submissions may be lodged only within 3 months after the holder is, under section 76W(1)(a),¹⁰⁹ given a copy of the application (the *submission period*).
- ‘(3) The submissions may—
- (a) state that the holder does not object to the granting of the renewed lease; and
 - (b) state that the holder does not wish any preference for the future development of coal or oil shale from the land; and
 - (c) include information about all or any of the following—
 - (i) exploration carried out under the tenement;
 - (ii) the results of the exploration;
 - (iii) the prospects for future coal or oil shale mining or incidental coal seam gas mining from the land; and
 - (d) include a proposal by the tenement holder for the development of coal or oil shale in the land; and
 - (e) include information relevant to the CSG assessment criteria;¹¹⁰ and
 - (f) include reasonable provisions for the safety management plan for petroleum production under the renewed lease.¹¹¹
- ‘(4) The holder must give the applicant a copy of the submissions.
- ‘(5) In deciding the application, regard must be had to the submissions.

109 Section 76W (Applicant’s obligations)

110 See also division 7 (Confidentiality of information).

111 See also the 2004 Act, section 386 (Requirements for consultation with particular coal mining tenement holders).

‘Subdivision 2 Renewal application by petroleum lease holder

‘77A Application of sdiv 2

- ‘(1) This subdivision applies if—
- (a) all or part of land in the area of a lease under this Act is in the area of a coal mining lease or oil shale mining lease; and
 - (b) the lessee of the lease under this Act wishes to apply under section 45¹¹² to renew that lease.
- ‘(2) However, this division does not apply if the lessee is the mining lease holder.
- ‘(3) If—
- (a) the land is also in the area of a coal or oil shale exploration tenement; and
 - (b) the same person holds the mining lease and the exploration tenement;

a reference in this division to the mining lease holder includes a reference to the exploration tenement holder.

‘77B Additional requirement for making application

‘The application must include a CSG statement.¹¹³

‘77C Power to split application if it includes other land

- ‘(1) This section applies if the application includes land (the *other part*) not in the area of a coal or oil shale exploration tenement.

112 Section 45 (Entitlement to renewal of lease)

113 See section 76V (Content requirements for CSG statement).

- '(2) The Minister may decide to treat the application to the extent it applies to the other part as if it were a separate renewal application.
- '(3) The separate application must be decided under section 45.

'77D Power to split application at applicant's request

- '(1) The Minister may, at the applicant's request, decide to treat the application as if it were separate renewal applications to allow them to be decided under this subdivision or section 45, as the Minister considers appropriate.
- '(2) However, no step may be taken in relation to the deciding of the applications until the relevant requirements for making them have been complied with.

'77E Notice to coal mining lease holder or oil shale mining lease holder

'The applicant must, within 10 business days after making the application, give the coal mining lease holder or oil shale mining lease holder a copy of the application, other than any part of the application that relates to the capability criteria.

'77F Coal mining lease holder's or oil shale mining lease holder's obligation to negotiate

- '(1) The coal mining lease holder or oil shale mining lease holder must, after receiving the copy of the application, make reasonable attempts to reach a coordination arrangement with the applicant about the following matters that provides the best resource use outcome without significantly affecting the parties' rights or interests—
 - (a) petroleum production under the renewed lease;
 - (b) coal or oil shale mining and any incidental coal seam gas mining under the mining lease.¹¹⁴

114 For the extent to which coal seam gas production is permitted under the coal mining lease or oil shale mining lease, see the Mineral Resources Act, part 7AA, division 8, subdivision 1 (Entitlement to coal seam gas).

- ‘(2) However, the obligation under subsection (1) applies only to the extent that a coordination arrangement is commercially and technically feasible for the mining lease holder.¹¹⁵

‘77G Additional requirements for grant

- ‘(1) The application may be granted only if—
- (a) the applicant has negotiated, with the coal mining lease holder or oil shale mining lease holder, a proposed coordination arrangement (a *relevant arrangement*) about the following matters—
 - (i) petroleum production under the renewed lease;
 - (ii) coal or oil shale mining and any incidental coal seam gas under the mining lease; and
 - (b) the Minister has approved the relevant arrangement; and
 - (c) the applicant has made a safety management plan for all operating plant on, or proposed to be on, the area of the renewed lease;¹¹⁶ and
 - (d) the mining lease holder has lodged a notice that the holder has agreed to the plan.
- ‘(2) The Minister may decide to refuse the application if—
- (a) the Minister is satisfied the applicant and the mining lease holder have, as required under section 77F, made reasonable attempts to reach a relevant arrangement; and
 - (b) either—
 - (i) the mining lease holder has lodged a notice stating there are no reasonable prospects of a relevant arrangement being made; or
 - (ii) a relevant arrangement has not been lodged for approval by the Minister and the Minister

115 See also division 7 (Confidentiality of information).

116 See also the 2004 Act, section 386 (Requirements for consultation with particular coal mining tenement holders).

considers the applicant and the mining lease holder have had a reasonable opportunity to make a relevant arrangement.

- ‘(3) A notice under this section must be lodged at—
- (a) the office of the department for lodging the notice, as stated in a gazette notice by the chief executive; or
 - (b) if no office is gazetted under paragraph (a)—the office of the chief executive.

‘Subdivision 3 Renewal application by coal mining lease holder or oil shale mining lease holder

‘77H Application of sdiv 3

‘This subdivision applies if a coal mining lease holder or oil shale mining lease holder applies to renew a lease under this Act for all or part of the land in the area of a coal mining lease or oil shale mining lease that is not a specific purpose mining lease.

‘77I Additional requirement for making application

‘The application must include a CSG statement.¹¹⁷

‘77J Power to split application if it includes other land

- ‘(1) This section applies if application includes land (the *other part*) not in the area of a coal or oil shale mining tenement.
- ‘(2) The Minister may decide to treat the application to the extent it applies to the other part as if it were a separate renewal application.
- ‘(3) The separate application must be decided under section 45.

117 See section 76V (Content requirements for CSG statement).

- ‘(4) Despite subsections (2) and (3) and any other provision of this part, no step may be taken in relation to deciding the applications until the relevant requirements for making them have been complied with.¹¹⁸

‘77K Power to split application at applicant’s request

- ‘(1) The Minister may, at the applicant’s request, decide to treat the application as if it were separate renewal applications to allow them to be decided under this subdivision or section 45,¹¹⁹ as the Minister considers appropriate.
- ‘(2) However, no step may be taken in relation to the deciding of the applications until the relevant requirements for making them have been complied with.

‘77L Right to grant if particular requirements met

‘The Minister must grant the lease under this Act if—

- (a) the applicant is qualified under section 7AA;¹²⁰ and
- (b) the Minister is satisfied—
- (i) the requirements, under section 40,¹²¹ have been complied with; and
- (ii) the conditions of the coal or oil shale mining lease have been substantially complied with.

Note—

If the area of the renewed lease includes land that overlaps with particular authorities to prospect, the authority holder’s written agreement is needed to carry out any authorised activity under the lease other than an activity related to incidental coal seam gas. See the 2004 Act, section 364.¹²²

118 For the applicants’ power to amend, see section 121 (Amending applications).

119 Section 45 (Entitlement to renewal of lease)

120 Section 7AA (Qualification of 1923 Act petroleum tenure holders)

121 Section 40 (Lease to holder of authority to prospect)

122 2004 Act, section 364 (Restriction on authorised activities on overlapping ATP land)

‘77M Provisions of renewed lease

- ‘(1) Section 45¹²³ applies to the granting of the lease under this Act as if the application were an application under that section.
- ‘(2) In deciding the provisions of the renewed lease, the following matters must also be considered—
- (a) the conditions of the relevant mining lease;
 - (b) the development plan under the Mineral Resources Act for the relevant mining lease;
 - (c) if the area of the lease will include land to which the 2004 Act, section 364 applies—
 - (i) the legitimate business interests, rights and future development proposals of the authority to prospect holder; and
 - (ii) the likelihood of coordinated production of petroleum in relation to the land being subject to an agreement under the 2004 Act, section 364(2).
- ‘(3) A condition may be imposed on the renewed lease that the lessee is required, by a notice lodged at the following office, to relinquish a stated part or percentage of its area at stated times or intervals—
- (a) the office of the department for lodging the notice, as stated in a gazette notice by the chief executive;
 - (b) if no office is gazetted under paragraph (a)—the office of the chief executive.¹²⁴
- ‘(4) A condition mentioned in subsection (3) is a *relinquishment condition*.¹²⁵

123 Section 45 (Entitlement to renewal of lease)

124 See however section 77P (Cessation of relinquishment condition for area not overlapping with coal or oil shale exploration tenement).

125 See also section 77O (Requirement for giving of copy of relinquishment report).

‘Division 4 Other additional provisions for leases

‘Subdivision 1 Conditions

‘77N Compliance with obligation to negotiate with coal or oil shale mining lease applicant

‘If the obligation under the Mineral Resources Act, section 318CA,¹²⁶ applies to a lessee, it is a condition of the lease that the lessee must comply with the obligation.

‘77O Requirement for giving of copy of relinquishment report

‘(1) This section applies if—

- (a) a lessee has, under section 75Z,¹²⁷ given a report about a relinquishment of part of the area of the lease; and
- (b) immediately before the relinquishment, the part included land in the area of a coal or oil shale exploration tenement.

‘(2) The lessee must give a copy of the report to—

- (a) the coal or oil shale exploration tenement holder; and
- (b) anyone else who has applied for a mining lease for the part.

Maximum penalty—200 penalty units.

126 Mineral Resources Act, section 318CA (Petroleum lease holder’s obligation to negotiate)

127 Section 75Z (Relinquishment report)

‘77P Cessation of relinquishment condition for area not overlapping with coal or oil shale exploration tenement

‘If—

- (a) a lease contains a relinquishment condition; and
- (b) all or part of the area of the lease ceases to be in the area of a coal or oil shale exploration tenement (the *relevant land*);

the condition ceases to apply for the relevant land.

‘Subdivision 2 Amendment of relinquishment condition by application

‘77Q Application of sdiv 2

‘This subdivision applies if a lease contains a relinquishment condition and all or part of the area of the lease is in the area of a coal or oil shale exploration tenement.

‘77R Conditions for applying to amend

- ‘(1) The lessee may apply for the Minister to amend the condition if the applicant has, before making the application—
 - (a) made reasonable attempts to consult with the coal or oil shale exploration tenement holder about—
 - (i) the proposed amendment; and
 - (ii) a proposed later development plan for the lease; and
 - (b) changed the proposed amendment and the proposed later development plan to give effect to any reasonable proposal by the tenement holder that will optimise—
 - (i) petroleum production under the amended lease; and
 - (ii) coal, oil shale or incidental coal seam gas mining under any future mining lease over the land.

- ‘(2) However, subsection (1)(b) applies only to the extent the provisions are commercially and technically feasible for the applicant.

‘77S Obligation of coal or oil shale exploration tenement holder to negotiate

‘The coal or oil shale exploration tenement holder must, if asked by the lessee, make reasonable attempts to reach an agreement with the lessee about the matters mentioned in section 77R(1) that provides the best resource use outcome without significantly affecting the parties’ rights or interests.¹²⁸

‘77T Requirements for making application

- ‘(1) The application must—
- (a) be in the approved form; and
 - (b) be lodged at—
 - (i) the office of the department for lodging the application, as stated in a gazette notice by the chief executive; or
 - (ii) if no office is gazetted under subparagraph (i)—the office stated in the approved form; or
 - (iii) otherwise—the office of the chief executive; and
 - (c) state whether or not the development plan for the lease has been complied with; and
 - (d) if the development plan for the lease has not been complied with—state details of, and the reasons for, each noncompliance; and
 - (e) include a CSG statement; and
 - (f) include a proposed later development plan for the lease as amended under section 77R; and
 - (g) include a statement about each of the following—

128 See also division 7 (Confidentiality of information).

- (i) the details of the consultation carried out under section 77R(1)(a);
 - (ii) the results of the consultation;
 - (iii) whether the proposed development plan includes all provisions proposed by the coal or oil shale exploration tenement holder under section 77R(1)(b);
 - (iv) if the proposed development plan does not include a provision proposed by the tenement holder—why it was not included;
 - (v) the applicant’s assessment of the potential for the applicant and the tenement holder to make a coordination arrangement about—
 - (A) petroleum production under the amended lease; and
 - (B) coal, oil shale or incidental coal seam gas mining under any future mining lease over the land that may be granted to the tenement holder; and
 - (h) be accompanied by the fee prescribed under a regulation.
- ‘(2) However, the CSG statement need not include a proposed safety management plan.

‘77U Notice of application

‘The applicant must immediately after making the application give the coal or oil shale exploration tenement holder a copy of the application.

‘77V Submissions by coal or oil shale exploration tenement holder

- ‘(1) The coal or oil shale exploration tenement holder may lodge submissions about the application at—
- (a) the office of the department for lodging the submissions, as stated in a gazette notice by the chief executive; or

- (b) if no office is gazetted under paragraph (a)—the office of the chief executive.¹²⁹
- ‘(2) However, the submissions may be lodged only within 20 business days after the holder is, under section 77U, given a copy of the application.
- ‘(3) The submissions may include—
 - (a) information about all or any of the following—
 - (i) exploration carried out under the tenement;
 - (ii) the results of the exploration;
 - (iii) the prospects for future coal or oil shale mining or incidental coal seam gas mining from the land; or
 - (b) a proposal by the tenement holder for the development of coal or oil shale in the land; or
 - (c) information relevant to the CSG assessment criteria.
- ‘(4) The holder must give the applicant a copy of the submissions.
- ‘(5) In deciding the application, regard must be had to the submissions.

‘77W Minister may require further negotiation

- ‘(1) The Minister may, by notice, require the applicant to conduct negotiations with the coal or oil shale exploration tenement holder with a view to making changes of a type mentioned in section 77R(1)(b).¹³⁰
- ‘(2) The applicant must use all reasonable attempts to comply with the requirement.
- ‘(3) If the Minister is reasonably satisfied the applicant has not complied with the requirement the Minister may decide to refuse the application.

129 See also division 7 (Confidentiality of information).

130 Section 77R (Conditions for applying to amend)

‘77X Deciding amendment application

- ‘(1) Before deciding to grant the application, the Minister must decide whether to approve the applicant’s proposed later development plan for the lease.
- ‘(2) The application can not be granted unless the proposed plan has been approved.
- ‘(3) Part 6, division 2¹³¹ applies for deciding whether to approve the proposed plan.
- ‘(4) The matters that must be considered in deciding the application include each of the following—
 - (a) the CSG assessment criteria;
 - (b) whether the applicant has taken all reasonable steps to comply with the relinquishment condition;
 - (c) the effect of any approval of later development plans for the lease;
 - (d) any submissions under section 77V lodged within the period mentioned in section 77V(2).

‘Subdivision 3 Restriction on amendment of conditions**‘77Y Interests of relevant coal or oil shale mining tenement holder to be considered**

‘A condition of a lease must not be amended unless the interests of any relevant coal or oil shale mining tenement holder have been considered.

131 Part 6, division 2 (Development plans)

See also division 6 (Proposed later development plans).

‘Division 5 Restrictions on particular transfers

‘77Z Requirement for coordination arrangement to transfer lease in tenure area of mining lease

- ‘(1) This section applies, despite part 6N, if land is in the area of a petroleum lease and a coal mining lease or oil shale mining lease.
- ‘(2) A transfer of the petroleum lease must not be approved under part 6N unless the proposed transferee and the mining lease holder are parties to a coordination arrangement about—
 - (a) petroleum production under the lease; and
 - (b) coal or oil shale mining and any incidental coal seam gas mining under the mining lease.

‘Division 6 Proposed later development plans

‘78 Additional criteria for deciding whether to approve

- ‘(1) This section applies if—
 - (a) the Minister is considering whether to approve a proposed later development plan for a lease; and
 - (b) the area of the lease includes all or part of the area of a coal mining tenement or oil shale mining tenement.
- ‘(2) The matters that must be considered also include—
 - (a) the CSG assessment criteria; and
 - (b) the effect of any approval of the proposed plan on any relinquishment condition for the lease.¹³²

132 See also section 53F (Power to require relinquishment).

‘Division 7 Confidentiality of information

‘78A Application of div 7

- ‘(1) This division applies if a tenure holder or a person who has applied for a tenure (the *information-giver*) gives another tenure holder or a person who has applied for a tenure (the *recipient*) information—
- (a) that this part requires the information-giver to give the recipient, including, for example, information given to comply with section 76Z(a);¹³³ or
 - (b) for the purposes of this part.
- ‘(2) However, this division applies subject to any agreement between the information-giver and the recipient about the information or its use.
- ‘(3) In this section—
- information* means information given verbally or in writing.
- tenure* means a 1923 Act petroleum tenure or a coal or oil shale mining tenement.

‘78B Confidentiality obligations

- ‘(1) The recipient must not disclose the information to anyone else, unless—
- (a) the information is publicly available; or
 - (b) the disclosure is—
 - (i) made with the information-giver’s consent; or
 - (ii) expressly permitted or required under this or another Act; or
 - (iii) to the Minister.
- ‘(2) The recipient may use the information only for the purpose for which it is given.

133 Section 76Z (Obligations of coal or oil shale exploration tenement holder)

‘78C Civil remedies

‘If the recipient does not comply with section 78B, a court of competent jurisdiction may order the recipient to pay the information-giver all or any of the following—

- (a) compensation for any loss the information-giver incurred because of the failure to comply with the section;
- (b) the amount of any commercial gain the recipient made because of the failure to comply with the section.

‘Part 6G Security**‘78D Operation and purpose of pt 6G**

- ‘(1) This part empowers the Minister to require, from time to time, a 1923 Act petroleum tenure holder, or a person who has applied for a 1923 Act petroleum tenure, to give the State security for the tenure, or proposed tenure.
- ‘(2) The security may be used to pay—
 - (a) any liability under this Act that the State incurs because of an act or omission of the holder; and
 - (b) unpaid petroleum royalty or annual rent payable by the holder to the State; and
 - (c) other unpaid amounts payable under this Act by the holder to the State, including, for example, any of the following—
 - (i) unpaid civil penalty;
 - (ii) unpaid interest on unpaid petroleum royalty or annual rent;

- (iii) any debt payable by the holder under section 101;¹³⁴ and
- (d) any compensation the State must pay under section 80P¹³⁵ because of the exercise, or purported exercise, of a remedial power under section 80L¹³⁶ in relation to the tenure, whether or not the tenure has ended.

‘78E Power to require security for 1923 Act petroleum tenure

- ‘(1) The Minister may require a 1923 Act petroleum tenure holder, or a person who has applied for a 1923 Act petroleum tenure, to give the State security for the tenure, or proposed tenure.
- ‘(2) The security must be—
 - (a) in the form prescribed under a regulation; and
 - (b) of at least the amount prescribed under a regulation.
- ‘(3) The requirement may be made at any time.
- (4) However, the requirement does not take effect until the holder or applicant is given—
 - (a) for a requirement to give security in the form and amount prescribed under subsection (2)—notice of the requirement; or
 - (b) otherwise—an information notice about the decision to make the requirement.

‘78F Minister’s power to require additional security

- ‘(1) The Minister may, at any time, require a petroleum authority holder to increase the amount of security given for the authority.

134 Section 101 (Minister’s power to ensure compliance by 1923 Act petroleum tenure holder)

135 Section 80P (Compensation for exercise of remedial power)

136 Section 80L (Power of authorised person to ensure compliance)

- ‘(2) However—
- (a) if, because of an increase in the prescribed amount under section 78E(2), the requirement is to increase the total security required to no more than the increased prescribed amount—the requirement must be made by notice to the holder; or
 - (b) if the requirement is to increase the total security required to more than the prescribed amount under section 78E(2) when the requirement is made—
 - (i) subsections (3) to (6) must be complied with before making the requirement; and
 - (ii) the requirement does not take effect until the holder is given an information notice about the decision to make the requirement.
- ‘(3) The Minister must give the holder notice—
- (a) stating the proposed increased amount of the security for the tenure; and
 - (b) inviting the holder to lodge, within a stated reasonable period, submissions about the proposed increased amount at—
 - (i) the office of the department for lodging the submissions, as stated in a gazette notice by the chief executive; or
 - (ii) if no office is gazetted under subparagraph (i)—the office of the chief executive.
- ‘(4) The stated period must end at least 20 business days after the holder is given the notice.
- ‘(5) Any submissions lodged by the holder within the stated period must be considered before deciding to make the requirement.
- ‘(6) In this section—
- security** given, includes security given or increased because of a requirement under subsection (1).

‘78G Interest on security

‘The State may keep any interest that accrues on security given under this part for a 1923 Act petroleum tenure.

‘78H Power to use security

‘The State may use security given under this part for a 1923 Act petroleum tenure, and any interest that accrues on the security, to make a payment mentioned in section 78D(2)¹³⁷ in relation to the tenure.

‘78I Replenishment of security

‘(1) This section applies, if—

- (a) under section 78H, all or part of the security for a 1923 Act petroleum tenure has been used; and
- (b) the tenure is still in force.

‘(2) The Minister must give the tenure holder a notice—

- (a) stating how much of the security has been used; and
- (b) directing the holder to, within 30 days after the giving of the notice, replenish the security for the tenure up to the higher of the following—
 - (i) the amount prescribed under a regulation;
 - (ii) if the notice states that, under section 78E,¹³⁸ another amount is required—the other amount.

‘78J Security not affected by change in holder

‘(1) This section applies if security for a 1923 Act petroleum tenure is given under this part for a 1923 Act petroleum tenure that is still in force and there is a subsequent change in the tenure holder.

137 Section 78D (Operation and purpose of pt 6G)

138 Section 78E (Power to require security for 1923 Act petroleum tenure)

- ‘(2) Despite the subsequent change, the security, and any interest that accrues on it, continues for the benefit of the State and may be used under section 78H.
- ‘(3) The tenure holder’s name as stated in any instrument under which the security was given is taken to have been changed to reflect the subsequent 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 tenure.

‘78K Retention of security after 1923 Act petroleum tenure ends

- ‘(1) Security, or part of security, given for a 1923 Act petroleum tenure may be kept for 1 year after the tenure has ended.
- ‘(2) Also, if a claim made for the use of the security has not been assessed, an appropriate amount of the security to meet the claim may be kept until the claim has been assessed.

‘Part 6H Private land

‘Division 1 Preliminary

‘78L Application of pt 6H

‘This part applies for a 1923 Act petroleum tenure in relation to all private land unless—

- (a) the tenure holder owns the land; or
- (b) the tenure holder has the right, other than under this Act, to enter the land to carry out authorised activities for the tenure.

‘Division 2 Requirement for entry notice for entry to private land in area of 1923 Act petroleum tenure

‘78M Requirement for entry notice to carry out authorised activities

- ‘(1) A person must not enter private land to carry out an authorised activity for a 1923 Act petroleum tenure unless—
- (a) the tenure holder has, at least 10 business days before the entry, given each owner and occupier of the land notice under this part (an *entry notice*) of the proposed entry; or
 - (b) the entry is needed to preserve life or property because of a dangerous situation or emergency that exists, or may exist; or
 - (c) each owner and occupier of the land has agreed that an entry notice is not required.

Maximum penalty—100 penalty units.

- ‘(2) If a person proposes to enter the land under subsection (1)(b), the person must, if practicable, notify each owner and occupier of the land orally before entering the land.
- ‘(3) An agreement under subsection (1)(c) is a *waiver of entry notice*.

Note—

Section 79U also contains preconditions for entry to private land to carry out authorised activities for a 1923 Act petroleum tenure.¹³⁹

‘78N Waiver of entry notice

- ‘(1) A waiver of entry notice—
- (a) may be given only by signed writing; and
 - (b) must state each of the following—

139 Section 79U (Compensation to be addressed before entry to private land)

- (i) that the owner or occupier has been told they are not required to agree to the waiver of entry notice;
 - (ii) the authorised activities proposed to be carried out on the land;
 - (iii) the period during which the land will be entered;
 - (iv) when and where the activities are proposed to be carried out.
- ‘(2) The owner or occupier can not withdraw the waiver of entry notice during the period.
- ‘(3) The waiver of entry notice ceases to have effect at the end of the period.

‘780 Required contents of entry notice

- ‘(1) An entry notice must state each of the following—
- (a) the land proposed to be entered;
 - (b) the period during which the land will be entered (the *entry period*);
 - (c) the activities proposed to be carried out on the land;
 - (d) when and where the activities are proposed to be carried out;
 - (e) contact details for—
 - (i) the relevant 1923 Act petroleum tenure holder; or
 - (ii) another person the holder has authorised to discuss the matters stated in the notice.
- ‘(2) The entry period must not be longer than—
- (a) for an authority to prospect—6 months; or
 - (b) for a lease—1 year.
- ‘(3) However, the entry period may be longer if the person to whom the notice is required to be given agrees in writing.
- ‘(4) Subject to subsections (2) and (3), an entry notice given to 1 owner or occupier of the land may state a different entry

period from an entry notice given to another owner or occupier of the land.

- ‘(5) If a proposed activity is not likely to significantly disrupt activities the occupier of the land ordinarily carries out on the land, the entry notice may comply with subsection (1)(c) and (d) by generally describing the nature and extent of the activity.
- ‘(6) The entry notice must include, or be accompanied by, an information statement in the approved form about the rights and obligations of holders, owners and occupiers relating to the entry of land under a 1923 Act petroleum tenure.

‘78P Giving entry notice by publication

- ‘(1) The chief executive may approve a 1923 Act petroleum tenure holder giving an entry notice by publishing it in a stated way.
- ‘(2) The publication may relate to more than 1 entry notice.
- ‘(3) The chief executive may give the approval only if satisfied the publication is reasonably likely to adequately inform the person to whom the notice is required to be given of the proposed entry at least 10 business days before the entry is to happen.
- ‘(4) If the chief executive gives the approval, the entry notice may, instead of complying with section 78O(6), state where a copy of the information statement mentioned in that subsection may be obtained or inspected, free of charge.

‘Division 3 Requirement for further notice before carrying out authorised activities on private land

‘78Q Application of div 3

- ‘(1) This division applies if a 1923 Act petroleum tenure holder proposes to—
 - (a) first enter private land to carry out authorised activities for the tenure; or

- (b) allow someone else for the holder to first enter private land to carry out authorised activities for the tenure.
- ‘(2) This division applies whether or not an entry notice has been given in relation to the proposed entry.

‘78R Requirement to give further notice

- ‘(1) The 1923 Act petroleum tenure holder must give each owner and occupier of the land notice—
- (a) of the proposed entry; and
 - (b) of, accurately, when and where the authorised activities are proposed to be carried out.
- ‘(2) The notice must be given—
- (a) generally—at least 2 business days before the proposed entry; or
 - (b) if the holder and each owner and occupier of the land have agreed to a longer or shorter period for giving the notice—within the longer or shorter period.
- ‘(3) The notice may be written or verbal and may be given in any way, including, for example, in person, by e-mail, facsimile transmission, letter or a hand written note.

‘78S Failure to give further notice

- ‘(1) The 1923 Act petroleum tenure holder must comply with section 78R.
- Maximum penalty—50 penalty units.
- ‘(2) However, a failure to comply with section 78R does not prevent the authorised activities from being carried out on the land.

‘Division 4 Provisions for dealings or change in ownership or occupancy

‘78T Entry notice or waiver of entry notice not affected by permitted dealing

‘A permitted dealing with a 1923 Act petroleum tenure does not affect an entry notice or waiver of entry notice given or made in relation to the tenure.

‘78U Change in ownership or occupancy

- ‘(1) If, after the giving of an entry notice, the ownership or occupancy of the relevant land changes—
- (a) the holder of the 1923 Act petroleum tenure for which the entry notice was given is taken to have given that notice to each new owner or occupier of the land; and
 - (b) the requirement under section 78M(1)(a)¹⁴⁰ to give the notice at least 10 business days before entry, does not apply for the new owner or occupier for the entry period stated in the notice.
- ‘(2) If, after the giving of a waiver of entry notice, the ownership or occupancy of the relevant land changes, each new owner or occupier of the land is taken to have given that waiver of entry notice.
- ‘(3) If the relevant 1923 Act petroleum tenure holder becomes aware of a new owner or occupier mentioned in subsection (1) or (2), the holder must, within 15 business days, give the new owner or occupier a copy of the entry notice or waiver of entry notice.
- ‘(4) If the holder does not comply with subsection (3), subsections (1) and (2) cease to apply for the entry notice or waiver of entry notice.

140 Section 78M (Requirement for entry notice to carry out authorised activities)

‘Division 5 Periodic notice after entry of land

‘78V Notice to owners and occupiers

- ‘(1) This section applies if private land has been entered to carry out authorised activities for a 1923 Act petroleum tenure.
- ‘(2) The tenure holder must, within 3 months after the end of the period under subsection (3), (4) or (5), give each owner and occupier of the land a notice stating—
 - (a) what activities were carried out on the land during that period, and where they were carried out; or
 - (b) if no activities were carried out on the land during the period—that no activities were carried out on the land during that period.
- ‘(3) If an entry notice was given for the entry to all owners or occupier of the land, the period for subsection (2) is the period stated in the entry notice.
- ‘(4) If all owners or occupiers of the land gave a waiver of entry notice for the entry, the period for subsection (2) is the longer of following periods after the giving of the waiver of entry notice—
 - (a) either—
 - (i) for an authority to prospect—6 months; or
 - (ii) for a lease—1 year;
 - (b) if, within the period under paragraph (a), each owner or occupier of the land consented to a longer period—the longer period.
- ‘(5) If an entry notice for the entry was given to some of the owners or occupiers and the rest of the owners or occupiers gave a waiver of entry notice for the entry, the period for subsection (2) is the longer of the periods under subsections (3) or (4).

‘Division 6 Access to carry out rehabilitation or environmental management

‘78W Right of access for authorised activities includes access for rehabilitation and environmental management

‘If, under this part, a 1923 Act petroleum tenure holder has the right to enter private land to carry out authorised activities for the tenure, the right includes the right to enter the land to carry out rehabilitation or environmental management required of the holder under any relevant environmental requirement under the Environmental Protection Act.

‘Part 6I Public land¹⁴¹

‘Division 1 Public roads

‘Subdivision 1 Preliminary

‘78X Significant projects excluded from div 1

- ‘(1) This division does not apply for a 1923 Act petroleum tenure 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.
- ‘(2) Subsection (1) does not limit or otherwise affect conditions the Coordinator-General may, under the *State Development and Public Works Organisation Act 1971*, part 4, division 7,¹⁴² recommend for the tenure.

141 See however section 165 (Exclusion of pt 6I, div 1 for continuance of particular existing road uses).

142 *State Development and Public Works Organisation Act 1971*, part 4, division 7 (Relationship with other legislation)

‘78Y What is a *notifiable road use*

- ‘(1) A *notifiable road use*, for a 1923 Act petroleum tenure, is—
- (a) the use of a public road in the area of the tenure 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—
 - (i) the transportation of petroleum produced or processed in the area of the tenure; or
 - (ii) the construction of a pipeline.
- ‘(2) Subsection (1)(b) applies even if the road is not on land in the area of the tenure.
- ‘(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.

‘Subdivision 2 Notifiable road uses**‘78Z Notice of notifiable road use**

- ‘(1) It is a condition of each 1923 Act petroleum tenure 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.¹⁴³
- ‘(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

143 See also section 79G (Compensation to be addressed before carrying out notifiable road use).

- (b) state each of the following—
- (i) the public road proposed to be used;
 - (ii) the type of haulage under the use;

Examples 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.

‘79 Directions about notifiable road use

‘(1) The public road authority for a public road may, by notice, give a 1923 Act petroleum tenure 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 transportation 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, or a similar document under another Act.

‘79A Obligation to comply with road use directions

‘It is a condition of each 1923 Act petroleum tenure that its holder must comply with any road use direction given to its holder relating to the tenure, unless the holder has a reasonable excuse.

‘Subdivision 3 Compensation for notifiable road uses

‘79B Liability to compensate public road authority

- ‘(1) The holder of each 1923 Act petroleum tenure 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 78Z, given notice of the use; and
 - (b) is subject to section 79H;¹⁴⁴ 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.

‘79C Compensation agreement

- ‘(1) A 1923 Act petroleum tenure 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—

¹⁴⁴ Section 79H (Compensation not affected by change in administration or holder)

- (a) extend the holder's compensation liability to the public road authority relating to the road to any renewal of the tenure; and
- (b) provide for—
 - (i) monetary or non-monetary compensation; or
 - (ii) a process by which it may be amended or enforced.

Example for paragraph (b)—

A compensation agreement may provide for compensation under it to be reviewed on the happening of a material change in circumstances for the 1923 Act petroleum tenure, 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.

'79D Deciding compensation through tribunal

- '(1) The public road authority for a public road or a 1923 Act petroleum tenure holder may apply (a ***compensation application***) to the tribunal for the tribunal 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.

'79E 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 1923 Act petroleum tenure holder has paid, or agreed to pay, the public road authority for notifiable road uses; or
 - (ii) rates 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 proposed, 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.

‘79F Tribunal review of compensation

- ‘(1) This section applies if—
- (a) the compensation liability, or future compensation liability, of a 1923 Act petroleum tenure holder to a 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 the holder may apply to the tribunal for it to review the original compensation.
- ‘(3) Sections 79D and 79E apply 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 79E(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.

'79G Compensation to be addressed before carrying out notifiable road use

- '(1) It is a condition of each 1923 Act petroleum tenure 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.¹⁴⁵
- '(2) A consent under subsection (1)(b) may be given for any renewal of the tenure.

¹⁴⁵ See section 79E(1) (Deciding compensation through tribunal).

‘79H 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
 - (b) the relevant 1923 Act petroleum tenure holder; and
 - (c) each of their personal representatives, successors and assigns.
- ‘(2) Subsection (1) is subject to section 79F.¹⁴⁶

‘Division 2 Other public land**‘79I Requirement for entry notice to carry out authorised activities**

- ‘(1) This section does not apply for a notifiable road use.¹⁴⁷
- ‘(2) A 1923 Act petroleum tenure holder must not enter public land to carry out an authorised activity for the tenure on public land¹⁴⁸ unless—
- (a) the activity is an activity that may be carried out by a member of the public without requiring the specific approval of the public land authority for the land; or
Example—
travelling on a public road in the area of the 1923 Act petroleum tenure
 - (b) the holder has, at least 30 business days before the entry, given the public land authority notice under this part (an **entry notice**) of the proposed entry; or

146 Section 79F (Tribunal review of compensation)

147 For notifiable road uses see sections 78Z (Notice of notifiable road use) and 79 (Directions about notifiable road use).

148 For private land, see part 6H (Private land).

See also section 78Z (Notice of notifiable road use).

- (c) the entry is needed to preserve life or property because of a dangerous situation or emergency that exists, or may exist; or
- (d) the public land authority has agreed that an entry notice is not required.

‘Maximum penalty for subsection (2)—100 penalty units.

- ‘(3) An agreement under subsection (2)(d) is a *waiver of entry notice*.

‘79J Waiver of entry notice

- ‘(1) A waiver of entry notice—
 - (a) may be given only by signed writing; and
 - (b) must state each of the following—
 - (i) that the public land authority has been told it is not required to agree to the waiver of entry notice;
 - (ii) the authorised activities proposed to be carried out on the land;
 - (iii) the period during which the land will be entered;
 - (iv) when and where the activities are proposed to be carried out.
- (2) The public land authority can not withdraw the waiver of entry notice during the period.
- (3) The waiver of entry notice ceases to have effect at the end of the period.

‘79K Required contents of entry notice

- ‘(1) An entry notice must state each of the following—
 - (a) the land proposed to be entered;
 - (b) the period during which the land will be entered (the “**entry period**”);
 - (c) the activities proposed to be carried out on the land;

- (d) when and where the activities are proposed to be carried out;
 - (e) contact details for—
 - (i) the relevant 1923 Act petroleum tenure holder; or
 - (ii) another person the holder has authorised to discuss the matters stated in the notice.
- ‘(2) The entry period must not be longer than—
- (a) for an authority to prospect—6 months; or
 - (b) for a petroleum lease—1 year.
- ‘(3) However, the entry period may be longer if the public land authority agrees in writing.
- ‘(4) Subject to subsections (2) and (3), an entry notice given to 1 public land authority in relation to the public land may state a different entry period from an entry notice given to another public land authority in relation to the public land.
- ‘(5) If a proposed activity is not likely to significantly disrupt activities the public land authority ordinarily carries out on the land, the entry notice may comply with subsection (1)(c) and (d) by generally describing the nature and extent of the activity.

‘79L Conditions public land authority may impose

- ‘(1) A public land authority may impose relevant and reasonable conditions on a 1923 Act petroleum tenure holder including, for example, about giving the public land authority—
- (a) notice of proposed entry—
 - (i) generally—at least 2 business days before the proposed entry; or
 - (ii) if the holder and the public land authority have agreed to a longer or shorter period for giving the notice—within the longer or shorter period; or
 - (b) notice at stated intervals of activities carried out by, or for, the holder on the land.

- ‘(2) However, the public land authority can not impose a condition that is the same, or substantially the same as, or inconsistent with, a condition of the tenure or a relevant environmental authority.
- ‘(3) Despite subsection (2), if the public land authority is the chief executive of the department in which the *Nature Conservation Act 1992* is administered, that chief executive may impose a condition more stringent than the conditions of the environmental authority.
- ‘(4) If the authority decides to impose a condition, other than a condition agreed to or requested by the holder, it must give the holder an information notice about the decision.
- ‘(5) In carrying out the activity, the holder must comply with the conditions.

Maximum penalty for subsection (5)—100 penalty units.

‘Part 6J **Access to land in area of another 1923 Act petroleum tenure or a mining tenement**

‘79M **Application of pt 6J**

- ‘(1) This part applies for a 1923 Act petroleum tenure (the *first tenure*) in relation to land that is outside its area and in the area of another 1923 Act petroleum tenure or a mining tenement (the *second tenure*).
- ‘(2) However, if the land is also private or public land, this part does not limit part 6H or 6I.¹⁴⁹

¹⁴⁹ See also section 3 (Relationship with Mineral Resources Act) and the Mineral Resources Act, section 403 (Offences regarding land subject to mining claim or mining lease).

'79N Access to land in area of lease under this Act or a mining lease

'If the second tenure is a lease under this Act or a mining lease, the first tenure holder may enter the land only if—

- (a) the second tenure holder has consented in writing to the entry; and
- (b) the first tenure holder has lodged at the following office a notice stating that the consent has been given—
 - (i) the office of the department for lodging the notice, as stated in a gazette notice by the chief executive;
 - (ii) if no office is gazetted under subparagraph (i)—the office of the chief executive.

'79O Access to land in area of another type of mining tenement or 1923 Act petroleum tenure

'(1) If the second tenure is an authority to prospect or a mining tenement other than a mining lease, the first tenure holder may do the following without the second tenure holder's consent—

- (a) cross the land if it is reasonably necessary to allow the first tenure holder to enter the area of the first tenure; and
- (b) carry out activities on the land that are reasonably necessary to allow the crossing of the land.

'(2) However, a right under subsection (1) may be exercised only if its exercise does not adversely affect the carrying out of an authorised activity for the second tenure.

'(3) Subsection (2) applies whether or not the authorised activity has already started.¹⁵⁰

¹⁵⁰ For overlapping ATP land, see however, the 2004 Act, section 364 (Restriction on authorised activities on overlapping ATP land).

‘Part 6K General compensation provisions¹⁵¹

‘79P General liability to compensate

- ‘(1) This section does not apply for a public land authority in relation to a notifiable road use.¹⁵²
- ‘(2) The holder of each 1923 Act petroleum tenure is liable to compensate each relevant owner or occupier of private or public land (an *eligible claimant*) for—
- (a) any compensatable effect the eligible claimant suffers that are caused by—
 - (i) authorised activities for the tenure carried out by, or for, the tenure holder; and
 - (ii) the carrying out of an activity by a person authorised by the holder if the holder has represented that the activity is an authorised activity for the tenure; and
 - (b) consequential damages the eligible claimant incurs because of a compensatable effect caused by authorised activities for the tenure.
- ‘(3) A 1923 Act petroleum tenure holder’s liability under subsection (2) to an eligible claimant is the holder’s *compensation liability* to the claimant.
- ‘(4) This section is subject to section 79V.¹⁵³
- ‘(5) In this section—
- compensatable effect* means all or any of the following in relation to the eligible claimant’s land—
- (a) deprivation of possession of its surface;

151 See however section 165 (Exclusion of pt 6I, div 1 for continuance of particular existing road uses).

152 See part 6I, division 1, subdivision 3 (Compensation for notifiable road uses) and part 6K (General compensation provisions).

153 Section 79V (Compensation not affected by change in ownership or occupancy)

- (b) diminution of its value;
- (c) diminution of the use made, or that may be made, of the land or any improvement on it;
- (d) severance of any part of the land from other parts of the land or from other land that the eligible claimant owns;
- (e) any cost or loss arising from the carrying out of activities under the tenure on the land.

relevant owner or occupier means a person (including a public land authority) who owns or occupies private or public land that is included in the area of the tenure.

‘79Q Compensation agreement

- ‘(1) An eligible claimant and a 1923 Act petroleum tenure holder may enter into an agreement (a *compensation agreement*) about the holder’s compensation liability to the claimant or any future compensation liability that the holder may have to the claimant.
- ‘(2) A compensation agreement may relate to all or part of the liability or future liability.
- ‘(3) A compensation agreement must—
 - (a) be written and signed by, or for, the holder and the eligible claimant; 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) details of each activity, or effects of the activity, 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—
 - (a) extend the holder’s compensation liability to the claimant, or any future compensation liability that the holder may have to the claimant, to any renewal of the tenure; and

- (b) provide for—
 - (i) monetary or non-monetary compensation; or
 - (ii) a process by which it may be amended or enforced; and

Examples—

1. A compensation agreement may provide for the construction of a road for the claimant.
 2. A compensation agreement may provide for compensation under it to be reviewed on the happening of a material change in circumstances for the 1923 Act petroleum tenure, including a change in the extent of activities required under a later development plan for a petroleum lease.
- (c) provide for any compensation that is, or may be, payable from the holder to the eligible claimant, under the Environmental Protection Act.
- ‘(5) This section does not limit the matters that may be provided for in a compensation agreement.

‘79R Deciding compensation through tribunal

- ‘(1) An eligible claimant or a 1923 Act petroleum tenure holder may apply to the tribunal for it to decide the holder’s—
 - (a) compensation liability to the claimant; or
 - (b) future compensation liability to the claimant for an authorised activity for the tenure proposed to be carried out by, or for, the holder.
- ‘(2) However, the tribunal may decide the liability or future liability only to the extent it is not subject to a compensation agreement.
- ‘(3) In hearing the application, the tribunal must, as much as practicable, ensure the hearing happens together with, or as closely as possible to, the hearing of any application to it for compensation that is, or may be, payable from the holder to the eligible claimant, under the Environmental Protection Act.

‘79S Tribunal review of compensation

- ‘(1) This section applies if—
- (a) the compensation liability, or future compensation liability, of a 1923 Act petroleum tenure holder to an eligible claimant 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 (the *change*).
- ‘(2) The eligible claimant or the tenure holder may apply to the tribunal for it to review the original compensation.
- ‘(3) In carrying out the review, the tribunal may review the original compensation only to the extent it is affected by the change.
- ‘(4) If the tribunal considers the original compensation is not affected by the change, it must not carry out or continue with the review.
- ‘(5) The tribunal may, after carrying out the review, decide to confirm the original compensation or amend it in a way the tribunal considers appropriate.
- ‘(6) If the decision is to amend the compensation, the original compensation, as amended under the decision, is for this Act, taken to be the original compensation.

‘79T Orders tribunal may make

- ‘(1) The tribunal may make any order it considers appropriate to meet or enforce its decision on an application under this part.
- ‘(2) Without limiting subsection (1), the tribunal may order non-monetary compensation as well as monetary compensation.

‘79U Compensation to be addressed before entry to private land

- ‘(1) A 1923 Act petroleum tenure holder must not enter private land to carry out an authorised activity for the tenure unless—

- (a) the holder owns the land; or
 - (b) the holder has the right, other than under this Act, to enter the land to carry out authorised activities for the tenure;
 - (c) each eligible claimant for the land is—
 - (i) a party to a compensation agreement about the holder's compensation liability to the eligible claimant of at least to the extent the liability relates to the activity proposed to be carried out by the holder, and its effects; or
 - (ii) a party to an agreement (a *deferral agreement*) that a compensation agreement can be entered into after the entry; or
 - (iii) an applicant or respondent to an application under section 79R relating to the land; or
 - (d) the entry is to preserve life or property or because of a dangerous situation or emergency that exists, or may exist.
- (2) A deferral agreement must—
- (a) be written and signed by, or for, the holder and each eligible claimant for the land; and
 - (b) state each of the following—
 - (i) that the eligible claimant has been told the claimant is not required to sign the agreement before a compensation agreement has been entered into;
 - (ii) the authorised activities proposed to be carried out on the land;
 - (iii) the period during which the land will be entered;
 - (iv) when and where the activities are proposed to be carried out;
 - (v) when it is proposed that all or part of the liability for compensation will be met;
 - (vi) the period for which the agreement has effect;
 - (vii) how the liability will be met.

‘79V Compensation not affected by change in ownership or occupancy

- ‘(1) A compensation agreement or a tribunal decision under this part is for the benefit of, and is taken to have been agreed to or decided for and is binding on—
- (a) the relevant eligible claimant; and
 - (b) the relevant 1923 Act petroleum tenure holder; and
 - (c) each of their successors and assigns, including successors and assigns for the area of the relevant 1923 Act petroleum tenure.
- ‘(2) Subsection (1) is subject to section 79S.¹⁵⁴

‘Part 6L Ownership of pipelines, equipment and improvements**‘Division 1 Pipelines****‘79W Application of div 1**

‘This division applies for a pipeline constructed or operated under a 1923 Act petroleum tenure.

‘79X General provision about ownership while tenure is in force for pipeline

- ‘(1) This section applies while the land on which the pipeline is constructed is, and continues to be, on land in the area of the tenure.
- ‘(2) The pipeline is taken to be the personal property of the tenure holder.
- ‘(3) The pipeline remains the holder’s personal property despite—

154 Section 79S (Tribunal review of compensation)

- (a) it having become part of the land; or
 - (b) the sale or other disposal of the land; or
 - (c) a purported transfer of, or other dealing with, the pipeline, unless it is a permitted dealing that has taken effect under section 80G.¹⁵⁵
- ‘(4) The pipeline can not be—
- (a) levied or seized in execution; or
 - (b) sold in exercise of sale or otherwise disposed of by a process under a law of a State taken against the holder, or the owner of the land.
- ‘(5) Subsections (2) to (4) apply despite—
- (a) an Act or law of a State; or
 - (b) a contract, covenant or claim of right under a law of a State.

‘79Y Ownership afterwards

- ‘(1) Section 79X applies and continues to apply for the pipeline, and for any subsequent 1923 Act petroleum tenure under which the pipeline is operated, if the tenure ends or the land on which the pipeline is constructed ceases to be in the area of the tenure.
- ‘(2) However, the section is subject to—
- (a) section 80L;¹⁵⁶ and
 - (b) any condition of the former tenure.
- ‘(3) Also, if the pipeline is decommissioned under section 75A¹⁵⁷ the 1923 Act petroleum tenure holder, or former 1923 Act petroleum tenure holder, may dispose of it to anyone else.

155 Section 80G (Conditions for permitted dealings)

156 Section 80L (Power of authorised person to ensure compliance)

157 Section 75A (Obligation to decommission pipelines)

‘Division 2 Equipment and improvements

‘79Z Application of div 2

- ‘(1) This division applies if—
- (a) equipment or improvements are taken, constructed or placed on land in the area of a 1923 Act petroleum tenure; and
 - (b) the equipment or improvements were taken, constructed or placed on the land for use for an authorised activity for the tenure; and
 - (c) the tenure continues in force.
- ‘(2) However, this division—
- (a) does not apply for a pipeline;¹⁵⁸ and
 - (b) is subject to part 6O.¹⁵⁹
- ‘(3) In this section—
- equipment* includes machinery and plant.
- improvements*—
- (a) does not include a well, water observation bore or water supply bore; but
 - (b) does include any works constructed in connection with the well or bore.

‘80 Ownership of equipment and improvements

- ‘(1) While the equipment or improvements are on the land, they remain the property of the person who owned them immediately before they were taken, constructed or placed on the land, unless that person otherwise agrees.¹⁶⁰

158 For pipelines, see sections 75A (Obligation to decommission pipelines) and 79X (General provision about ownership while tenure is in force for pipeline).

159 Part 6O (Enforcement of end of tenure and area reduction obligations)

160 See however section 75B (Obligation to remove equipment and improvements).

- ‘(2) However, for a well, water observation bore or water supply bore, subsection (1) is subject to part 6D, divisions 3 and 4.¹⁶¹
- ‘(3) Subsection (1) applies despite—
 - (a) the plant or equipment having become part of the land; or
 - (b) the sale or other disposal of the land.
- ‘(4) The equipment or improvements can not be—
 - (a) levied or seized in execution; or
 - (b) sold in exercise of sale or otherwise disposed of by a process under a law of a State taken against the holder, or the owner of the land.
- ‘(5) This section applies despite—
 - (a) an Act or law of a State; or
 - (b) a contract, covenant or claim of right under a law of a State.

‘Part 6M Petroleum register

‘80A Petroleum register

- ‘(1) The chief executive must keep a register of details about—
 - (a) 1923 Act petroleum tenures; and
 - (b) mortgages and subleases of 1923 Act petroleum tenures mentioned in section 80E.¹⁶²
- ‘(2) The chief executive may also keep in the register information that the chief executive considers appropriate about matters relating to this Act or another Act.

161 Part 6D, divisions 3 (Transfers of wells, water observation bores and water supply bores) and 4 (Decommissioning of wells, water observation bores and water supply bores)

162 Section 80E (What is a permitted dealing)

- ‘(3) The register may be kept with the petroleum register under the 2004 Act.

‘80B Keeping of register

- ‘(1) The chief executive must include in the petroleum register the information prescribed under a regulation.
- ‘(2) If, under this Act, there is a change relating to information required to be kept in the register or to information that, under section 80C(2) the chief executive keeps in the register, the chief executive must—
- (a) amend the register to reflect the change; and
 - (b) record in the register—
 - (i) when the information was amended; and
 - (ii) for a permitted dealing—when it took effect or is to take effect.
- ‘(3) For subsection (2), if the change requires approval under this Act, the change happens when the approval takes effect.

‘80C Access to register

‘The chief executive must—

- (a) keep the petroleum register open for inspection by the public during office hours on business days at the places the chief executive considers appropriate; and
- (b) allow a person to take extracts, free of charge, from the register; and
- (c) give a person who asks for a copy of all or part of a notice, a document or information held in the register the copy on payment of the fee prescribed under a regulation.

‘80D Chief executive may correct register

- ‘(1) The chief executive may correct the petroleum register if satisfied—

- (a) the register is incorrect; and
 - (b) the correction will not prejudice the rights, recorded in the register, of a 1923 Act petroleum tenure holder, a person who holds an interest in a 1923 Act petroleum tenure or a person who is a party to a coordination arrangement.
- ‘(2) The power to correct includes power to correct information in the register or a document forming part of the register.
- ‘(3) If the register is corrected, the chief executive must record in it—
- (a) the state of the register before the correction; and
 - (b) the time, date and circumstances of the correction.
- ‘(4) A correction under this section has the same effect as if the relevant error had not been made.
- ‘(5) For subsection (1)(b), a right is not prejudiced if the relevant person acquired or has dealt with the right with actual or constructive knowledge that the register was incorrect and how it was incorrect.

‘Part 6N Dealings

‘Division 1 Permitted dealings

‘80E What is a permitted dealing

- ‘(1) Each of the following is a *permitted dealing*—
- (a) a transfer of a 1923 Act petroleum tenure, or of a share in a 1923 Act petroleum tenure;
 - (b) a mortgage of a 1923 Act petroleum tenure, or a share in a mortgage of a 1923 Act petroleum tenure;
 - (c) a release, transfer or surrender of a mortgage, or a share in a mortgage, mentioned in paragraph (b);

- (d) a sublease, or a share in a sublease, of a lease, as provided for under a coordination arrangement;
 - (e) a transfer of a sublease mentioned in paragraph (d), as provided for under the coordination arrangement.
- ‘(2) However, a dealing that has the effect of transferring part of the area of a 1923 Act petroleum tenure is not a permitted dealing.
- ‘(3) In this section—
- transfer* includes—
- (a) a transmission by death; and
 - (b) a transfer by operation of law; and
- Example—*
- A 1923 Act petroleum tenure is held by individuals as joint tenants and one of them dies. A transfer in relation to the tenure includes a record of the death, to record the passing by survivorship of the deceased holder’s share of the tenure to the other holders.
- (c) a record of the change of name of a 1923 Act petroleum tenure holder.

‘80F Dealings other than permitted dealings of no effect

‘A dealing with a 1923 Act petroleum tenure that is not a permitted dealing is of no effect.

‘80G Conditions for permitted dealings

- ‘(1) A permitted dealing has no effect until it has been approved under division 2.
- ‘(2) A permitted dealing, once approved, takes effect on—
 - (a) the day the dealing is concluded; or
 - (b) if, under section 80J(5), the approval provides for a later day for the dealing to take effect—that later day.
- ‘(3) The approval of a permitted dealing does not of itself give it any more effect or validity than it would have had, had subsection (1) not been enacted.

‘Division 2 Obtaining approval for permitted dealing

‘80H Minister may give indication for proposed permitted dealing

- ‘(1) A party to a proposed permitted dealing may ask the Minister, before concluding the dealing, to indicate—
 - (a) whether the Minister is likely to approve of it; and
 - (b) if conditions are likely to be imposed on the dealing—what the conditions are likely to be.
- ‘(2) The request may be made in any way the Minister considers appropriate.
- ‘(3) However, the Minister must not consider the request unless the fee prescribed under a regulation has been paid.
- ‘(4) The party must give the Minister the information the Minister requires to give the indication.
- ‘(5) In considering the request the Minister must consider the matters mentioned in section 80K as if the request were an application for approval of a permitted dealing.

‘80I Applying for approval

- ‘(1) A holder of a relevant 1923 Act petroleum tenure interest who is party to a permitted dealing may apply for approval of the dealing.
- ‘(2) The application must be—
 - (a) in the approved form; and
 - (b) lodged at—
 - (i) the office of the department for lodging applications to approve permitted dealings, as stated in a gazette notice by the chief executive; or
 - (ii) if no office is gazetted under subparagraph (i)—the office stated in the approved form; or
 - (iii) otherwise—the office of the chief executive; and

- (c) accompanied by each of the following—
 - (i) the instrument for the dealing, signed by the parties to the dealing, and a copy of it certified to be a true copy of the original;
 - (ii) for a transfer of a share in a 1923 Act petroleum tenure, a written consent to the transfer by—
 - (A) each person who holds that interest; and
 - (B) if the interest is subject to a mortgage—the mortgagee;
 - (iii) the fee prescribed under a regulation.

‘80J Deciding application

- ‘(1) The Minister may decide to grant or refuse the approval.
- ‘(2) However, for a transfer of a 1923 Act petroleum tenure, other than an exempt transfer, the approval may be granted only if the proposed transferee—
 - (a) is a holder of the relevant environmental authority for the tenure; and
 - (b) either—
 - (i) any financial assurance required under the Environmental Protection Act for the environmental authority has been given; or
 - (ii) the administering authority under that Act has given the Minister notice that the administering authority has not required financial assurance under that Act from the proposed transferee for the environmental authority.
- ‘(3) Also, the approval must be granted if—
 - (a) the proposed permitted dealing is any of the following—
 - (i) a mortgage of a 1923 Act petroleum tenure or of a share in a mortgage of a 1923 Act petroleum tenure;
 - (ii) a release, transfer or surrender of a mortgage, or a share in mortgage, mentioned in subparagraph (i);

- (iii) a sublease, or a share in a sublease, of a lease, as provided for under a coordination arrangement;
 - (iv) a transfer of a sublease, or a share in a sublease, mentioned in subparagraph (iii), as provided for under the coordination arrangement; or
 - (b) subject to subsection (2)—under section 80H, an indication of the approval has been given for the proposed permitted dealing and any conditions imposed under that section have been complied with.
- ‘(4) Despite subsection (3)(b), the approval may be refused if—
- (a) the request for the indication contained incorrect material information or omitted material information; and
 - (b) had the Minister been aware of the discrepancy, the Minister would not have given the indication.
- ‘(5) The approval may provide that it has effect from when the dealing was concluded or a later stated day.
- ‘(6) The Minister may, as a condition of deciding to grant the approval, require the proposed transferee to give, under section 78E,¹⁶³ security for the petroleum authority as if the proposed transferee were an applicant for the tenure.
- ‘(7) On refusal of the approval, the applicant must be given an information notice about the decision to refuse.
- ‘(8) In this section—
- exempt transfer* means a transfer under which—
- (a) the proposed transferee is someone who holds the same Australian Business Number to any proposed transferor; or
 - (b) all of one holder’s share in the 1923 Act petroleum tenure will be transferred to another holder of the tenure.

163 Section 488 (Power to require security for 1923 Act petroleum tenure)

'80K Criteria for decision

- '(1) This section does not apply if, under section 80J(3), the approval must be granted.
- '(2) The matters that must be considered in deciding whether to approve the permitted dealing include each of the following—
 - (a) the application and any additional information given for the application;
 - (b) hardship the applicant would suffer if the dealing is not approved;
 - (c) for a transfer—
 - (i) the capability criteria; and
 - (ii) whether or not the transfer will disadvantage activities under the tenure; and
 - (iii) the role the proposed transferee would have in authorised activities for the tenure;
 - (d) whether, in relation to the 1923 Act petroleum tenure—
 - (i) any petroleum royalty is payable and unpaid by its holder; or
 - (ii) the holder has failed to comply with the 2004 Act, section 594, 595, 599 or 602.¹⁶⁴
 - (e) the public interest.

¹⁶⁴ 2004 Act, section 594 (Obligation to lodge royalty return), 595 (Fee for late lodgment of royalty return), 599 (Annual royalty returns) or 602 (Interest on unpaid petroleum royalty or additional petroleum royalty)

‘Part 60 Enforcement of end of tenure and area reduction obligations

‘80L Power of authorised person to ensure compliance

- ‘(1) This section applies if the holder, or former holder, of a 1923 Act petroleum tenure has not complied with section 75A, 75B or 75U in relation to land (the *primary land*).¹⁶⁵
- ‘(2) A person authorised by the chief executive (the *authorised person*) may, by complying with section 80M, exercise the following powers (*remedial powers*)—
 - (a) enter the primary land and do all things necessary to ensure the requirement is complied with; and
 - (b) enter any other land (the *secondary land*) necessary or desirable to cross for access to the primary land.
- ‘(3) The authorisation—
 - (a) must be written; and
 - (b) may be given on conditions the Minister considers appropriate.
- ‘(4) The remedial powers do not include power to enter a structure, or a part of a structure, used for residential purposes without the consent of the occupier of the structure or part of the structure.

‘80M Requirements for entry to ensure compliance

- ‘(1) Remedial powers may be exercised in relation to the primary or secondary land under section 80L only if a following person is given notice of the proposed entry at least 10 business days before the proposed entry—
 - (a) if the land has an occupier—any occupier of the land;
 - (b) if the land does not have an occupier—its owner.

165 Sections 75A (Obligation to decommission pipelines), 75B (Obligation to remove equipment and improvements) or 75U (Obligation to decommission)

- ‘(2) The notice must—
- (a) identify the authorised person; and
 - (b) describe the land; and
 - (c) state—
 - (i) that the authorised person has, under this section, been authorised to enter the land; and
 - (ii) the purpose of the entry; and
 - (iii) the period of the entry.
- ‘(3) The chief executive may approve the giving of the notice by publishing it in a stated way.
- ‘(4) The chief executive may give the approval only if satisfied the publication is reasonably likely to adequately inform the person to whom the notice is required to be given of the proposed entry.
- ‘(5) If the authorised person intends to enter the land and any occupier of the land is present at the land, the person also must show, or make a reasonable attempt to show, the occupier the person’s authorisation under this section.

‘80N Duty to avoid damage in exercising remedial powers

‘In exercising remedial powers, a person must take all reasonable steps to ensure the person causes as little inconvenience, and does as little damage, as is practicable.

‘80O Notice of damage because of exercise of remedial powers

- ‘(1) If a person exercising remedial powers damages land or something on it, the person must give the owner and any occupier of the land notice of the damage.
- ‘(2) If for any reason it is not practicable to comply with subsection (1), the person must—
- (a) leave the notice at the place where the damage happened; and

- (b) ensure it is left in a conspicuous place and in a reasonably secure way.
- ‘(3) The notice must state—
 - (a) particulars of the damage; and
 - (b) that the owner or occupier may claim compensation under section 80P from the State.

‘80P Compensation for exercise of remedial powers

- ‘(1) This section applies if an owner or occupier of land (the *claimant*) suffers a cost, damage or loss because of the exercise, or purported exercise, of remedial powers.
- ‘(2) Compensation is payable to the claimant by the State for the cost, damage or loss.
- ‘(3) The compensation may be claimed and ordered in a proceeding brought in a court of competent jurisdiction.
- ‘(4) The court may order the compensation only if it is satisfied it is just to make the order in the circumstances of the particular case.

‘80Q Ownership of thing removed in exercise of remedial powers

- ‘(1) This section applies if—
 - (a) remedial powers are exercised in relation to land; and
 - (b) in the exercise of the powers a thing is removed from the land; and
 - (c) immediately before the removal, the thing was the property of—
 - (i) the holder, or former holder, of a 1923 Act petroleum tenure in relation to whom the powers were exercised; or
 - (ii) an agent of, or contractor for, the holder.
- ‘(2) On the removal, the thing becomes the property of the State.

- ‘(3) The State may deal with the thing as it considers appropriate, including, for example, by destroying it or giving it away.
- ‘(4) The chief executive may deal with the thing for the State.
- ‘(5) If the State sells the thing, the State may, after deducting the costs of the sale, return the net proceeds of the sale to the former owner of the thing.¹⁶⁶

‘80R Recovery of costs of and compensation for exercise of remedial power

- ‘(1) The State may recover from the responsible person as a debt any—
 - (a) reasonable costs the State, or an authorised person under section 80L, incurs in exercising a remedial power; and
 - (b) compensation payable by the State under section 80P in relation to the exercise of the remedial power.¹⁶⁷
- ‘(2) However, in any proceeding to recover the costs, any relevant net proceeds of sale mentioned in section 80Q must be deducted from the amount claimed for the costs.
- ‘(3) In this section—

responsible person means the holder, or former holder, of the 1923 Act petroleum tenure in relation to which the remedial powers were exercised.

relevant net proceeds of sale means proceeds of sale under which the thing sold was the property of the responsible person immediately before its removal under section 80Q.

¹⁶⁶ See also section 80R(2).

¹⁶⁷ See also section 118 (Additional orders that may be made on conviction).

‘Part 6P Noncompliance procedure

‘Division 1 Introduction

‘80S Operation of pt 6P

- ‘(1) This part provides a process for noncompliance action against the holder of any 1923 Act petroleum tenure.
- ‘(2) The power to take noncompliance action under this division does not limit a power as follows (the *other power*)—
 - (a) the power under part 6G to require new or additional security;
 - (b) a power under another provision of this Act to amend the tenure.
- ‘(3) The other power does not limit the power to take noncompliance action.
- ‘(4) Noncompliance action may be taken at the same time as the other power is exercised.

‘Division 2 Noncompliance action

‘80T Types of noncompliance action that may be taken

- ‘(1) The noncompliance action the Minister may take under this division is all or any of the following—
 - (a) amending the 1923 Act petroleum tenure by doing all or any of the following—
 - (i) reducing the term of the tenure;
 - (ii) reducing its area;

Example of a possible reduction—

An authority to prospect holder has not, in contravention of section 74I,¹⁶⁸ carried out work required under the work

168 Section 74I (Compliance with exploration activities in work program)

program for the authority. Noncompliance action may include amending the authority to reduce its area to reflect the work not carried out.

- (iii) amending a condition of the tenure;
 - (iv) imposing a new condition;
 - (b) requiring the tenure holder to relinquish a stated part of the area of the tenure on or before a stated time;
 - (c) cancelling the tenure, immediately or on a stated day;
 - (d) cancelling, from a stated day,¹⁶⁹ any work program or development plan and directing its holder to, on or before that day, lodge the following program or plan at the relevant office so that the Minister may decide whether to approve the program or plan—
 - (i) for an authority to prospect—a proposed later work program that complies with the work program requirements;
 - (ii) for a lease—a proposed later development plan that complies with the later development plan requirements;
 - (e) requiring the tenure holder to pay the State a penalty of an amount no more than the monetary value of 1 000 penalty units.
- ‘(2) However, a requirement under subsection (1)(e) may be made only if the holder has agreed to the requirement being made instead of the taking other noncompliance action under subsection (1).
- ‘(3) A condition or amendment under subsection (1) may restrict the authorised activities for the tenure.
- ‘(4) If, under subsection (1)(c), the tenure is cancelled on a stated day, a condition may be imposed under subsection (1)(a) restricting the authorised activities for the tenure until the cancellation.
- ‘(5) Noncompliance action may be taken despite the mandatory conditions for the tenure.

¹⁶⁹ See section 80W (Notice of proposed noncompliance action).

‘(6) In this section—

relevant office means—

- (a) the office of the department for lodging proposed later work programs or proposed later development plans, as stated in a gazette notice by the chief executive; or
- (b) if no office is gazetted under paragraph (a)—the office of the chief executive.

‘80U When noncompliance action may be taken

‘(1) Noncompliance action may be taken if—

- (a) an event mentioned in subsection (2) has happened; and
- (b) the procedure under division 3 for taking the action has been followed; and
- (c) the 1923 Act petroleum tenure for which the noncompliance action is taken relates to the event for which the action is taken.

‘(2) For subsection (1), the event is that the holder—

- (a) is not, or has ceased to be, qualified under section 7AA¹⁷⁰, to hold a 1923 Act petroleum tenure;
- (b) obtained the tenure because of a materially false or misleading representation or declaration, made orally or in writing; or
- (c) has failed to comply with this Act, a direction given under this Act or the tenure; or
- (d) did not pay an amount under this Act by the day it became owing; or
- (e) has used any land in the area of the tenure for an activity that—
 - (i) is not an authorised activity for the tenure or that, under the *Geothermal Exploration Act 2004*, section 7¹⁷¹ or the Mineral Resources Act,

170 Section 7AA (Qualification of 1923 Act petroleum tenure holders)

section 3A,¹⁷² can not be carried out on the land;
and

- (ii) the holder can not otherwise lawfully carry out; or
- (f) has used the tenure for a purpose other than for a purpose for which it was granted; or
- (g) has carried out, or purported to carry out, work under the tenure for which the tenure was not granted.

‘Division 3 Procedure for noncompliance action

‘80V Application of div 3

‘This section applies if the Minister proposes to take noncompliance action in relation to a 1923 Act petroleum tenure.

‘80W Notice of proposed noncompliance action

- ‘(1) The Minister must give the tenure holder a notice stating each of the following—
 - (a) that the Minister proposes to take noncompliance action against the holder;
 - (b) the types of noncompliance action that may be taken against the holder and the type likely to be taken;
 - (c) the grounds for taking noncompliance action against the holder;
 - (d) the facts and circumstances that are the basis for the grounds;

171 *Geothermal Exploration Act 2004*, section 7 (Relationship with Petroleum legislation)

172 Mineral Resources Act, section 3A (Relationship with petroleum legislation)

- (e) that the holder may, within a stated period, lodge submissions about the proposal to take noncompliance action at—
 - (i) the office of the department for lodging the submissions, as stated in a gazette notice by the Minister; or
 - (ii) if no office is gazetted under subparagraph (i)—the office of the Minister.
- ‘(2) The notice may state—
 - (a) if the noncompliance action is likely to include amending the tenure—the likely amendment; and
 - (b) the amount of any likely reduction of the area of the tenure.
- ‘(3) The stated period must be at least 20 business days after the holder is given the notice.

‘80X Considering submissions

- ‘(1) The Minister must consider any submissions lodged by the holder, during the period stated in the notice given under section 80W.
- ‘(2) If the Minister decides not to take noncompliance action the Minister must promptly give the holder a notice of the decision.

‘80Y Decision on proposed noncompliance action

- ‘(1) If, after complying with section 80X, the Minister still believes a ground exists to take noncompliance action, the Minister may decide to take noncompliance action in relation to the tenure, that relates to a ground stated in the notice given under section 80W.
- ‘(2) The Minister must, in deciding whether to take the action, have regard to whether the holder is a suitable person to hold, or continue to hold, the tenure.

- ‘(3) In considering whether the holder is a suitable person to hold, or to continue to hold, the tenure the Minister must consider the capability criteria.

‘80Z Notice and taking effect of decision

- ‘(1) If the Minister makes a decision under section 80Y, the Minister must after making the decision give an information notice about the decision to—
- (a) the tenure holder; and
 - (b) any other person who holds an interest in the tenure, as recorded in the petroleum register.
- ‘(2) Generally, the decision takes effect on the later of the following—
- (a) the day the holder is given the information notice;
 - (b) a later day of effect stated in the notice.
- ‘(3) However, if the decision was to cancel the tenure, the decision does not take effect until the end of the appeal period for the decision.¹⁷³

‘81 Consequence of failure to comply with relinquishment requirement

- ‘(1) This section applies if—
- (a) noncompliance action taken is a requirement, under section 80T(1)(b),¹⁷⁴ of a 1923 Act petroleum tenure holder; and
 - (b) the requirement is not complied with.
- ‘(2) The holder must be given a notice requiring the holder to comply with the requirement under section 80T(1)(b) within 20 business days after the giving of the notice.
- ‘(3) If the holder does not comply with the requirement under the notice, the tenure is cancelled.

173 See sections 105 (Period to appeal) and 107 (Stay of operation of decision).

174 Section 80T (Types of noncompliance action that may be taken)

- (4) However, the cancellation does not take effect until the holder is given a notice stating that the tenure has been cancelled because of the operation of subsection (3).

‘Part 6Q Other common provisions for 1923 Act petroleum tenures’.

47 Amendment of s 83 (Restrictions on location of drills)

- (1) Section 83(1), ‘permittee or’—
omit.
- (2) Section 83(1), ‘covered by the permit or’—
omit.
- (3) Section 83(1), from ‘the subject of’—
omit, insert—
‘the area of a 1923 Act petroleum tenure or 2004 Act petroleum tenure.’.
- (4) Section 83(2), ‘permit or’—
omit.

48 Amendment of s 84 (Prevention of waste etc.)

- (1) Section 84, ‘permittee and’—
omit.
- (2) Section 84, ‘permittee,’—
omit.

49 Amendment of s 85 (Casting well)

- (1) Section 85, heading, ‘Casting’—
omit, insert—

‘Casing’.

- (2) Section 85, ‘permittee and every’—
omit.

50 Amendment of s 86 (Water rights)

- (1) Section 86, ‘*Water Act 2000*’—
omit, insert—
‘Water Act’.
- (2) Section 86(a), ‘, a permittee’—
omit.
- (3) Section 86(a) and (c), ‘, permit,’—
omit.
- (4) Section 86(b), ‘chief executive (of the department in which the *Water Act 2000* is administered)’—
omit, insert—
‘Water Act regulator’.
- (5) Section 86(b) and (c), ‘that chief executive’—
omit, insert—
‘the Water Act regulator’.
- (6) Section 86(c), ‘, permittee,’—
omit.
- (7) Section 86—
insert—
- ‘(2) However, water may be supplied under subsection (1)(c) only if the supply is for domestic purposes or stock purposes.
- ‘(3) In this section—
domestic purposes includes irrigating a garden, not exceeding .25 ha, being a garden cultivated for domestic use and not for the sale, barter or exchange of goods produced in the garden.

stock purposes means watering stock of a number that would normally be depastured on the land on which the water is, or is to be, used.’.

51 Omission of s 87 (Abandonment of well)

Section 87—

omit.

52 Amendment of s 88 (Conduct of operations on land)

(1) Section 88(1), from ‘The holder’ to ‘lessee’—

omit, insert—

‘A 1923 Act petroleum tenure holder’.

(2) Section 88(1), ‘authority, permit or lease’—

omit, insert—

‘tenure’.

(3) Section 88(1), ‘covered or demised by’—

omit, insert—

‘in the area of’.

(4) Section 88(1), ‘authority, permit, or lease’—

omit, insert—

‘tenure’.

(5) Section 88(3) and (4)—

omit.

(6) Section 88(5), from ‘land so occupied’ to ‘lessee’—

omit, insert—

‘private land in the area of the tenure occupied by the holder, the holder’.

53 Amendment of s 89 (Compliance with Act etc.)

(1) Section 89(1), ‘permittee and’—

omit.

- (2) Section 89, ‘permit or’—

omit.

- (3) Section 89, ‘permittee,’—

omit.

- (4) Section 89, ‘permittee or’—

omit.

- (5) Section 89(5), ‘permittee’s or’—

omit.

54 Amendment of s 90 (Regulations may prescribe further provisions)

Section 90, from ‘permits’—

omit, insert—

‘1923 Act petroleum tenures.’.

55 Omission of s 91 (Minister’s powers concerning petroleum)

Section 91—

omit.

56 Amendment of s 92 (Delivery of premises in case of forfeiture)

- (1) Section 92, ‘a permit being duly cancelled or’—

omit.

- (2) Section 92, ‘permittee or’—

omit.

57 Amendment of s 93 (Right to mine for other minerals)

Section 93(1)—

omit.

58 Amendment of s 95 (Limits on use of water from natural source)

(1) Section 95(1), ‘, permittee, lessee or licensee’—

omit, insert—

‘or a lessee’.

(2) Section 95(2), from ‘warden’—

omit, insert—

‘tribunal.’.

(3) Section 95(3), ‘such warden’—

omit, insert—

‘the tribunal’.

(4) Section 95(4), ‘warden’—

omit, insert—

‘tribunal’.

59 Amendment of s 96 (Who bound by terms of permits and leases etc.)

(1) Section 96, heading, ‘permits and leases etc.’—

omit, insert—

‘1923 Act petroleum tenure’.

(2) Section 96 ‘, permit, lease and licence’—

omit, insert—

‘or lease’.

(3) Section 96, ‘, permittee, lessee, or licensee’—

omit, insert—

‘or the lessee’.

60 Omission of ss 97–99

Sections 97 to 99—

omit.

61 Replacement of ss 101 and 102

Sections 101 and 102—

omit, insert—

‘101 Minister’s power to ensure compliance by 1923 Act petroleum tenure holder

- ‘(1) This section applies if—
- (a) a 1923 Act petroleum tenure holder has not complied with a requirement of the holder under this Act; and
 - (b) no other provision of this Act allows someone other than the holder to ensure compliance with the requirement.
- ‘(2) The Minister may take any action the Minister considers appropriate to ensure all or part of the requirement is complied with if—
- (a) subsections (3) and (4) have been complied with; or
 - (b) the holder has agreed to the Minister taking the action.
- ‘(3) The Minister must give the holder a notice—
- (a) stating the requirement and the action the Minister proposes to take; and
 - (b) inviting the holder to lodge, within a stated reasonable period, submissions about the proposed action at—
 - (i) the office of the department for lodging the submissions, as stated in a gazette notice by the chief executive; or
 - (ii) if no office is gazetted under paragraph (i)—the office of the chief executive.
- ‘(4) Any submissions lodged by the holder within the stated period must be considered before deciding to take the action.
- ‘(5) A decision to take the action does not take effect until the holder is given an information notice about the decision.

- ‘(6) The State may recover from the holder as a debt any reasonable costs it incurs in the exercise of the power under subsection (2).¹⁷⁵

‘102 Interest on amounts owing to the State under this Act

- ‘(1) Interest is payable to the State on any amount owing under this Act by anyone to the State and unpaid from time to time after the relevant day.¹⁷⁶

Examples of an amount that may be owing under this Act—

annual or other rent, a civil penalty for nonpayment of annual rent

- ‘(2) The interest accrues daily at the rate prescribed under a regulation on the unpaid amount for the period starting on the day immediately after the amount became payable and ending on the day the amount owing on which interest is payable is paid in full, both days inclusive.
- ‘(3) Any amount received in payment of the unpaid amount or the interest must first be applied in payment of the interest.
- ‘(4) Subsection (3) applies despite any order or direction of the payer.
- ‘(5) In this section—
relevant day means the following—
- (a) for an amount for annual or other rent or a civil penalty for nonpayment of the rent—the day that is 3 months after the last day for payment of the rent or civil penalty;
 - (b) for another amount—the day the amount becomes owing.

¹⁷⁵ See also section 118 (Additional orders that may be made on conviction).

¹⁷⁶ For interest on unpaid petroleum royalty under the 2004 Act, see section 602 (Interest on unpaid petroleum royalty or additional petroleum royalty) of that Act.

‘103 Recovery of unpaid amounts

‘If a provision of this Act requires a 1923 Act petroleum tenure holder to pay the State an amount (including interest) the State may recover the amount from the holder as a debt.

‘Part 7 Appeals**‘104 Who may appeal**

- ‘(1) A person whose interests are affected by a decision identified in the schedule, may appeal against the decision to the tribunal.
- ‘(2) For subsection (1), a person who has been given, or is entitled to be given, an information notice about a decision is taken to be a person whose interests are affected by the decision.

‘105 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.

‘106 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 lodged at—
 - (a) the office of the department for lodging notices of appeal, as stated in a gazette notice by the chief executive; or

- (b) if no office is gazetted under paragraph (a)—the office of the chief executive.
- ‘(3) An appeal to the District Court may be made to the District Court nearest the place where the applicant resides or carries on business.
- ‘(4) Subsection (3) does not limit the court at which the appeal may be started under the *Uniform Civil Procedure Rules 1999*.

‘107 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 it is stayed.

‘108 Hearing procedures

- ‘(1) In deciding an appeal, the tribunal—
 - (a) has the same powers as the original decider; and
 - (b) is not bound by the rules of evidence; and
 - (c) must comply with natural justice; and
 - (d) may hear the appeal in court or in chambers.
- ‘(2) An appeal is by way of rehearing, unaffected by the decision.
- ‘(3) Subject to subsections (1) and (2), the procedure for the appeal is—
 - (a) in accordance with the rules for the 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.

‘109 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 original 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 original decider.¹⁷⁷

‘Part 8 Evidence and legal proceedings

‘Division 1 Evidentiary provisions

‘110 Application of div 1

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

‘111 Appointments and authority

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

¹⁷⁷ For appeals from the tribunal, see the *Land and Resources Tribunal Act 1999*, section 67 (Appeal only on question of law).

- (a) the appointment of an inspector or authorised officer under the 2004 Act;
- (b) the power of the Minister or chief executive to do anything under this Act.

‘112 Signatures

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

‘113 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, of any of the following types, is a document given, issued, kept or made under this Act—
 - (i) an appointment, approval or decision;
 - (ii) a direction, notice or requirement;
 - (iii) a 1923 Act petroleum tenure;
 - (iv) the petroleum register;
 - (v) a report;
 - (vi) 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) 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 1923 Act petroleum tenure—
 - (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;
- (g) a stated address for a 1923 Act petroleum tenure holder is the last address of the holder known to the Minister or the chief executive.

‘Division 2 Offence proceedings

‘114 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.

‘115 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.

‘116 Allegations of false or misleading matters

- ‘(1) This section applies to a proceeding for an offence against this Act described as involving—
 - (a) false or misleading information; or

- (b) a false or misleading document or statement.
- ‘(2) It is enough for the complaint starting the proceeding to state the document, information or statement was ‘false or misleading’ to the defendant’s knowledge, without specifying which.
- ‘(3) In the proceeding, evidence that the document, information or statement was given or made recklessly is evidence that it was given or made so as to be false or misleading.

‘117 Conduct of representatives

- ‘(1) This section applies to a proceeding for an offence against this Act if it is relevant to prove a person’s state of mind about particular conduct.
- ‘(2) It is enough to show—
 - (a) the conduct was engaged in by a representative of the person within the scope of the representative’s actual or apparent authority; and
 - (b) the representative had the state of mind.
- ‘(3) Conduct engaged in for a person by a representative of the person within the scope of the representative’s actual or apparent authority is taken to have been engaged in also by the person unless the person proves—
 - (a) if the person was in a position to influence the representative in relation to the conduct—the person took reasonable steps to prevent the conduct; or
 - (b) the person was not in a position to influence the representative in relation to the conduct.
- ‘(4) In this section—

engaging in conduct includes failing to engage in conduct.

executive officer, of a corporation, means a person who is concerned with, or takes part in, its management, whether or not the person is a director or the person’s position is given the name of executive officer.

representative means—

- (a) for a corporation—an agent, employee or executive officer of the corporation; or
- (b) for an individual—an agent or employee of the individual.

state of mind, of a person, includes the person's—

- (a) belief, intention, knowledge, opinion or purpose; and
- (b) reasons for the belief, intention, opinion or purpose.

'118 Additional orders that may be made on conviction

'(1) If a court convicts a person for an offence against this Act, it may—

- (a) order the forfeiture to the State of—
 - (i) anything used to commit the offence; or
 - (ii) anything else the subject of the offence; and
- (b) make any order to enforce the forfeiture it considers appropriate; and
- (c) order the person to pay the State the amount of costs it incurred for remedial work that was necessary or desirable because of the commission of the offence.¹⁷⁸

'(2) Forfeiture of a thing may be ordered—

- (a) whether or not it has been seized under this Act; and
- (b) if it has been seized under this Act, whether or not it has been returned to its owner.

'(3) In this section—

conviction includes a finding of guilt, or the acceptance of a plea of guilty, by a court, whether or not a conviction is recorded.'

¹⁷⁸ See also section 80L (Power of authorised person to ensure compliance).

62 Insertion of new pt 9, divs 1–3

Part 9, before section 142—

insert—

‘Division 1 Applications**‘119 Application of div 1**

‘This division applies to an application under this Act other than an application under section 40.¹⁷⁹

‘120 Substantial compliance with application requirements may be accepted

‘If—

- (a) a person has made, or purported to make, an application under this Act; and
- (b) the requirements under this Act for making the application have not been complied with; and
- (c) the person who must decide the application (the *decider*) is satisfied the application substantially complies with the requirements;

the decider may decide to allow it to proceed and be decided as if it did comply with the requirements.

‘121 Additional information may be required about application

‘(1) If a person (the *decider*) is deciding, or is required to decide, an application under this Act, the decider may, by notice, require the applicant to give the decider within a stated reasonable period—

- (a) additional information about, or a document relevant to, the application; or

¹⁷⁹ Section 40 (Lease to holder of authority to prospect)

- (b) a statutory declaration verifying any information included in the application or any additional information required under paragraph (a).
- ‘(2) For subsection (1)(a), if the application is for a lease, a required document may include a survey or re-survey of the area of the proposed lease, carried out by a cadastral surveyor under the *Surveyors Act 2003*.
- ‘(3) If the applicant does not give the decider the additional information or declaration by the stated day, the decider may refuse the application.
- ‘(4) The applicant must pay any costs incurred in complying with the notice.

‘122 Amending applications

- ‘(1) If a person has made an application under this Act, the person may amend the application or a document accompanying the application only if—
 - (a) the application has not been decided; and
 - (b) the person who may or must decide the application has agreed to the making of the amendment; and
 - (c) if the proposed amendment is to change the applicant—each applicant, and proposed applicant, has agreed to the change.
- ‘(2) If, under subsection (1), the application is amended to change the applicant, for the purpose of deciding the application, the applicant as changed is taken to have been the applicant from the making of the application.

‘123 Withdrawal of application

- ‘(1) A person who has made an application under this Act may lodge a notice withdrawing the application at any time before the following—
 - (a) generally—before the application is decided;
 - (b) for a lease—the granting of the lease.

- ‘(2) The notice must be lodged at the office at which this Act requires the application to be lodged.
- ‘(3) The withdrawal of an application takes effect when the notice of withdrawal is lodged.

‘124 Minister’s power to refund application fee

‘If an application under this Act is withdrawn, the Minister may refund all or part of any fee paid for the application.

**‘Division 2 Miscellaneous provisions for 1923
Act petroleum tenures**

‘125 Power to correct or amend

- ‘(1) The Minister may amend a 1923 Act petroleum tenure at any time by giving its holder a notice of the amendment and recording particulars in the relevant register if the amendment is to—
 - (a) correct a clerical error; or
 - (b) state or more accurately state the boundaries of the area of the tenure because of a survey carried out under section 75.¹⁸⁰
- ‘(2) The Minister may, at any time, amend a condition of a 1923 Act petroleum tenure if the tenure holder agrees in writing.
- ‘(3) Despite subsections (1) and (2), the following can not be amended under this section—
 - (a) the mandatory conditions for that type of 1923 Act petroleum tenure;
 - (b) the term of the tenure;
 - (c) any work program or development plan for the tenure.

180 Section 75 (Obligation to survey if Minister requires)

- ‘(4) Also, the Minister can not amend the tenure if the tenure as amended would be inconsistent with a mandatory condition for that type of authority.

‘126 Replacement of instrument for tenure

- ‘(1) If the instrument for a 1923 Act petroleum tenure has been lost, stolen or destroyed, its holder may apply in writing to the Minister to replace it.
- ‘(2) The application must be lodged at—
- (a) the office of the department for lodging the application, as stated in a gazette notice by the chief executive; or
 - (b) if no office is gazetted under paragraph (a)—the office of the chief executive.
- ‘(3) If the Minister is reasonably satisfied the instrument has been lost, stolen or destroyed, the Minister must replace it.
- ‘(4) If the Minister decides to refuse to replace the instrument, the Minister must give the holder an information notice about the decision.

‘127 Joint and several liability for conditions and for debts to State

‘If more than 1 person holds a 1923 Act petroleum tenure each holder is jointly and severally—

- (a) responsible for complying with its conditions; and
- (b) liable for all debts payable under this Act and unpaid by the authority holder to the State.

‘128 Notice of agent

‘The Minister may refuse to deal with a person who claims to be acting as the authority holder’s agent, unless the holder has given the Minister notice of the agency.

‘Division 3 Other miscellaneous provisions

‘129 Name and address for service

- ‘(1) A person (the *first person*) may, by a signed notice lodged at the relevant office, nominate another person (a *nominated person*) at a stated address as the first person’s address for service for this Act.
- ‘(2) If this Act requires or permits the Minister or the chief executive to serve a notice or other document on the first person, it may be served on the first person by serving it on the last nominated person, at the stated address for that person.
- ‘(3) In this section—
- relevant office* means—
- (a) the office of the department for lodging notices of address for service, as stated in a gazette notice by the chief executive; or
- (b) if no office is gazetted under paragraph (a)—the office of the chief executive.

serve includes give.

‘130 Additional information about reports and other matters

- ‘(1) This section applies if—
- (a) a person is required under this Act to lodge a notice or copy of a document, a report or information (the *advice*) with the Minister or the chief executive (the *recipient*); and
- (b) the person gives the advice.
- ‘(2) The recipient may, by notice, require the person to give, within the reasonable time stated in the notice, written information about the matter for which the advice was given.
- ‘(3) The person must comply with the notice.
- Maximum penalty for subsection (3)—300 penalty units.

‘131 References to right to enter

‘A right under this Act to enter a place includes the right to—

- (a) leave and re-enter the place from time to time; and
- (b) remain on the place for the time necessary to achieve the purpose of the entry; and
- (c) take on the place equipment, materials, vehicles or other things reasonably necessary to exercise a power under this Act.

‘132 Application of provisions

‘If a provision of this Act applies any of the following (the *applied law*) for a purpose—

- (a) another provision of this Act;
- (b) another law;
- (c) a provision of another law;

the applied law and any definition relevant to it apply, with necessary changes for that purpose.

‘133 Protection from liability for particular persons

‘(1) A person as follows (a *designated person*) does not incur civil liability for an act done, or omission made, honestly and without negligence under this Act—

- (a) the Minister;
- (b) the chief executive;
- (c) a public service officer or employee;
- (d) a contractor carrying out activities, relating to the administration of this Act, for the department;
- (e) a person who is required to comply with a direction or requirement given under this Act and who is complying with the direction or requirement.

‘(2) If subsection (1) prevents a civil liability attaching to a designated person, the liability attaches instead to the State.

‘(3) In this section—

civil liability includes liability for the payment of costs ordered to be paid in a proceeding for an offence against this Act.

‘134 Delegation by Minister or chief executive

‘(1) The Minister may delegate the Minister’s powers under this Act to—

- (a) an appropriately qualified public service officer or employee; or
- (b) an appropriately qualified contractor carrying out activities, relating to the administration of this Act, for the department.

‘(2) The chief executive may delegate the chief executive’s powers under this Act to a person mentioned in subsection (1).

‘(3) In this section—

appropriately qualified includes having the qualifications, experience and competence to exercise the power.

‘135 Approved forms

‘(1) The chief executive may approve forms for use under this Act.

‘(2) A form may be approved for use under this Act that is combined with, or is to be used together with, an approved form under another Act.’.

63 Amendment of s 144 (Interference with pipeline etc.)

(1) Section 144, heading ‘etc.’—

omit, insert—

‘or petroleum activities under this Act’.

(2) Section 144, ‘or refinery or part thereof’—

omit, insert—

‘, or part of a pipeline, constructed or operated under this Act’.

- (3) Section 144, after ‘carried on’—

insert—

‘under this Act’.

- (4) Section 144, ‘, refinery’—

omit.

64 Omission of s 144A–146

Sections 144A to 146—

omit.

65 Amendment of s 148 (Other rights of action not affected)

Section 148, ‘*Mineral Resources Act 1989*’—

omit, insert—

‘Mineral Resources Act’.

66 Replacement of s 149 (Regulation-making power)

Section 149—

omit, insert—

‘149 Regulation-making power

- ‘(1) The Governor in Council may make regulations under this Act.
- ‘(2) A regulation may be made about any of the following—
- (a) the fees payable under this Act, including late payment fees;
 - (b) imposing a penalty for a contravention of a provision of a regulation of no more than 20 penalty units.
- ‘(3) A regulation under this Act may be made in the same instrument as a regulation made under the 2004 Act.’.

67 Amendment of s 150 (Declaration about certain permits, leases and licences)

- (1) Section 150, heading, ‘permits, leases and licences’—
omit, insert—
‘1923 Act petroleum tenures’.
- (2) Section 150(1), ‘an authority to prospect, lease, or licence’—
omit, insert—
‘a 1923 Act petroleum tenure’.
- (3) Section 150(3)(c)—
omit.
- (4) Section 150(4) to (6)—
omit.

68 Insertion of new pt 10 and schedule

After section 150—

insert—

‘Part 10 Transitional provisions for 1923 Act petroleum tenures from 2004 Act start day

‘Division 1 General transitional provisions

‘Subdivision 1 Particular unfinished applications

Note—

For other applications under this Act that, before the 2004 Act start day were not finished see the 2004 Act, chapter 15, part 3.¹⁸¹

181 2004 Act, chapter 15, part 3 (Transitional provisions relating to 1923 Act)

‘151 Unfinished authority to prospect applications for which a Commonwealth Native Title Act s 29 notice has been given

- ‘(1) This section applies if immediately before the 2004 Act start day—
- (a) an authority to prospect application has not been granted or rejected; and
 - (b) a notice under the Commonwealth Native Title Act, section 29,¹⁸² had been given for the proposed authority to prospect the subject of the application.¹⁸³
- ‘(2) The application must continue to be decided, and the authority may be granted, under this Act as amended by the *Petroleum and Other Legislation Amendment Act 2004*, other than for the omission of former section 18(1).
- ‘(3) However, the Minister may grant the authority only if the Minister has approved the work program for the authority.
- ‘(4) The work program must comply with the initial work program requirements.
- ‘(5) Section 121¹⁸⁴ applies for the application as if it had been made on the 2004 Act start day.
- ‘(6) In this section—
- initial work program requirements* means—
- (a) the requirements for a later work program under section 25A(1)(a) to (e); and
 - (b) a statement of the plan period for the work program.

182 Commonwealth Native Title Act, section 29 (Notification of parties affected)

183 If a notice mentioned in paragraph (b) was not given, see the 2004 Act, chapter 15, part 3, division 3 (Unfinished applications for 1923 Act ATPs (other than applications for which a Commonwealth Native Title Act s 29 notice has been given).

184 Section 121 (Additional information may be required about application)

‘152 Additional condition of authority to prospect granted under s 151

- ‘(1) This section applies if—
- (a) section 151 applies to an authority to prospect application; and
 - (b) the authority is granted; and
 - (c) when the authority is granted, land in its area is in the area of a coal or oil shale exploration tenement or a proposed area under a coal or oil shale exploration tenement application.
- ‘(2) It is a condition of the authority that its holder must, within 20 business days after the holder receives notice of the grant, give the tenement holder or the applicant notice stating—
- (a) that the authority has been granted; and
 - (b) the authority holder’s name; and
 - (c) the term of the authority.

‘153 Lapsing of unfinished former s 42 applications

‘If—

- (a) before the 2004 Act start day an application had been made under former section 42,¹⁸⁵ as it was in force immediately before that day; and
- (b) immediately before the 2004 Act start day, the application had not been decided;

the application is taken to lapse on the 2004 Act start day.

185 Former section 42 (Lease to person other than a holder of an authority to prospect or permittee)

‘Subdivision 2 Authorities to prospect

‘154 Area of land in area of coal mining lease or oil shale mining lease becomes excluded land

- ‘(1) This section applies for land if it—
- (a) is within any transitional notional sub-block of an authority to prospect in force from the 2004 Act start day; and
 - (b) was, when the authority was granted, in the area of a coal mining lease or oil shale mining lease, whether or not the land was, before the 2004 Act start day, in the area of the authority.
- ‘(2) The land—
- (a) does not form part of the area of the authority; and
 - (b) is taken to be excluded land for the authority.

‘155 Conditions of an authority to prospect about expenditure or work becomes its work program

- ‘(1) From the 2004 Act start day, the conditions of an authority to prospect about expenditure or work are, during the period to which the conditions apply, taken to be the work program for the authority.
- ‘(2) The period is taken to be the program period for the work program.

‘Subdivision 3 Leases

‘156 Program for development and production for a lease becomes its development plan

- ‘(1) From the 2004 Act start day, the current program for development and production for a lease is taken to be the development plan for the lease.

- ‘(2) The plan period for the development plan is taken to be the period from the start of the current program for development and production to the earlier of any of the following to happen—
- (a) the end of the period to which the current program for development and production applies;
 - (b) if, on the 2004 Act start day, the remaining term of the lease is 5 years or more—the first anniversary of the original grant of the lease that happens after 6 months after the 2004 Act start day;
 - (c) if, on the 2004 Act start day, any land in the area of the lease is in the area of a coal or oil shale mining tenement or is the subject of an application under the Mineral Resources Act for a coal or oil shale mining tenement—the end of 6 months after the 2004 Act start day;
 - (d) the end of the lease.¹⁸⁶
- ‘(3) In this section—

current program for development and production, for a lease, means its current program for development and production as mentioned in former section 50¹⁸⁷ as in force immediately before the 2004 Act start day.

‘Subdivision 4 **Conflict between 1923 Act petroleum tenure conditions and relevant environmental conditions**

‘157 **Environmental conditions prevail**

- ‘(1) This section applies from the 2004 Act start day for a condition (the *petroleum condition*) of a 1923 Act petroleum

186 See also section 74Q (Obligation to lodge proposed later development plan).

For leases mentioned in subsection (2)(c), see also section 78 (Additional criteria for deciding whether to approve).

187 Former section 50 (Compliance with and modification of program for development and production)

tenure if there are relevant environmental conditions for the tenure.

- ‘(2) The petroleum condition ceases to have any effect if it is the same, or substantially the same, as any of the relevant environmental conditions.
- ‘(3) If the petroleum condition conflicts with any of the relevant environmental conditions, the environmental condition prevails to the extent of the inconsistency.
- ‘(4) In this section—
relevant environmental conditions, for a 1923 Act petroleum tenure, means the conditions of any relevant environmental authority for the tenure.

‘Subdivision 5 Securities

‘158 Provision for existing demands for additional or alternative security under former s 43(8)

‘There is taken never to have been any limit to the amount of additional or alternative security that may be demanded under former section 43(8).¹⁸⁸

‘159 Monetary securities

- ‘(1) This section applies to security (the *existing security*) held as money in relation to a 1923 Act petroleum tenure immediately before the 2004 Act start day.
- ‘(2) The department must, as soon as practicable, after the 2004 Act start day, transfer the following part of the existing security (the *environmental component*) to the administering authority under the Environmental Protection Act—
 - (a) for an authority to prospect—the amount of the existing security, less \$4 000;

¹⁸⁸ Former section 43 (Security in respect of leases)

- (b) for a lease—the amount of the existing security, less \$10 000.
- ‘(3) On the transfer, the rest of the existing security is taken to be security given under this Act for the tenure.
- ‘(4) Until the transfer happens, the existing security may continue to be used for any purpose for which it was given.
- ‘(5) In this section—
used includes realised, in whole or part.

‘160 Non-monetary securities

- ‘(1) This section applies for security held, other than as money, in relation to a 1923 Act petroleum tenure.
- ‘(2) On the 2004 Act start day, the security may continue to be used for any purpose for which it was given.
- ‘(3) However, subsection (2) does not—
 - (a) prevent the security being used after the 2004 Act start day in relation to an act done or omission made before the 2004 Act start day if it could have been used in relation to the act or omission immediately before the 2004 Act start day; or
 - (b) affect the power under this Act to require replacement security or additional security for the tenure;¹⁸⁹ or
 - (c) affect any power under the Environmental Protection Act to require financial assurance for any relevant environmental authority for the tenure.
- ‘(4) In this section—
used includes realised, in whole or part.

189 See part 6G (Security).

‘Subdivision 6 Notices of entry under Petroleum Regulation 1966 relating to 1923 Act petroleum tenure

‘161 Conversion to entry notice

- ‘(1) This section applies if a notice of entry under the *Petroleum Regulation 1966*, section 17 is in force immediately before the 2004 Act start day and the notice relates to a 1923 Act petroleum tenure.¹⁹⁰
- ‘(2) On the 2004 Act start day—
- (a) the notice of entry is taken to be an entry notice; and
 - (b) the entry notice is taken to have been given under part 6H;¹⁹¹ and
 - (c) the entry period for the entry notice is the shorter of the following periods to end—
 - (i) the balance of the period of the notice of entry;
 - (ii) the period that ends 6 months after the commencement.

‘Subdivision 7 Compensation

‘162 Accrued compensation rights relating to 1923 Act petroleum tenure

- ‘(1) This section applies if—
- (a) a right, under the former compensation provisions, to compensation existed immediately before the 2004 Act start day; and
 - (b) the right—
 - (i) relates to a 1923 Act petroleum tenure; and

190 For 2004 Act petroleum tenures and converted petroleum tenures under that Act, see section 925 of that Act (Entry notices under Petroleum Regulation 1966, s 17).

191 Part 6H (Private land)

(ii) is about an act done or omission made before the 2004 Act start day.¹⁹²

- ‘(2) The right continues after the 2004 Act start day.
- ‘(3) The compensation must be decided under the former compensation provisions as if the provisions had not been repealed.
- ‘(4) A matter relating to the compensation that, before the 2004 Act start day, had been referred to the tribunal but not decided must be decided under the former compensation provisions.
- ‘(5) In this section—

former compensation provisions means sections 18(5) and 97 to 99 of this Act, as they were in force immediately before the 2004 Act start day.

‘163 Existing compensation agreements relating to 1923 Act petroleum tenure

- ‘(1) This section applies to an agreement as mentioned in section 98(1)¹⁹³ of this Act, as it was in force immediately before the 2004 Act start day, for compensation relating to a 1923 Act petroleum tenure.¹⁹⁴
- ‘(2) On the 2004 Act start day, the agreement is taken to be a compensation agreement made under part 6K.¹⁹⁵
- ‘(3) The agreement may be enforced, and may be the subject of an application under section 79S,¹⁹⁶ as if it were a compensation agreement under part 6K.¹⁹⁷

192 For ‘converted petroleum tenures’ under the 2004 Act, see section 922 (Accrued compensation rights relating to converted petroleum authority) of that Act.

193 Former section 98 (Power to agree as to compensation)

194 For ‘converted petroleum tenures’ under the 2004 Act, see section 922 (Accrued compensation rights for converted petroleum authority) of that Act.

195 Part 6K (General compensation provisions)

196 Section 79S (Tribunal review of compensation)

197 Part 6K (General compensation provisions)

- ‘(4) Subsection (3) applies even if the agreement was not valid because section 98(2), as it was in force immediately before the 2004 Act start day, had not been complied with.

‘Subdivision 8 Continuation of former cancellation provision in particular circumstances

‘164 Continued application of former s 22 for previous acts or omissions

‘Despite its repeal, former section 22¹⁹⁸ of this Act, as it was in force immediately before the 2004 Act start day, continues to apply for an act done or omission made in relation to the authority that happened before that day.

‘Subdivision 9 Existing road uses

‘165 Exclusion of pt 6I, div 1 for continuance of particular existing road uses

- ‘(1) If, immediately before the commencement, a 1923 Act petroleum tenure holder was using a public road in the area of the tenure for transport relating to a seismic survey or drilling activity, part 6I, division 1¹⁹⁹ does not apply for the use while it continues.
- ‘(2) Subsection (3) applies for the use (the *haulage use*) by a 1923 Act petroleum tenure holder of a public road for haulage that relates to—
- (a) the transportation of petroleum produced or processed in the area of the tenure; or
 - (b) the construction of a pipeline.
- ‘(3) Part 6I, division 1, does not apply for the haulage use if—

198 Former section 22 (Cancellation of authority to prospect)

199 Part 6I, division 1 (Public roads)

- (a) at any time within 12 months before the commencement, the holder was carrying out the haulage use; and
 - (b) the type of haulage under the haulage use is the same, or substantially the same, as the type of haulage carried out within the 12 months.
- ‘(4) Subsection (3) applies even if the haulage use stops and later starts again.
- ‘(5) In this section—
commencement means the day section 78Z²⁰⁰ commences.

‘Subdivision 10 Miscellaneous provisions

‘166 Provision for cancellation of particular conditions of lease 191

‘The conditions numbered 1 to 3 and 5 to 10 of the lease numbered 191 are no longer conditions of that lease.²⁰¹

‘167 Application of s 3 to particular existing mining tenements

- ‘(1) This section applies to a mining tenement in force immediately before the commencement, other than a coal or oil shale mining tenement.
- ‘(2) Section 3²⁰² applies to the mining tenement as if it had been granted after the commencement.
- ‘(3) However, for a mining tenement other than a mining lease, section 3(3) and (6) does not apply for the carrying out of an authorised activity for a petroleum authority in the area of the tenement until 3 months after the commencement.

200 Section 78Z (Notice of notifiable road use)

201 Condition 10 of the lease numbered 191 provides—‘These conditions will have application until they are terminated by legislation implementing a new coal seam gas regime in Queensland.’

202 Section 3 (Relationship with Mineral Resources Act)

‘(4) The Mineral Resources Act, section 403, does not apply for the carrying out of the authorised activity until 3 months after the commencement.

‘(5) In this section—

commencement means the day section 3 commences.

‘168 Deferral of s 52A for existing leases

‘Section 52A²⁰³ does not apply to the holder of a lease in force at the commencement of this section until 12 months after the 2004 Act start day.

‘169 Deferral of s 79I for particular 1923 Act petroleum tenure holders

‘If, immediately before the 2004 Act start day, a 1923 Act petroleum tenure holder is lawfully carrying out an authorised activity for the tenure on public land, section 79I²⁰⁴ does not apply to the holder until 6 months after the 2004 Act start day.

‘Division 2 Relinquishment condition until first renewal after 2004 Act start day, and related provisions

‘170 Application of div 2

‘(1) This division applies for an authority to prospect in force immediately before the 2004 Act start day that, after that day, continues in force as an authority to prospect under this Act.²⁰⁵

‘(2) However, this division only applies for the period of the authority’s current term.

203 Section 52A (Application of 2004 Act provisions about coextensive natural underground reservoirs)

204 Section 79I (Public land authority approval required for particular activities)

205 See the 2004 Act, chapter 15, part 3, division 2 (Conversion of particular 1923 Act ATPs to an authority to prospect under this Act).

Note—

From the end of the current term, the relinquishment conditions and related provisions under part 6A, division 2, subdivision 1, apply.²⁰⁶

‘171 What is the *current term* of an authority to prospect

- ‘(1) The *current term* of an authority to prospect is the period that starts on the later of the following days and ends when it is first renewed after the 2004 Act start day—
 - (a) the day the authority was granted;
 - (b) the day the last renewal of the authority before the 2004 Act start day became effective.
- (2) However, an authority granted between 1 January 1994 and 23 December 1996 ends on a day decided by the Minister.
- ‘(3) For subsection (1)(b), a renewal of the authority is taken to have become effective on the day immediately after the end of its last term before the renewal.

‘172 What are the *transitional notional sub-blocks* of an authority to prospect

- ‘(1) The *transitional notional sub-blocks*, of an authority to prospect, are the sub-blocks stated in the instrument for the authority at the start of its current term.
- ‘(2) However, the *transitional notional sub-blocks* do not include any sub-block stated in the instrument that is completely within the area of a lease under this Act or a 2004 Act lease.
- ‘(3) For subsection (1), if the instrument—
 - (a) states that the authority’s area includes land within a block; but
 - (b) does not include or exclude any particular sub-block within that block;

206 Part 6A, division 2, subdivision 1 (Standard relinquishment condition and related provisions)

the reference to the block is a reference to all sub-blocks within the block, other than any sub-block that is completely within the area of another 1923 Act petroleum tenure or a 2004 Act petroleum tenure.

‘173 Relinquishment condition if authority includes a reduction requirement

- ‘(1) If the authority requires its area to be reduced to a stated number of blocks on or before stated days—
- (a) the *relinquishment condition* for the authority is the relinquishment condition under section 74A,²⁰⁷ subject to the change that the required percentage is the required reduction instead of 8.33%; and
 - (b) part 6A, division 2, subdivision 1, applies to the authority, subject to the change under paragraph (a).
- ‘(2) However, the relinquishment condition is taken to include a requirement that, before the first renewal of the authority after the 2004 Act start day, at least 5% of the transitional notional sub-blocks for the authority must have been relinquished for each 12 month period of its current term.
- ‘(3) Also, a relinquishment of a part of the area of the authority that overlaps with the area of a lease under this Act or a 2004 Act lease can not be counted as a relinquishment for the relinquishment condition.²⁰⁸

‘174 Relinquishment condition if authority does not include a reduction requirement

- ‘(1) If the authority does not include a requirement mentioned in section 173(1), the *relinquishment condition* for the authority is the relinquishment condition under section 74A,²⁰⁹ with the following changes—
- (a) the required percentage is 5% instead of 8.33%;

207 Section 74A (Standard relinquishment condition)

208 See also section 25L (Conditions for renewal application).

209 Section 74A (Standard relinquishment condition)

- (b) the reference in sections 74C(2) to the authority originally taking effect is a reference to the start of its current term.
- ‘(2) Part 6A, division 2, subdivision 1, applies to the authority, subject to the changes under subsection (1).

‘Division 3 **Leases overlapping with an existing or proposed mineral development licence**

‘Subdivision 1 **Preliminary**

‘175 **Definitions for div 3**

In this division—

information-giver see section 180(1).

MDL applicant see section 176(2)(c).

MDL application see section 176(1)(b).

MDL means mineral development licence under the Mineral Resources Act.

overlapping land see section 176(1).

recipient see section 180(1).

‘176 **Application of div 3**

- ‘(1) This division applies if, before the 2004 Act start day, a lease was granted and when it was granted its area included any of the following land (*overlapping land*)—
- (a) land in the area of an MDL that is a coal or oil shale exploration tenement;
- (b) land the subject of an application (the *MDL application*) under the Mineral Resources Act for an MDL made but not decided before the 2004 Act start

day if the MDL applied for would, if granted, be a coal or oil shale exploration tenement.

- ‘(2) However, this division does not apply, or ceases to apply, if—
- (a) the same person holds the lease and the MDL; or
 - (b) the overlapping land ceases to be in the area of the lease or the MDL or to be subject to the MDL application; or
 - (c) the person who made the MDL application (the *MDL applicant*) is also the lessee; or
 - (d) the MDL application is rejected; or
 - (e) the MDL holder or the MDL applicant has agreed in writing with the lessee that this division does not apply.

‘Subdivision 2 Additional provisions

‘177 Obligation of lessee to give access to MDL holder

- ‘(1) This section applies for the MDL or any MDL granted because of the MDL application.
- ‘(2) It is a condition of the lease that the lessee must allow the MDL holder access to the overlapping land to carry out any authorised activity for the MDL if—
- (a) the required notice has been given; and
 - (b) the carrying out of the activity—
 - (i) does not interfere with the carrying out of an authorised activity for the lease; and
 - (ii) is consistent with the safety management plan under the 2004 Act for any operating plant on the overlapping land the operation of which is an authorised activity for the lease.
- ‘(3) Subsection (2)(b) applies whether or not the operating plant has started to operate.
- ‘(4) The condition under subsection (2) is subject to any agreement about coordinating the development of coal and petroleum in the land (a *coordinated development*

agreement) made between the lessee and the MDL holder or the MDL applicant.

‘(5) In this section—

required notice means a notice from the MDL holder to the lessee, given a reasonable period before the start of the authorised activity for the MDL, that states when and where the activity is proposed to be carried out.

‘178 **Additional requirements for later development plans for lease**

‘(1) This section imposes additional requirements for the approval of any proposed later development plan for the lease made after the 2004 Act start day.

‘(2) However, the additional requirements do not apply if the MDL holder or the MDL applicant has made a coordinated development agreement with the lessee or has agreed in writing in relation to the proposed plan and a copy of either agreement has been lodged at—

- (a) the office of the department for lodging proposed later development plans, as stated in a gazette notice by the chief executive; or
- (b) if no office is gazetted under paragraph (a)—the office of the chief executive.

‘(3) The lessee must, before lodging the proposed plan under section 74Q,²¹⁰ give the MDL holder or the MDL applicant a copy and use reasonable attempts to—

- (a) consult with the MDL holder or the MDL applicant about the proposed plan; and
- (b) change the proposed plan to include reasonable provisions proposed by the MDL holder or the MDL applicant that will optimise the safe and efficient production of—
 - (i) petroleum under the lease; and

210 Section 74Q (Obligation to lodge proposed later development plan)

- (ii) coal or oil shale under any future mining lease over the overlapping land that may be granted to the MDL holder or the MDL applicant; and
- (c) provide for the following in the proposed plan—
 - (i) the location and timing of the development of coal and petroleum in the overlapping land;
 - (ii) the mining or production of the petroleum in a way that is consistent with the proposed mining of the coal;
 - (iii) a way for the coal to be developed in a timely way, including, for example, by appropriate periodic surrenders of parts of the lease.
- ‘(4) However, the obligations under subsection (3)(b) and (c) apply only to the extent the provisions are commercially and technically feasible for the lessee.
- ‘(5) Also, when the lessee lodges the proposed plan, it must be accompanied by a written notice stating each of the following—
 - (a) details of the consultation;
 - (b) the results of the consultation;
 - (c) any changes made to the proposed plan because of the consultation;
 - (d) the lessee’s assessment of the potential for the lessee and the MDL holder or the MDL applicant to make a coordinated development agreement.

‘179 Minister may require further negotiation

- ‘(1) The Minister may, after receiving the notice under section 178(5), require the lessee to conduct negotiations with the MDL holder or the MDL applicant with a view to agreeing about changes of a type mentioned in section 178(3)(b).
- ‘(2) The lessee must use all reasonable attempts to comply with the requirement.

- ‘(3) If the lessee does not comply with subsection (2), the Minister may refuse to approve the lessee’s proposed later development plan.

‘Subdivision 3 Confidentiality of information

‘180 Application of sdiv 3

- ‘(1) This section applies if a tenure holder or a person who has applied for a tenure (the *information-giver*) gives another tenure holder or a person who has applied for a tenure (the *recipient*) information—
- (a) that this division requires the information-giver to give the recipient, including, for example, information given to comply with section 178(3); or
 - (b) for the purposes of this division.
- ‘(2) However, this section applies subject to any agreement between the information-giver and the recipient about the information or its use.
- ‘(3) In this section—
- information* means information given verbally or in writing.
- tenure* means the lease, the MDL or any MDL granted because of the MDL application.

‘181 Confidentiality obligations

- ‘(1) The recipient must not disclose the information to anyone else, unless—
- (a) the information is publicly available; or
 - (b) the disclosure is—
 - (i) made with the information-giver’s consent; or
 - (ii) expressly permitted or required under this or another Act; or
 - (iii) to the Minister.

- (2) The recipient may use the information only for the purpose for which it is given.

182 Civil remedies

If the recipient does not comply with section 181, a court of competent jurisdiction may order the recipient to pay the information-giver all or any of the following—

- (a) compensation for any loss the information-giver incurred because of the failure to comply with the section;
- (b) the amount of any commercial gain the recipient made because of the failure to comply with the section.

‘Schedule Decisions subject to appeal

section 104(1)

Section reference	Description of decision
Authorities to prospect	
25E	Refusal to approve proposed later work program
25J	Refusal to approve amendment to work program
25O	Refusal of renewal application
Leases	
53E	Refusal to approve proposed later development plan

Section reference	Description of decision
53F	Deferral of approval of later development plan
Common provisions	
78E	Decision to require security
78F	Decision to require additional security
79(1)	Decision to give road use direction
79L(1)	Imposition of condition on entry on public land, other than a condition agreed to or requested by the relevant 1923 Act petroleum tenure holder
80J(1)	Refusal to approve permitted dealing
80T	Decision to take noncompliance action
101(2)	Decision to take action to ensure compliance with a requirement under this Act of a 1923 Act petroleum tenure holder, other than action to which the holder has agreed
126	Refusal of application to replace instrument'.

Part 3 Amendment of Petroleum and Gas (Production and Safety) Act 2004

69 Act amended in pt 3

- (1) This part amends the *Petroleum and Gas (Production and Safety) Act 2004*.

- (2) The schedule also includes amendments of the *Petroleum and Gas (Production and Safety) Act 2004*.

70 Insertion of new s 6A

After section 6—

insert—

‘6A Relationship with Nature Conservation Act 1992

‘This Act is subject to the *Nature Conservation Act 1992*, sections 27 and 79QA.²¹¹’.

71 Amendment of s 11 (Meaning of *LPG* and *fuel gas*)

- (1) Section 11(1)(b), ‘, propylene (also called propene)’

omit.

- (2) Section 11(1)(c), after ‘use’—

omit, insert—

‘by consumers.²¹²’.

72 Amendment of s 16 (What is a *pipeline*)

Section 16(1), ‘petroleum or fuel gas’—

omit, insert—

‘petroleum, fuel gas, prescribed storage gases or substances prescribed under section 402²¹³’.

73 Amendment of s 20 (What are the *conditions* of a petroleum authority)

Section 20(1)(c), ‘chapter 2, 3 or 5’—

211 Nature Conservation Act 1992, sections 27 (Prohibition on mining) and 79QA (Prohibition on mining in forest reserves)

212 See section 619 (Who is a *consumer* of fuel gas).

213 Section 402 (Licence may extend transportation right to other prescribed substances)

omit, insert—

‘chapters 2 to 5’.

74 Amendment of s 28 (Property in petroleum produced)

Section 28(1)(b)—

omit, insert—

‘(b) for coal seam gas—if it is mined under the Mineral Resources Act, section 318CM or 747.²¹⁴’.

75 Amendment of s 48 (General requirements)

Section 48(2), after ‘form’—

omit, insert—

‘of the work program.’.

76 Amendment of s 52 (Program period)

(1) Section 52(2)(a), after ‘its term’—

insert—

‘or renewed term’.

(2) Section 52(3), after ‘term’—

insert—

‘or renewed term’.

77 Replacement of s 59 (Restrictions on amending work program)

Section 59—

omit, insert—

214 Mineral Resources Act, section 318CM (Limited entitlement to mine coal seam gas) or 747 (Continuation of particular rights relating to coal seam gas under mineral hydrocarbon mining leases)

'59 Restrictions on amending work program

- '(1) An authority to prospect holder may amend the work program for the authority only if—
- (a) an application for approval of the amendment has been made under this subdivision and the amendment has been approved under this subdivision;²¹⁵ and
 - (b) if the amendment is to extend the period of the work program—the requirements under subsection (2) have been complied with.
- '(2) For subsection (1)(b), the requirements are each of the following—
- (a) the work program can not be the initial work program for the authority;
 - (b) the period of the work program, or any earlier work program for the authority, must not have previously been extended;
 - (c) the extension can not be for a term that ends after—
 - (i) 1 year after the current period of the work program; or
 - (ii) 12 years after the authority originally took effect;
 - (d) within 3 months before the making of the application—
 - (i) a person (the *designated person*) become a holder of the authority;
 - (ii) a person (also the *designated person*) applied for approval of a transfer of a share in the authority and the transfer has, under section 573,²¹⁶ been approved; and
 - (e) the share, or proposed share, of the designated person in the authority is at least 50%;

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

216 Section 573 (Deciding application)

- (f) the designated person is not, under the Corporations Act, section 64B,²¹⁷ an entity connected with another person who is a holder of the authority.’.

78 Amendment of s 62 (Deciding application)

- (1) Section 62(2) to (5)—

renumber as section 62(3) to (6).

- (2) Section 62—

insert—

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

- (a) the requirements under section 59(2) have been complied with; and
- (b) the designated person mentioned in section 59(2) is likely to provide additional financial or technical resources for the authority; and
- (c) the work program will be completed within the period of the extension.

Note—

For additional provisions about relinquishment that apply if the period is extended, see sections 65(1)(c) and 78A.²¹⁸.

- (3) Section 62(4), as renumbered, ‘subsection (2)’—

omit, insert—

‘subsection (3)’.

- (4) Section 62(5), as renumbered, ‘subsection (3)’—

omit, insert—

‘subsection (4)’.

217 Corporations Act, section 64B (Entities connected with a corporation)

218 Sections 65 (Standard relinquishment condition) and 78A (Penalty relinquishment if work program not completed within extended period)

- (5) Section 62(6), as renumbered, ‘a stated percentage of the area’—

omit, insert—

‘at least a stated percentage of the original notional sub-blocks’.

**79 Replacement of ch 2, pt 1, div 4, sdiv 2, hdg
(Relinquishment condition and related provisions)**

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

omit, insert—

**‘Subdivision 2 Standard relinquishment condition
and related provisions’.**

80 Amendment of s 65 (Relinquishment condition)

- (1) Section 65, heading—

omit, insert—

‘65 Standard relinquishment condition’.

- (2) Section 65(1)—

insert—

‘(c) if, under division 3, subdivision 6,²¹⁹ the period of the work program for the authority has been extended—the day on which the extended period ends.’.

- (3) Section 65(2), ‘section 62(3)’—

omit, insert—

‘section 62(4)’.

81 Insertion of new s 65A

After section 65—

insert—

²¹⁹ Division 3, subdivision 6 (Amending work programs)

‘65A Consequence of failure to comply with relinquishment condition

- ‘(1) If the holder of an authority to prospect does not comply with the relinquishment condition the holder must be given a notice requiring the holder to comply with the condition within 20 business days after the giving of the notice.
- ‘(2) If the holder does not comply with the requirement, the authority to prospect is cancelled.’.

82 Amendment of s 66 (Part usually required to be relinquished)

Section 66(2), after ‘relinquishment day’—

insert—

‘, and any other day mentioned in section 65(1)(b) or (c) that applies to the authority,’

83 Amendment of s 67 (Sub-blocks that can not be counted towards relinquishment)

- (1) Section 67(1)(b), ‘area of an authority to prospect’—

omit, insert—

‘the authority to prospect’.

- (2) Section 67(3), definition *penalty relinquishment*—

omit, insert—

‘*penalty relinquishment* means a relinquishment that is—

- (a) made under section 78A or under a requirement under section 790(1)(b);²²⁰ and
- (b) more than the sub-blocks required to be relinquished under the relinquishment condition.’.

220 Sections 78A (Penalty relinquishment if work program not completed within extended period) and 790 (Types of noncompliance action that may be taken)

84 Amendment of s 68 (Adjustments for sub-blocks that can not be counted)

Section 68(1), ‘original notional’—
omit.

85 Amendment of s 69 (Adjustment for particular potential commercial areas)

Section 69, ‘other land’ to ‘relinquished’—
omit, insert—

‘remaining sub-blocks of the original notional sub-blocks of the authority are relinquished’.

86 Amendment of s 70 (Relinquishment must be by blocks)

Section 70(2), ‘within the area of the authority to prospect’—
omit.

87 Amendment of s 73 (Permitted period for production or storage testing)

(1) Section 73(1)(b), ‘petroleum storage’—
omit, insert—

‘the storage of petroleum or a prescribed storage gas’.

(2) Section 73(4)—
omit.

88 Amendment of s 77 (Requirement to have work program)

(1) Section 77, note, first sentence—
renumber as section 77, note 1.

(2) Section 77, note, second and third sentences—
omit, insert—

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

‘3. For approval of proposed later work programs see division 3, subdivision 5.²²¹’

89 Insertion of new s 78A

After section 78—

insert—

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

‘If—

- (a) under division 3, subdivision 6,²²² the period of the work program for an authority to prospect has been extended; and
- (b) the work program is not completed on or before the day on which the extended period ends;

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

90 Amendment of s 79 (Obligation to lodge proposed later work program)

Section 79(5), ‘current plan period’—

omit, insert—

‘current work program period or if subsection (4) applies and the holder does not lodge another proposed later work program within the current work program period’.

221 Sections 79 (Minister may add excluded land), 100 (Obligation to lodge proposed later work program), 104 (Requirements for making application), 372 (Requirements for making application) and 790 (Types of noncompliance action that may be taken)

Division 3, subdivision 5 (Approval of proposed later work programs)

222 Division 3, subdivision 6 (Amending work programs)

91 Amendment of s 82 (Requirements for making application)

Section 82(1)(j)(ii), ‘the late fee prescribed under a regulation’—

omit, insert—

‘an amount that is 10 times the application fee’.

92 Amendment of s 93 (Extension of term of declaration)

Section 93(1), ‘the mining lease ends’—

omit, insert—

‘the mining lease, or any renewal of the mining lease, ends’.

93 Amendment of s 98 (Area of authority to prospect)

Section 98(4)(b), from ‘, other’ to ‘section 99(5)(b)’—

omit.

94 Amendment of s 99 (Minister’s power to decide excluded land)

(1) Section 99(1), ‘, at any time,’—

omit.

(2) Section 99(4) and (5)—

renumber as section 99(5) and (6).

(3) Section 99(3)—

omit, insert—

‘(4) For subsection (3)(a), if the instrument—

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

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

the reference to the block is a reference to all sub-blocks within the block, other than any sub-block that is completely

within the area of another petroleum tenure or a 1923 Act petroleum tenure.’.

(4) Section 99(2)—

renumber as section 99(3).

(5) Section 99—

insert—

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

(a) grant or renew the authority; or

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

95 Amendment of s 110 (Petroleum pipeline and water pipeline construction and operation)

(1) Section 110(3), after ‘for the lease’—

insert—

‘or a lease mentioned in subsection (2)(b)’.

(2) Section 110(5), definition *water pipeline*, ‘section 16(2)(b), examples 1 to 4’—

omit, insert—

‘the examples to section 16(2)(b)’.

96 Amendment of s 113 (Application of sdiv 2)

Section 113(b), ‘proposed lease.’—

omit, insert—

‘proposed lease.²²³’.

223 See also section 52A (Application of 2004 Act provisions about coextensive natural underground reservoirs) of the 1923 Act.

97 Amendment of s 115 (Restriction on petroleum production from reservoir)

(1) Section 115, words before subsection (2)—

omit, insert—

‘115 Restriction on carrying out particular authorised activities

‘(1) The petroleum lease holder must not carry out a relevant activity for an adjacent lease or proposed adjacent lease unless—

(a) the adjacent lease holder, or the proposed adjacent lease holder, has consented in writing to the carrying out of the activity; or

(b) the activity is carried out under—

(i) a coordination arrangement mentioned in section 114; or

(ii) a decision of the tribunal under section 116.’.

(2) Section 115(2), ‘producing petroleum mentioned in subsection (1)’—

omit, insert—

‘carrying out the relevant activity’.

(3) Section 115—

insert—

‘(3) In this section—

‘**relevant activity**, for an adjacent lease or proposed adjacent lease, means—

(a) the production, under the petroleum lease, of petroleum that comes, or is likely to come, from the part of the reservoir that is in the area of an adjacent lease or the proposed adjacent lease; or

(b) another authorised activity under the petroleum lease that physically adversely affects, or may physically adversely affect, the carrying out of authorised activities under an adjacent lease or the proposed adjacent lease.’.

98 Amendment of s 116 (Dispute resolution by tribunal)

Section 116(1)—

omit, insert—

- ‘(1) This section applies if—
- (a) an adjacent lease holder, or the proposed adjacent lease holder, has not consented in writing to the carrying out of a relevant activity under section 115; and
 - (b) the petroleum lease holder and the adjacent lease holder or proposed adjacent lease holder (the *parties*) have not made a coordination arrangement mentioned in section 114.’.
- (2) Section 116(2)(c), after ‘coordinated’—
- insert—*
- ‘or monitored’.
- (3) Section 116(2)—
- insert—*
- ‘(d) remediation requirements, as prescribed under a regulation, in relation to the matters mentioned in section 115(3), definition *relevant activity*, paragraph (b).’.

99 Replacement of s 119 (Continuing effect of authority to prospect for ATP-related application)

Section 119—

omit, insert—

‘119 Continuing effect of authority to prospect for ATP-related application

- ‘(1) This section applies if, other than for subsection (2), the relevant authority to prospect would, other than by cancellation under this Act, end before the ATP-related application is decided.
- ‘(2) The authority continues in force in relation to the area the subject of the application until the earlier of the following to happen—

- (a) the start of the term of the petroleum lease;
 - (b) a refusal of the ATP-related application takes effect;²²⁴
 - (c) the application is withdrawn.
- ‘(3) Despite any ending of the program period for the current work program for the authority—
- (a) the authority is taken to have a work program; and
 - (b) the holder may carry out any authorised activity for the authority.’.

100 Amendment of s 121 (Requirements for grant)

- (1) Section 121(1)(b)(ii), from ‘contains’—

omit, insert—

‘contains the level of knowledge of reserves of petroleum, as prescribed under a regulation; and’.

- (2) Section 121(1)(b)(iii), ‘reservoir’—

omit, insert—

‘natural underground reservoir’.

101 Amendment of s 151 (Restriction on flaring or venting)

Section 151(4), ‘incidental coal seam’—

omit.

102 Amendment of s 152 (Permitted period for production or storage testing)

- (1) Section 152(1)(b), ‘petroleum storage’—

omit, insert—

‘the storage of petroleum or a prescribed storage gas’.

²²⁴ See section 125 (When refusal takes effect).

- (2) Section 152(4)—
omit.

103 Amendment of s 157 (Requirement to have development plan)

- (1) Section 157, note, first sentence—
renumber as section 157, note 1.
- (2) Section 157, note, second and third sentences—
omit, insert—
- ‘2. For the requirements to lodge a proposed later development plan see sections 159, 170, 372 and 790.
 - ‘3. For approval of proposed later development plans see division 4, subdivision 5.²²⁵’.

104 Amendment of s 159 (Obligation to lodge proposed later development plan)

- (1) Section 159(3)(b)—
omit, insert—
- ‘(b) as soon as practicable after the holder proposes or becomes aware of a significant change to the nature and extent of an authorised activity that is not already dealt with under the current development plan for the lease.’
- (2) Section 159(5), after ‘current plan period’—
omit, insert—
- ‘or if subsection (4) applies and the holder does not lodge another proposed later development plan within the current plan period’.

225 Sections 159 (Obligation to lodge proposed later development plan), 170 (Minister may add excluded land), 372 (Requirements for making application) and 790 (Types of noncompliance action that may be taken)

Division 4, subdivision 5 (Approval of proposed later development plans)

105 Amendment of s 162 (Requirements for making renewal application)

Section 162(1)(h)(ii), ‘the late fee prescribed under a regulation’—

omit, insert—

‘an amount that is 10 times the application fee’.

106 Amendment of s 169 (Minister’s power to decide excluded land)

(1) Section 169(1), ‘, at any time,’—

omit.

(2) Section 169(4) and (5)—

renumber as section 169(5) and (6).

(3) Section 169(3)—

omit, insert—

‘(4) For subsection (3)(a), if the instrument—

(a) states that the lease’s area includes land within a block;
but

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

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

(4) Section 169(2)—

renumber as section 169(3).

(5) Section 169—

insert—

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

(a) grant or renew the lease; or

(b) approve any later development plan for the lease.’.

107 Amendment of s 173 (Deciding application)

Section 173(2)(b)(ii), after ‘section 121(2)’—
insert—
‘for each proposed lease’.

108 Amendment of s 178 (Deciding application for data acquisition authority)

- (1) Section 178(5)(a)(i), ‘section 180 or 181’—
omit, insert—
‘section 180, 181 or 184A’.
- (2) Section 178—
insert—
- ‘(7) The Minister may, as a condition of deciding to grant the authority, require the applicant to do all or any of the following within a stated reasonable period—
- (a) pay the annual rent for the first year of the renewed authority;
 - (b) give, under section 488,²²⁶ security for the authority.
- ‘(8) If the applicant does not comply with the requirement, the application may be refused.’.

109 Insertion of new s 184A

Chapter 2, part 3, after section 184—
insert—

‘184A Annual rent

- ‘(1) A data acquisition authority holder must pay the State the annual rent, as prescribed under a regulation.²²⁷

²²⁶ Section 488 (Power to require security for petroleum authority)

²²⁷ See also section 588 (Interest on amounts owing to the State other than for petroleum royalty).

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

110 Amendment of s 187 (Water monitoring activities)

Section 187(2), ‘authorised under this section’—

omit, insert—

‘mentioned in subsection (1)’.

111 Amendment of s 190 (Who may apply for water monitoring authority)

- (1) Section 190(1), after ‘stated land’—

insert—

‘outside the area of the tenure’.

- (2) Section 190(2)—

omit, insert—

- ‘(2) The application may be made or granted—
- (a) over land in the area of another petroleum authority; and
- (b) for 1 or more petroleum tenures held by the same applicant.’.

112 Amendment of s 192 (Deciding application for water monitoring authority)

- (1) Section 192(4)(a)(i), ‘section 202’—

omit, insert—

‘section 202 or 202A²²⁸’.

- (2) Section 192—

insert—

228 Section 202 (Additional condition of relevant petroleum tenure) or 202A (Annual rent)

- ‘(6) The Minister may, as a condition of deciding to grant the authority, require the applicant to do all or any of the following within a stated reasonable period—
- (a) pay the annual rent for the first year of the renewed authority;
 - (b) give, under section 488,²²⁹ security for the authority.
- ‘(7) If the applicant does not comply with the requirement, the application may be refused.’.

113 Replacement of s 201 (Provision for who is the authority holder if only 1 related petroleum tenure)

Section 201—

omit, insert—

‘201 Provision for who is the authority holder

- ‘(1) If there is only 1 petroleum tenure to which a water monitoring authority relates, the authority holder is taken to be the person who, from time to time, holds the petroleum tenure to which the authority relates.
- ‘(2) Subsections (3) and (4) apply if there is more than 1 petroleum tenure to which a water monitoring authority relates.
- ‘(3) If, under chapter 5, part 10, all of the tenures are transferred to the same person, the transferee is taken to be the holder of the authority.
- ‘(4) If, under chapter 5, part 10, 1 or more but not all of the tenures are transferred to the same person, the person from whom the tenures were transferred continues to be the holder of the water monitoring authority.²³⁰’.

114 Insertion of new s 202A

After section 202—

229 Section 488 (Power to require security for petroleum authority)

230 See also section 569 (Prohibited dealings).

insert—

‘202A Annual rent

- ‘(1) A water monitoring authority holder must pay the State the annual rent, as prescribed under a regulation.²³¹
- ‘(2) The annual rent must be paid in the way, and on or before the day, prescribed under a regulation.’

115 Amendment of s 228 (Prohibition on actions preventing access)

Section 228(1), penalty, ‘500’—

omit, insert—

‘1 000’.

116 Amendment of s 234 (Arrangement to coordinate petroleum activities)

Section 234(3)(c)(i)—

omit, insert—

- ‘(i) the subleasing of, or of an interest in, a relevant petroleum lease to a party to the arrangement or someone else; and’.

117 Amendment of s 235 (Applying for Ministerial approval of proposed coordination arrangement)

Section 235(2)(c)—

omit, insert—

‘(c) accompanied by—

- (i) the original or a certified copy of the proposed arrangement; and
- (ii) the fee prescribed under a regulation.’

²³¹ See also section 588 (Interest on amounts owing to the State other than for petroleum royalty).

118 Amendment of s 240 (Grant of pipeline licence)

Section 240(1), after ‘petroleum’—

insert—

‘or a prescribed storage gas’.

119 Amendment of s 250 (The make good obligation)

Section 250—

insert—

‘(4) Despite subsections (1) and (2), the make good obligation does not apply for an existing Water Act bore if either of the following happened before the commencement of this section—

(a) the petroleum tenure has ended;

(b) the part of the area of the tenure on which the rights were exercised ceased to be part of the area of the tenure.’.

120 Amendment of s 266 (Obligation to lodge monitoring reports)

(1) Section 266(2)—

omit.

(2) Section 266(3)—

renumber as section 266(2)

121 Replacement of s 281 (Standard for drilling petroleum well)

Section 281—

omit, insert—

‘281 Requirements for drilling petroleum well

‘(1) A person drilling a petroleum well must comply with any requirements prescribed under a regulation that apply to the drilling of the well.

Maximum penalty—500 penalty units.

- ‘(2) The requirements may include provisions to prevent the drilling adversely affecting the future safe and efficient mining of coal under the Mineral Resources Act.’.

122 Amendment of s 292 (Obligation to decommission)

- (1) Section 292(2)—

insert—

‘Maximum penalty—500 penalty units.’.

- (2) Section 292(4)(a) and (b)—

omit, insert—

‘(a) either—

- (i) for a petroleum well—it has been plugged and abandoned in the way prescribed under a regulation; or
- (ii) for a water observation bore or water supply bore—the Water Act, sections 816 and 817 have been complied with;²³² and’.

- (3) Section 292(4)(c)—

renumber as section 294(4)(b).

123 Amendment of s 295 (Main purposes of ch 3)

Section 295, after ‘chapter are’—

insert—

‘in conjunction with the Mineral Resources Act, part 7AA, and the 1923 Act, part 6F,²³³’.

232 Water Act, sections 816 (Unauthorised water bore activities) and 817 (Contravening requirements for mining and petroleum drilling)

233 Mineral Resources Act, part 7AA and the 1923 Act, part 6F (Provisions for coal seam gas)

124 Amendment of s 297 (Relationship with chs 2, 5 and 15)

- (1) Section 297, heading, ‘chs 2, 5 and 15’—
omit, insert—
‘chs 2 and 5 and ch 15, pt 3’.
- (2) Section 297(1), ‘chapters 2, 5 and 15’—
omit, insert—
‘chapters 2 or 5 or chapter 15, part 3’.
- (3) Section 297(4), ‘chapter 2, 5 or 15’—
omit, insert—
‘chapter 2 or 5 or chapter 15, part 3’.

125 Amendment of s 298 (Description of petroleum leases for ch 3)

- (1) Section 298, heading, after ‘ch 3’—
insert—
‘and ch 15, pt 3’.
- (2) Section 298, after ‘chapter 3’—
insert—
‘or chapter 15, part 3’.

126 Amendment of s 305 (Additional requirements for making application)

- (1) Section 305(1)(b), after ‘(the *CSG assessment criteria*)’—
insert—
‘, other than the matter mentioned in subsection (2)(e)(iii)’.
- (2) Section 305(2)(e)(iii), after ‘section 310(1)(b)’—
insert—
‘and any changes of the type mentioned in section 310(1)(c)’.

127 Amendment of s 313 (Obligations of coal or oil shale exploration tenement holder)

Section 313(a), 'section 310'—

omit, insert—

'sections 305, 306 and 310'.

128 Amendment of s 318 (When preference decision is required)

Section 318(1)(c)

omit, insert—

'(c) there is the level of knowledge about the deposit, as prescribed under a regulation;'

129 Amendment of s 321 (Restrictions on giving preference)

Section 321(1), 'may be given only under this section'—

omit, insert—

'must not be given unless this section has been complied with'.

130 Amendment of s 328 (Additional criteria for deciding provisions of petroleum lease)

Section 328(1)—

omit, insert—

'(1) In deciding the provisions of the petroleum lease the following must also be considered—

- (a) the CSG assessment criteria;
- (b) the affect of the petroleum lease on safe and efficient mining of coal or oil shale under any adjacent lease;
- (c) the affect on safe and efficient mining of coal or oil shale under any future coal or oil shale mining lease that arises from the coal or oil shale exploration tenement.'

131 Amendment of s 341 (Provisions of petroleum lease)

Section 341(2)(c), after ‘authority to prospect’—

insert—

‘or a 1923 Act ATP’.

132 Amendment of s 350 (Additional requirements for grant)

Section 350(1)(d), after ‘has’, first mention—

insert—

‘agreed to the safety management plan and’

133 Amendment of s 356 (Right to grant if particular requirements met)

Section 356(b)(ii), ‘coal or oil shale exploration tenement’—

omit, insert—

‘coal or oil shale mining lease’.

134 Amendment of s 360 (Restriction)

Section 360(1)(a), after ‘activity’—

insert—

‘and to the safety management plan of the authority holder’.

135 Replacement of ch 3, pt 4, div 3 (Exception to automatic area reduction of authority to prospect on grant of petroleum lease)

Chapter 3, part 4, division 3—

omit, insert—

‘Division 3 Exceptions to particular area provisions

‘361 Exceptions

‘Section 98(4) and 101 do not apply for an authority to prospect if the petroleum lease is granted under part 2, division 2 or part 3, division 3.²³⁴’.

136 Amendment of s 364 (Restriction on authorised activities on overlapping ATP land)

(1) Section 364(2)(b)—

omit, insert—

‘(b) the activity relates to incidental coal seam gas mined or to be mined within the mine working envelope.²³⁵’.

(2) Section 364(3)—

insert—

‘***mine working envelope*** means land that—

- (a) is in the area of a coal mining lease or an oil shale mining lease the area of which includes the overlapping ATP land; and
- (b) covers any of the following or is needed for post-production activities—
 - (i) past mine workings;
 - (ii) current mine workings;
 - (iii) mine workings scheduled to be mined within the next 5 years;

234 Sections 98 (Area of authority to prospect) and 101 (Area of authority to prospect reduced on grant of petroleum lease)

Part 2, division 2 (Petroleum lease application by or jointly with, or with the consent of, coal or oil shale exploration tenement holder)

Part 3, division 3 (Petroleum lease application by or jointly with coal mining lease holder or oil shale mining lease holder)

235 See also section 934 (Substituted restriction for petroleum leases relating to mineral hydrocarbon mining leases).

- (iv) authorised activities for the mining lease associated with the processing, transportation, storage and use of the incidental coal seam gas produced.’.

137 Amendment of s 367 (Requirement for giving copy of relinquishment report)

Section 367(2), penalty, ‘200’—

omit, insert—

‘150’.

138 Amendment of s 376 (Deciding amendment application)

Section 376—

insert—

- ‘(5) After the application has been decided, the applicant and the coal or oil shale exploration tenement holder must be given notice of the decision.’.

139 Replacement of ch 3, pt 6, div 1, hdg

Chapter 3, part 6, division 1, heading—

omit, insert—

‘Division 1 Initial development plans

‘Subdivision 1 Additional requirements for proposed initial development plan’.

140 Amendment of s 380 (Operation of div 1)

- (1) Section 380, heading, ‘div 1’—

omit, insert—

‘sdiv 1’.

- (2) Section 380(1), ‘division’—

omit, insert—

‘subdivision’.

- (3) Section 380, ‘, section 332 or 352’—

omit, insert—

‘or this chapter’.

141 Amendment of s 381 (Statement about interests of coal or oil shale exploration tenement holder)

- (1) Section 381, ‘exploration’—

omit, insert—

‘mining’.

- (2) Section 381(b), from ‘, other’ to ‘chapter 9’—

omit.

142 Amendment of s 382 (Requirement to optimise petroleum production)

- (1) Section 382(2), ‘a mineable coal seam’—

omit, insert—

‘coal’.

- (2) Section 382(2), ‘to do so’—

omit, insert—

‘not to do so’.

143 Insertion of new ch 3, pt 6, div 1, sdiv 2

Chapter 3, part 6, division 1—

insert—

‘Subdivision 2 Other additional provisions

‘383A Application of sdiv 2

‘This subdivision applies if—

- (a) the Minister is considering whether to approve a proposed initial development plan for a proposed petroleum lease; and
- (b) the area of the proposed lease includes all or part of the area of a coal mining tenement or oil shale mining tenement.

‘383B Additional criteria for approval

‘The matters that must be considered include the CSG assessment criteria.

‘383C Restriction on approval

‘The proposed plan can not be approved unless the applicant for the proposed lease has complied with the obligations under section 310(1)(b).²³⁶.

144 Replacement of ch 3, pt 6, div 2, hdg

Chapter 3, part 6, division 2, heading—
omit, insert—

‘Division 2 Later development plans**‘Subdivision 1 Additional requirements for proposed later development plans****‘383D Additional requirements under div 1, sdiv 1 apply**

‘A proposed later development plan for a petroleum lease must comply with the additional requirements under sections 381 to 383 for a proposed initial development plan for a petroleum lease.

236 Section 310 (Applicant’s obligations)

‘Subdivision 2 Other additional provisions’.**145 Replacement of s 386 (Consultation with particular coal mining tenement or oil shale mining tenement holders required before making plan)**

Section 386—

*omit, insert—***‘386 Requirements for consultation with particular coal or oil shale mining tenement holders**

- ‘(1) This section applies if—
- (a) any person (an *operator*) who proposes to be an operator of operating plant used to explore for, extract, produce, release or transport petroleum (*relevant operating plant*); and
 - (b) activities (*relevant activities*) carried out, or proposed to be carried out, at the plant may adversely affect the safe and efficient mining of coal in the area of a coal or oil shale mining tenement.
- ‘(2) Before any operator may operate relevant operating plant, each operator must have made reasonable attempts to consult with the tenement holder about relevant activities for the plan.²³⁷
- ‘(3) If there is more than 1 operator, the tenement holder may coordinate the consultation with the operators.
- ‘(4) For subsection (2), an operator is taken to have made reasonable attempts to consult if—
- (a) the operator gives the tenement holder a copy of the operator’s proposed safety management plan for any relevant operating plant the operator proposes to operate; and

²³⁷ For the making of the safety management plan, see section 674 (Requirement to have safety management plan).

- (b) the tenement holder has not, within 30 days after the giving of the copy, made any proposal to the operator about provisions for the plan.
- ‘(5) An operator must, before making or re-making a safety management plan for any relevant operating plant the operator operates or proposes to operate, have regard to any reasonable provisions for the plan proposed by the tenement holder that relate to relevant activities for the plant.
- ‘(6) However, the obligation under subsection (5) applies only to the extent the provisions are commercially and technically feasible for the operator or any relevant petroleum tenure holder.
- ‘(7) If an operator makes a safety management plan for relevant operating plant that includes provisions proposed by the tenement holder, the operator must—
- (a) give the tenement holder a copy; and
- (b) lodge at the following office a notice stating any provisions proposed under subsection (5) and whether they were included in the plan—
- (i) the office of the department for lodging the notice, as stated in a gazette notice by the chief inspector;
- (ii) if no office is gazetted under subparagraph (i)—the office of the chief inspector.
- ‘(8) In this section—
- re-making*, a safety management plan, includes an amendment or remaking of the plan of a type required under section 678.²³⁸.

146 Amendment of s 388 (Additional content requirements)

- (1) Section 388(1), after ‘petroleum’—
- insert—*
- ‘within coal seams being completed or tested’

238 Section 678 (When safety management plan must be revised)

- (2) Section 388(1)(a), ‘mineable coal seams’—
omit, insert—
‘coal’.
- (3) Section 388(3)(a)—
omit.
- (4) Section 388(3)(b) and (c)—
renumber as section 388(3)(a) and (b).

147 Amendment of s 389 (Exemption from additional content requirements)

- (1) Section 389, ‘Minister’—
omit, insert—
‘chief inspector’.
- (2) Section 389(1)(b)—
omit, insert—
‘(b) a stated coal seam.’.
- (3) Section 389, ‘chief executive’—
omit, insert—
‘chief inspector’.
- (4) Section 389(8)—
omit, insert—
- ‘(8) In deciding the application the chief inspector—
 - (a) must have regard to the purposes of this chapter;²³⁹ and
 - (b) may seek advice or recommendations from a technical advisory committee established under section 732B²⁴⁰ for coal seam gas; and

239 See section 295 (Main purposes of ch 3).

240 Section 732B (Technical advisory committees)

- (c) must consider the committee's advice or recommendations.
- ‘(9) However, before the giving of the advice or recommendations, the members of the committee must declare whether they have any conflict of interest in relation to the application.
- ‘(10) If any member declares the member has a conflict of interest, an alternate member may be appointed to substitute for the member when the advice or recommendation is considered.’.
- (5) Section 389(9)—
renumber as section 389(11).

148 Amendment of s 391 (Confidentiality obligations)

- (1) Section 391(1)(b)(i) to (iii)—
renumber as section 391(1)(b)(ii) to (iv).
- (2) Section 391(1)(b)—
insert—
- ‘(i) to someone whom the recipient has authorised to carry out the authorised activities for the recipient's petroleum tenure or coal or oil shale mining tenement; or’.

149 Amendment of s 396 (Deciding application)

- Section 396(2), from ‘unless’—
omit, insert—
- ‘unless—
- (a) the applicant is an eligible person; and
- (b) a relevant environmental authority for the licence has been issued.’.

150 Amendment of s 399 (What is *pipeline land* for a pipeline licence)

- Section 399(1)(b)(ii), after ‘enter’—

insert—

‘to construct or operate the pipeline’.

151 Amendment of s 401 (Construction and operation of pipeline)

Section 401(2)—

omit, insert—

- ‘(2) However, if native title exists in relation to land mentioned in subsection (1)(b), the holder must have or hold an interest or permission mentioned in section 399(1)(b)²⁴¹ for the native title rights and interests.’.

152 Amendment of s 408 (Notice of proposed application to relevant local government)

- (1) Section 408(1) and (2)—

renumber as section 408(2) and (3).

- (2) Section 408—

insert—

- ‘(1) This section does not apply if the application is for an existing pipeline.’.

153 Amendment of s 409 (Requirements for making application)

- (1) Section 409(c)(iv), after ‘pipeline licence’—

omit, insert—

‘other than to the extent the application is for existing pipelines’.

- (2) Section 409(f), before ‘include’—

insert—

‘if the application is not for an existing pipeline—’.

241 Section 399 (What is *pipeline land* for a pipeline licence)

154 Amendment of s 411 (Public notice requirement)

(1) Section 411(a), after ‘gazetted’—

insert—

‘and published in a relevant newspaper’.

(2) Section 411—

insert—

‘(2) In this section—

relevant newspaper means a newspaper circulating—

(a) throughout the State; or

(b) if the proposed licence is an area pipeline licence—generally, in the area.’.

155 Amendment of s 441 (Construction and operation of petroleum facility)

Section 441(2), ‘comply with’—

omit, insert—

‘have or hold an interest or permission mentioned in’.

156 Amendment of s 443 (Who may apply)

(1) Section 443—

insert—

‘(3) In this section—

proposed petroleum facility includes a facility for the distillation, processing, refining, storage or transport of petroleum authorised under a pipeline licence held by the applicant for which facility the applicant wishes to obtain a petroleum facility licence.’.

157 Amendment of s 445 (Requirements for making application)

(1) Section 445(d), after ‘another petroleum authority’—

insert—

‘or a mining interest’.

- (2) Section 445(d), after ‘other petroleum authority’—

insert—

‘or on mining under the mining interest’.

158 Amendment of s 447 (Provisions of licence)

Section 447(4)(c)—

omit.

159 Amendment of s 448 (Criteria for decisions)

- (1) Section 448(c), after ‘another petroleum authority’—

insert—

‘or a mining interest’.

- (2) Section 448(c), after ‘other petroleum authority’—

insert—

‘or on mining under the mining interest’.

160 Insertion of new s 448A

After section 448—

insert—

‘448A Provision for facility already the subject of a pipeline licence

- ‘(1) This section applies if—

- (a) the application is granted; and
- (b) the application was for a facility for the distillation, processing, refining, storage or transport of petroleum authorised under a pipeline licence held by the applicant.

- ‘(2) Despite section 16(2),²⁴² the facility ceases to be a part of any pipeline the subject of the pipeline licence.
- ‘(3) The operation of the facility ceases to be an authorised activity for the pipeline licence.’.

161 Amendment of s 456 (State’s power to take land)

Section 456(4), ‘other Act’—

omit, insert—

‘*Land Act 1994* or other Act’.

162 Insertion of new s 478A

Chapter 4, part 7, before section 479—

insert—

‘478A Survey licence can not be renewed

‘A survey licence can not be renewed.’.

163 Amendment of s 479 (Conditions for renewal application)

Section 479, heading, after ‘application’—

insert—

‘for other types of licence’.

164 Amendment of s 480 (Requirements for making application)

Section 480(d)(ii), ‘the late fee prescribed under a regulation’—

omit, insert—

‘an amount that is 10 times the application fee’.

242 Section 16 (What is a *pipeline*)

165 Amendment of s 487 (Operation and purpose of pt 1)

- (1) Section 487(1), ‘, of at least the amount prescribed under a regulation’—

omit.

- (2) Section 487(2)(b), after ‘annual’—

insert—

‘licence fee or’

166 Amendment of s 488 (Power to require security for petroleum authority)

- (1) Section 488(1), ‘, by information notice,’—

omit.

- (2) Section 488—

insert—

- ‘(4) However, the requirement does not take effect until the holder or applicant is given—

(a) for a requirement to give security in the form and amount prescribed under subsection (2)—notice of the requirement; or

(b) otherwise—an information notice about the decision to make the requirement.’.

167 Amendment of s 489 (Minister’s power to require additional security)

- (1) Section 489(1) and (2)—

omit, insert—

- ‘(1) The Minister may require a petroleum authority holder to increase the amount of security given for the authority.

- ‘(2) However—

(a) if, because of an increase in the prescribed amount under section 488(2), the requirement is to increase the total security required to no more than the increased

prescribed amount—the requirement must be made by notice to the holder; or

- (b) if the requirement is to increase the total security required to more than the prescribed amount under section 488(2) when the requirement is made—
 - (i) subsections (3) to (6) must be complied with before making the requirement; and
 - (ii) the requirement does not take effect until the holder is given an information notice about the decision to make the requirement.’.

(2) Section 489(6)—

omit.

(3) Section 489(7)—

renumber as section 489(6).

168 Amendment of s 493 (Security not affected by change in authority holder)

Section 493—

insert—

- ‘(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 authority.’.

169 Amendment of s 497 (Requirement for entry notice to carry out authorised activities)

(1) Section 497(1), penalty, ‘100’—

omit, insert—

‘500’.

(2) Section 497, after subsection (3)—

insert—

Note—

Section 536 also contains preconditions for entry to private land to carry out authorised activities for a petroleum authority.²⁴³.

170 Insertion of new ch 5, pt 2, div 2A

Chapter 5, part 2—

insert—

‘Division 2A Requirement for further notice before carrying out authorised activities on private land

‘500A Application of div 2A

- ‘(1) This division applies if a petroleum authority holder proposes to—
- (a) first enter private land to carry out authorised activities for the authority; or
 - (b) allow someone else for the holder to first enter private land to carry out authorised activities for the authority.
- ‘(2) This division applies whether or not an entry notice has been given in relation to the proposed entry.

‘500B Requirement to give further notice

- ‘(1) The petroleum authority holder must give each owner and occupier of the land notice—
- (a) of the proposed entry; and
 - (b) of, accurately, when and where the authorised activities are proposed to be carried out.
- ‘(2) The notice must be given—
- (a) generally—at least 2 business days before the proposed entry; or

243 Section 536 (Compensation to be addressed before entry to private land)

- (b) if the holder and each owner and occupier of the land have agreed to a longer or shorter period for giving the notice—within the longer or shorter period.
- ‘(3) The notice may be written or verbal and may be given in any way, including, for example, in person, by e-mail, facsimile transmission, letter or a hand written note.

‘500C Failure to give further notice

- ‘(1) The petroleum authority holder must comply with section 500B.
Maximum penalty—50 penalty units.
- ‘(2) However, a failure to comply with section 500B does not prevent the authorised activities from being carried out on the land.’.

171 Amendment of s 511 (Entry notice or waiver of entry notice or access agreement not affected by dealing)

- (1) Section 511, heading, ‘dealing’—
omit, insert—
‘permitted dealing’.
- (2) Section 511, ‘transfer or mortgage of’—
omit, insert—
‘permitted dealing with’.

172 Amendment of s 512 (Change in ownership or occupancy)

- (1) Section 512(1)(b), after ‘owner or occupier’—
insert—
‘for the entry period stated in the notice’.
- (2) Section 512(2)—
omit.
- (3) Section 512(3) to (5)—

renumber as section 512(2) to (4).

- (4) Section 512(3), as renumbered, ‘subsection (1) or (3)’—

omit, insert—

‘subsection (1) or (2)’.

- (5) Section 512(4), as renumbered, ‘subsection (4), subsections (1) to (3)’—

omit, insert—

‘subsection (3), subsections (1) and (2)’.

173 Insertion of new ch 5, pt 2, div 6

Chapter 5, part 2—

insert—

‘Division 6 Access to carry out rehabilitation and environmental management

‘513A Right of access for authorised activities includes access for rehabilitation and environmental management

‘If, under this part, a petroleum authority holder has the right to enter private land to carry out authorised activities for the authority, the right includes the right to enter the land to carry out rehabilitation or environmental management required of the holder under any relevant environmental requirement under the Environmental Protection Act.’.

174 Amendment of s 526 (Public land authority approval required for particular activities)

- (1) Section 526, heading—

omit, insert—

‘526 Requirement for entry notice to carry out authorised activities’.

- (2) Section 526(2), ‘must not carry’—

omit, insert—

‘must not enter public land to carry’.

- (3) Section 526(2)(b) and (c), (3) and (4)—

omit, insert—

- ‘(b) the holder has, at least 30 business days before the entry, given the public land authority notice under this part (an **entry notice**) of the proposed entry; or
- (c) the entry is needed to preserve life or property because of a dangerous situation or emergency that exists, or may exist; or
- (d) the public land authority has agreed that an entry notice is not required.
- ‘Maximum penalty for subsection (2)—100 penalty units.
- ‘(3) An agreement under subsection (2)(d) is a **waiver of entry notice**.’.

175 Insertion of new ss 526A and 526B

After section 526—

insert—

‘526A Waiver of entry notice

- ‘(1) A waiver of entry notice—
- (a) may be given only by signed writing; and
- (b) must state each of the following—
- (i) that the public land authority has been told it is not required to agree to the waiver of entry notice;
- (ii) the authorised activities proposed to be carried out on the land;
- (iii) the period during which the land will be entered;
- (iv) when and where the activities are proposed to be carried out.
- ‘(2) The public land authority can not withdraw the waiver of entry notice during the period.

- ‘(3) The waiver of entry notice ceases to have effect at the end of the period.

‘526B Required contents of entry notice

- ‘(1) An entry notice must state each of the following—
- (a) the land proposed to be entered;
 - (b) the period during which the land will be entered (the *entry period*);
 - (c) the activities proposed to be carried out on the land;
 - (d) when and where the activities are proposed to be carried out;
 - (e) contact details for—
 - (i) the relevant petroleum authority holder; or
 - (ii) another person the holder has authorised to discuss the matters stated in the notice.
- ‘(2) The entry period must not be longer than—
- (a) for an authority to prospect—6 months; or
 - (b) for another petroleum authority—1 year.
- ‘(3) However, the entry period may be longer if the public land authority agrees in writing.
- ‘(4) Subject to subsections (2) and (3), an entry notice given to 1 public land authority in relation to the public land may state a different entry period from an entry notice given to another public land authority in relation to the public land.
- ‘(5) If a proposed activity is not likely to significantly disrupt activities the public land authority ordinarily carries out on the land, the entry notice may comply with subsection (1)(c) and (d) by generally describing the nature and extent of the activity.’.

176 Amendment of s 527 (Conditions of public land authority approval)

- (1) Section 527, heading—

omit, insert—

‘527 Conditions public land authority may impose

(2) Section 527(1), from ‘giving’—

omit, insert—

‘giving the public land authority—

(a) notice of proposed entry—

(i) generally—at least 2 business days before the proposed entry; or

(ii) if the holder and the public land authority have agreed to a longer or shorter period for giving the notice—within the longer or shorter period; or

(b) notice at stated intervals of activities carried out by, or for, the holder on the land.

(3) Section 527(3) and (4)—

renumber as section 527(4) and (5).

(4) Section 527—

insert—

‘(3) Despite subsection (2), if the public land authority is the chief executive of the department in which the *Nature Conservation Act 1992* is administered, that chief executive may impose a condition more stringent than the conditions of the environmental authority.’.

(5) Section 527(5), as renumbered—

insert—

‘Maximum penalty for subsection (5)—100 penalty units.’.

177 Amendment of s 531 (General liability to compensate)

(1) Section 531(1)(b)—

omit, insert—

‘(b) an effect that is, or is required to be, addressed in a make good agreement or a decision under chapter 2, part 9, division 6.²⁴⁴’.

(2) Section 531(2)(b), after ‘compensatable effect’—

insert—

‘caused by authorised activities for the authority’.

(3) Section 531(3), ‘subsection (1)’—

omit, insert—

‘subsection (2)’.

178 Amendment of s 532 (Compensation agreement)

Section 532(4)—

insert—

‘(c) provide for any compensation that is, or may be, payable from the holder to the eligible claimant, under the Environmental Protection Act.’.

179 Amendment of s 533 (Deciding compensation through tribunal)

Section 533—

insert—

‘(3) In hearing the application, the tribunal must, as much as practicable, ensure the hearing happens together with, or as closely as possible to, the hearing of any application to it for compensation that is, or may be, payable from the holder to the eligible claimant, under the Environmental Protection Act.’.

180 Amendment of s 536 (Compensation to be addressed before entry to private land)

(1) Section 536(2), after ‘must not enter private land’—

244 Chapter 2, part 9, division 6 (Complying with make good obligation)

insert—

‘to carry out an authorised activity for the authority’.

- (2) Section 536(2)(b) and (c)—

renumber as section 536(2)(c) and (d).

- (3) Section 536—

insert—

‘(b) the holder has the right, other than under this Act, to enter the land to carry out authorised activities for the authority; or

Example of a right, other than under this Act, for paragraph (b)—

an appropriate easement to construct or operate the pipeline the subject of a pipeline licence’.

181 Amendment of s 539 (General provision about ownership while tenure or licence is in force for pipeline)

- (1) Section 539(2)—

omit.

- (2) Section 539(3) to (6)—

renumber as section 539(2) to (5).

- (3) Section 539(5) as renumbered, ‘Subsections (3) to (5)’—

omit, insert—

‘Subsections (2) to (4)’.

182 Amendment of s 544 (Notice by petroleum tenure holder about discovery and commercial viability)

- (1) Section 544(2) to (5)—

renumber as section 544(3) to (6).

- (2) Section 544—

insert—

- ‘(2) For subsection (1), if a petroleum tenure holder explores or tests for coal seam gas—

- (a) the discovery of the presence of coal seam gas in a coal seam is not, of itself, a petroleum discovery; and
- (b) the holder discovers coal seam gas only if it is actually produced from a petroleum well used for the exploration or testing.’.

183 Amendment of s 546 (End of tenure report)

(1) Section 546(1)(a)—

omit, insert—

‘(a) including each of the following—

- (i) a summary of all authorised activities for the tenure that have been carried out since it took effect;
- (ii) a summary of the results of the activities;
- (iii) an index of all reports lodged, as required under this Act, in relation to the activities;
- (iv) a summary of all significant hazards created to future safe and efficient mining that, under section 690(1)(g) or 706²⁴⁵ or a regulation, are required to be reported;
- (v) for each hazard mentioned in the summary under subparagraph (iv)—a reference to the report that contains details of the hazard;
- (vi) information about the amount and location of all petroleum and water produced from the area of the tenure;
- (vii) any information related to information mentioned in subparagraph (vi) that may help the understanding of the amount and location of any remaining petroleum (including areas of ‘free gas’) and water from reservoirs produced;

245 Section 690 (Content requirements for safety reports) or 706 (Requirement to report prescribed incident)

(viii) any information required to be reported under this Act that has not been previously reported; and’.

(2) Section 546(2) and (4)—

omit.

(3) Section 546(3)—

renumber as section 546(2).

184 Amendment of s 548 (Requirement to lodge records and samples)

Section 548—

insert—

‘(6) Without limiting subsection (1), the use to which the State may put the copy of the record and the part of the sample include the building of a publicly available database to facilitate petroleum exploration for the services of the State.’.

185 Amendment of s 550 (Public release of required information)

Section 550(1), from ‘It’ to ‘authorises’—

omit, insert—

‘The mere fact of the existence of a petroleum tenure is taken to be an authorisation from its holder to’.

186 Amendment of s 551 (Chief executive may use required information)

Section 551(1)—

omit, insert—

‘(1) The mere fact of the existence of a petroleum tenure is taken to be an authorisation from its holder to the chief executive to use required information for —

(a) purposes reasonably related to this Act that are required for the tenure; or

(b) the services of the State.’.

187 Amendment of s 553 (Power to require information or reports about authorised activities to be kept or given)

Section 553(1)(a), ‘, in the way prescribed under a regulation,’—

omit.

188 Amendment of s 559 (Obligation to decommission pipelines)

Section 559(1), penalty, ‘1 000’—

omit, insert—

‘2 000’.

189 Amendment of s 560 (Obligation to remove equipment and improvements)

Section 560(3), penalty, ‘500’—

omit, insert

‘1 000’.

190 Amendment of s 569 (Prohibited dealings)

Section 569(1)—

insert—

‘(f) a transfer of a water monitoring authority, or of a share in a water monitoring authority, other than a transfer by operation of law under section 201.²⁴⁶’.

191 Amendment of s 571 (Minister may give indication for proposed permitted dealing)

Section 571—

insert—

246 Section 201 (Provision for who is authority holder)

- ‘(5) In considering the request the Minister must consider the matters mentioned in section 574 as if the request were an application for approval of a permitted dealing.’.

192 Amendment of s 573 (Deciding application)

- (1) Section 573(2)—
omit, insert—
- ‘(2) However, for a transfer of a petroleum authority, other than an exempt transfer, the approval may be granted only if the proposed transferee—
- (a) is a holder of the relevant environmental authority for the petroleum authority; and
 - (b) either—
 - (i) any financial assurance required under the Environmental Protection Act for the environmental authority has been given; or
 - (ii) the administering authority under that Act has given the Minister notice that the administering authority has not required financial assurance under that Act from the proposed transferee for the environmental authority.’.
- (2) Section 573(3), ‘subject to subsection (2),’—
omit.
- (3) Section 573(3)(b), before ‘under section 571’—
insert—
‘subject to subsection (2)—’.
- (4) Section 573(6)—
renumber as section 573(7).
- (5) Section 573—
insert—
- ‘(6) The Minister may, as a condition of deciding to grant the approval, require the proposed transferee to give, under

section 488,²⁴⁷ security for the petroleum authority as if the proposed transferee were an applicant for the authority.’.

(6) Section 573—

insert—

‘(8) In this section—

exempt transfer means a transfer under which—

- (a) the proposed transferee is someone who holds the same Australian Business Number to any proposed transferor; or
- (b) all of one holder’s share in the petroleum authority will be transferred to another holder of the petroleum authority.’.

193 Insertion of new s 574A

Chapter 5, part 11, before section 575—

insert—

‘574A Authority to prospect can not be surrendered

‘An authority to prospect can not be surrendered.’.

194 Amendment of s 575 (Requirements for surrenders)

(1) Section 575, heading, ‘surrenders’—

omit, insert—

‘for surrendering another type of petroleum authority’.

(2) Section 575(1), after ‘petroleum authority’—

insert—

‘, other than an authority to prospect,’.

(3) Section 575(2), definition *surrender*, from ‘under this Act’—

omit, insert—

‘under—

247 Section 488 (Power to require security for petroleum authority)

- (a) section 148; or
- (b) a relinquishment condition for the authority; or
- (c) a relinquishment requirement under section 791.²⁴⁸.

195 Amendment of s 577 (Notice of application required for particular pipeline licences)

Section 577(5), penalty, ‘100’—

omit, insert—

‘500’.

196 Amendment of s 586 (Recovery of costs of and compensation for exercise of remedial power)

Section 586(3)—

insert—

‘*relevant net proceeds of sale* means proceeds of sale under which the thing sold was the property of the responsible person immediately before its removal under section 585.’.

197 Amendment of s 590 (Imposition of petroleum royalty on petroleum producers)

Section 590(4), after ‘section 591’—

insert—

‘or 591A’.

198 Amendment of s 591 (Exemptions from petroleum royalty)

- (1) Section 591, heading, ‘Exemptions’—

omit, insert—

‘General exemptions’.

²⁴⁸ Sections 148 (Power to require relinquishment) and 791 (When noncompliance action may be taken)

- (2) Section 591(1)(b)—
omit, insert—
‘(b) the petroleum was used in the production of petroleum;
or’.
- (3) Section 591(1)(f)—
omit, insert—
‘(f) the petroleum was flared or vented as part of testing for
the presence of petroleum during the drilling of a well;
or’.
- (4) Section 591(2)(a), ‘subsection (1)(c)’—
omit, insert—
‘subsection (1)’.
- (5) Section 591(2)(c)—
omit.
- (6) Section 591—
insert—
- ‘(3) For subsection (1)(b), the amount of petroleum used in the
production of petroleum must be worked out on a net basis.
- ‘(4) In this section—
petroleum tenure includes a 1923 Act petroleum tenure.’.

199 Insertion of new s 591A

After section 591—

insert—

‘591A Exemption for production testing

- ‘(1) This section applies if, under section 73 or 152,²⁴⁹ a petroleum
tenure holder carries out production testing in relation to a
particular petroleum well (the *relevant well*).
- ‘(2) If—

249 Section 152 (Permitted period for production or storage testing)

- (a) petroleum produced from the relevant well is coal seam gas or natural gas; and
- (b) the gas is flared or vented; and
- (c) the gas is, within the period provided for under subsections (3) to (5), produced as part of the production testing;

petroleum royalty is payable for the production from the relevant well only for the amount of the production during the period that is more than 3 000 000 cubic metres.

- ‘(3) For subsection (2), the period is the period of 30 days from the start of the production testing, plus any approved period for production testing from the relevant well after the 30 days.
- ‘(4) However, if the approved period is more than 12 months, the period for subsection (2) ends 12 months after the 30 days.
- ‘(5) If one approved period for production testing from the relevant well ends, the period for subsection (2) ends even if there is a subsequent approved period for production testing from the relevant well.
- ‘(6) In this section—
approved period, for production testing from the relevant well, means a period for the production testing approved by the Minister, under section 73(2) or 152(2).’.

200 Amendment of s 592 (Minister may decide measurement if not made or royalty information not given)

Section 592—

insert—

- ‘(4) To remove any doubt, it is declared that the decision does not relieve anyone of an obligation under this Act to make the measurement or give or lodge information.’.

201 Amendment of s 597 (Petroleum producer’s obligations if use of estimates approved)

Section 597(3), penalty, ‘5 000’—

omit, insert—

‘500’.

202 Amendment of s 599 (Annual royalty returns)

- (1) Section 599(2), penalty, ‘5 000’—

omit, insert—

‘500’.

- (2) Section 599(4), definition *royalty return period*—

insert—

- ‘(c) if, on the commencement, the producer has property in petroleum for which petroleum royalty is, or could be, payable at any time—the 12 month period ending on the 30 June or 31 December to first happen after the commencement; and
- (d) each following 12 month period after the royalty return period that applies under paragraph (a), (b) or (c).’.

203 Amendment of s 605 (Appointment and qualifications)

Section 605(4)—

omit, insert—

- ‘(4) An appointment mentioned in subsection (3)—
- (a) can only be for a period of 6 months; but
- (b) may be renewed if the period of the renewed appointment is for no more than 6 months.’.

204 Amendment of s 612 (Return of identity card)

Section 612, penalty, ‘40’—

omit, insert—

‘50’.

205 Amendment of s 648 (Restrictions on use of meter)

Section 648, penalties, ‘500’—

omit, insert—

‘300’.

206 Amendment of s 675 (Content requirements for safety management plans)

(1) Section 675(1)—

insert—

‘(aa) a description of the plant, its location and operations;

(da) the mechanisms in place to outline the likely interactions with other operating plants and contractors in the same vicinity, and how these will be dealt with, the responsibilities identified and the risks controlled;

Examples—

situations in which there are overlapping tenures, with different owners or in which there are multiple contractors on one site’.

(ka) the mechanism for implementing, monitoring and reviewing and auditing safety policies and safety management plans;’.

(2) Section 675(1)(aa) to (r)—

renumber as section 675(1)(a) to (u).

207 Amendment of s 687 (Who is the executive safety manager of an operating plant)

Section 687(3)—

omit, insert—

‘(3) Otherwise, the executive safety manager is—

(a) if the operator is an individual—the operator; or

(b) the senior managing officer of the corporation or organisation in charge of the operating plant.’.

208 Amendment of s 688 (Executive safety manager's general obligations)

- (1) Section 688(d)(i), 'at the plant'—
omit.
- (2) Section 688(1)(d)(ii), after 'during the period,'—
insert—
'reasonably'.

209 Amendment of s 690 (Content requirements for safety reports)

- (1) Section 690(1)—
insert—
'(aa) a description of the plant, its location and operations;'.
(2) Section 690(1)(f)—
omit, insert—
'(f) if the operations of the operating plant during all or part of the year may have affected the future safe and efficient mining of coal—
 - (i) the nature of any hazard, or potential hazard, to the future safe and efficient mining of coal or oil shale in the area; and
 - (ii) the way in which the hazard or potential hazard was created; and
 - (iii) the location, stated in the way prescribed under a regulation, of the hazard or potential hazard; and
 - (iv) measures taken to prevent or reduce the hazards or potential hazards or to mitigate their effects.
(g) the mechanism for implementing, monitoring and reviewing and auditing safety policies and safety management plans.'.
- (3) Section 690(1)(aa) to (e)—
renumber as section 690(a) to (f).

210 Amendment of s 691 (Obligation to give information to coal or oil shale exploration tenement holder)

(1) Section 691(1)—

omit, insert—

‘(1) This section applies if an executive safety manager for an operating plant gives a safety report that contains information mentioned in section 690(1)(g).’.

(2) Section 691(2), ‘tenement holder’—

omit, insert—

‘relevant tenement holder’.

(3) Section 691—

insert—

(4) In this section—

‘*relevant tenement holder* means the holder of any coal or oil shale exploration tenement the safe and efficient mining of coal or oil shale under which may have been affected by the operation of the operating plant.’.

211 Amendment of s 699 (General obligation to keep risk to an acceptable level)

Section 699, ‘at the plant’—

omit.

212 Insertion of new s 699A

After section 699—

insert—

‘699A Operator’s obligation for adjacent or overlapping coal mining operations

‘The operator of an operating plant must not carry out an activity at the plant if the activity creates an unacceptable level of risk to a person or plant at an adjacent or overlapping coal mining operations under the Coal Mining Safety and Health Act.

Maximum penalty—1 500 penalty units.’.

213 Replacement of ch 9, pt 4, div 5 (Hazard reporting for operating plant on coal or oil shale mining lease)

Chapter 9, part 4, division 5—

omit, insert—

‘Division 5 Additional obligations of operator of operating plant on coal or oil shale mining lease

‘Subdivision 1 Principal hazard management plans

‘705 Application of sdiv 1

‘This subdivision applies if—

- (a) an operating plant, other than a coal mining-CSG operating plant, is operated—
 - (i) in the area of a coal or oil shale mining lease; or
 - (ii) in an area adjacent to the area of a coal or oil shale mining lease; and
- (b) the operation of the plant physically affects, or may physically affect, the safe and efficient mining of coal under the mining lease.

‘705A Requirement to have principal hazard management plan

‘(1) The operator of the operating plant must—

- (a) make a principal hazard management plan for the operating plant that complies with section 705B; and
- (b) before making the plan—
 - (i) make reasonable attempts to consult with the mining lease holder about the plan; and

- (ii) subject to subsection (3), have regard to any reasonable provisions for the plan proposed by the mining lease holder; and
 - (c) comply with the plan.
- Maximum penalty—1 000 penalty units.
- ‘(2) For subsection (1)(b)(i), the operator is taken to have made reasonable attempts to consult if—
 - (a) the operator gives the mining lease holder a copy of the operator’s proposed principal hazard management plan; and
 - (b) the mining lease holder has not, within 30 days after the giving of the copy, made any proposal to the operator about provisions for the plan.
 - ‘(3) The obligation under subsection (2)(b)(ii) applies only to the extent the provisions are commercially and technically feasible for the operator or any relevant petroleum tenure holder.

‘705B Content requirements for principal hazard management plan

‘For section 705A, the principal hazard management plan for the operating plant must—

- (a) identify the triggers or material changes or effects, or the likely triggers, material changes or effects, that must be monitored, including, for example, specific purpose boundary monitoring, if required; and

Examples of monitoring that may be required—

the monitoring of wellhead pressures, water levels and gas quality changes and coal seam gas piezometric monitoring

- (b) for each matter identified under paragraph (a)—
 - (i) state response procedures and times; and
 - (ii) state the type of action required for the response.

Examples of action that may be required—

1. A risk analysis.

2. Notice to the mining lease holder of—
 - (a) any drop in hydrostatic pressure that may show a potential hazard to the mining of coal under the mining lease; or
 - (b) any change in water that may show fluid interconnections with any adjacent mining lease.
- (c) identify response and reporting requirements for petroleum wells that are planned to, or may, intersect with mine workings under the mining lease.

‘705C Resolving disputes about provision proposed by mining lease holder

- ‘(1) This section applies if a dispute exists between the operator and the mining lease holder about the reasonableness of a provision proposed by the mining lease holder for the operator’s proposed principal hazard management plan for the operating plant.
- ‘(2) Either party to the dispute may refer it to the chief inspector to decide whether the proposed provision is reasonable.
- ‘(3) The referral must be—
 - (a) written; and
 - (b) lodged at the following office (the *relevant office*)—
 - (i) the office of the department for lodging the referral, as stated in a gazette notice by the chief inspector;
 - (ii) if no office is gazetted under subparagraph (i)—the office of the chief inspector.
- ‘(4) Before deciding the dispute, the chief inspector must give each party a reasonable opportunity to lodge at the relevant office submissions about the dispute.
- ‘(5) The chief inspector’s decision binds each party to the dispute.
- ‘(6) The chief inspector must give each party an information notice about the decision.

- ‘(7) The chief inspector’s decision is not, of itself, evidence that a principal hazard management plan, or purported principal hazard management plan, for an operating plant complies with section 705B.

‘Subdivision 2 Additional reporting requirement

‘705D Reporting of particular accidents and prescribed high potential incidents

- ‘(1) This section applies to the operator of operating plant, other than a coal mining-CSG operating plant, operated in the area of a coal or oil shale mining lease.
- ‘(2) The operator must, on becoming aware that a designated accident or incident has happened immediately report the accident or incident, either orally or by notice.
- ‘(3) If the operator makes an oral report under subsection (2), the operator must confirm the report by notice within 48 hours.
- ‘(4) The report and confirmation must be made to—
- (a) to the senior site executive under the Coal Mining Safety and Health Act for the coal mine the subject of the mining lease; and
 - (b) the chief inspector.
- ‘(5) In this section—
- designated accident or incident*** means an accident or incident as follows that relates to the safety of any coal mining operation—
- (a) an accident that causes—
 - (i) the death of a person; or
 - (ii) a person to be admitted to a hospital as an in-patient for treatment for a bodily injury endangering, or likely to endanger, the person’s life; or
 - (iii) a person to suffer an injury causing, or likely to cause, a permanent injury to the person’s health;

- (b) a high potential incident of a type prescribed under the Coal Mining Safety and Health Act, section 198(2)(b).²⁵⁰.

214 Amendment of s 724 (Types of gas device)

Section 724(3)—

insert—

- ‘(d) for medical purposes with the industrial use of hydrogen, oxygen or other gases.’.

215 Replacement of s 728 (Chief inspector’s power to issue)

Section 728—

omit, insert—

‘Subdivision 1 Applying for and obtaining gas work licence or authorisation

‘728 Who may apply

- ‘(1) An individual may apply to the chief inspector for a gas work licence to carry out gas work in relation to a gas device (type A), or a type of gas device (type A).
- ‘(2) An individual or a corporation may apply to the chief inspector for a gas work authorisation for a gas device (type B), or a type of gas device (type B).
- ‘(3) The application may also seek the inclusion on the gas work licence or authorisation of an approval to work with gases mentioned in section 724(3)(d).

250 Coal Mining Safety and Health Act, section 198 (Notice of accidents, incidents or diseases)

For the prescribed high potential incidents, see the *Coal Mining Safety and Health Regulation 2001*, schedule 1 (Types of serious accidents and high potential incidents for section 198 of the Act).

‘728A Requirements for application

‘The application must be—

- (a) in the approved form; and
- (b) lodged at the office of the chief inspector; and
- (c) accompanied by the fee prescribed under a regulation.

‘728B Interim licence or authorisation

- ‘(1) This section applies if the chief inspector considers that the applicant has not given enough information to allow the chief inspector to decide the application.
- ‘(2) The chief inspector may grant the applicant a gas work licence or authorisation (an *interim authority*).
- ‘(3) However, the chief inspector must not grant an interim authority if the applicant has more than 1 other interim authority, unless satisfied exceptional circumstances justify granting the interim licence.
- ‘(4) An interim authority must be—
 - (a) in the approved form; and
 - (b) for a stated term of no more than 1 year.
- ‘(5) The chief inspector may impose conditions on an interim authority.
- ‘(6) If, within the period, the applicant gives the information that the chief inspector considers is needed to allow the chief inspector to decide the application, the chief inspector must—
 - (a) decide the application; and
 - (b) if the application is granted—cancel the interim authority issued.
- ‘(7) If the applicant does not give the information within the period, the chief inspector must refuse the application.

‘728C Deciding application

- ‘(1) Subject to section 728B, the chief inspector must decide whether to grant or refuse the application.
- ‘(2) However, the chief inspector must refuse the application if the applicant—
 - (a) does not have the qualifications or experience prescribed under a regulation for the type of gas work licence or authorisation applied for; or
 - (b) is not a suitable person to hold the gas work licence or authorisation.
- ‘(3) If the chief inspector decides to grant the application, the chief inspector may—
 - (a) limit the gas work licence or authorisation to a stated type of gas work; or
 - (b) impose conditions on the gas work licence or authorisation.
- ‘(4) The gas work licence or authorisation must be in the approved form.
- ‘(5) If the chief inspector makes a decision as follows, the chief inspector must give the applicant an information notice about the decision—
 - (a) a decision to refuse the application;
 - (b) a decision to impose a condition on, or to limit, the gas work licence or authorisation, other than a condition or limitation agreed to or requested by the applicant.
- ‘(6) In deciding whether the applicant is a suitable person to hold the gas work licence or authorisation, the chief inspector may have regard to the following—
 - (a) whether the applicant has been convicted of an indictable offence;
 - (b) whether the applicant has been convicted of an offence against the repealed *Gas Act 1965* or this Act;
 - (c) any disability or medical condition the applicant has that could put the applicant or the public at risk;

- (d) any other issue relevant to the applicant's suitability to hold the gas work licence or authorisation.

'728D Term of gas work licence or authorisation

- '(1) A gas work licence or authorisation may be issued for a stated term.
- '(2) If no term is stated, the gas work licence or authorisation continues in force unless it is cancelled, suspended or surrendered under this Act.

'Subdivision 2 General provisions for gas work licences and authorisations'.

216 Insertion of new ss 732A and 732B

After section 732—

insert—

'732A Defences for certain offences

- '(1) This section provides defences in a proceeding against a person for a contravention of section 677, 688, 693, 699, 702, 703 or 704 (the *relevant sections*).
- '(2) To the extent the contravention is a contravention of a particular safety requirement, it is a defence in the proceedings to prove—
 - (a) if a regulation was made about the way to ensure the safety requirement was to be met—the person followed the way prescribed in the regulation to ensure the safety requirement was met; or
 - (b) subject to paragraph (a), if a recognised standard was made stating a way or ways to ensure the safety requirement was to be met—
 - (i) that the person adopted and followed a stated way to ensure the safety requirement was met; or
 - (ii) that the person adopted and followed another way that ensured the safety requirement was met that

was equal to or better than the stated way for ensuring the safety requirement was met; or

- (c) if no regulation or recognised standard prescribes or states a way to discharge the person's obligation in relation to the safety requirement—that the person took reasonable precautions and exercised proper diligence to ensure the safety requirement was met.
- ‘(3) Also, it is a defence in a proceeding against a person for an offence against the relevant sections for the person to prove that the contravention was due to causes over which the person had no control.
- ‘(4) The Criminal Code, sections 23(1) and 24 do not apply in relation to a contravention of section 677, 688, 693, 699, 702, 703 or 704.
- ‘(5) In this section—
- recognised standard*** means a recognised standard in force at the time of the contravention.
- safety requirement*** means a requirement—
- (a) a person must comply with to ensure the safety of another person; or
- (b) that a person must not do an act or make an omission that affects the safety of another person.

‘732B Technical advisory committees

- ‘(1) The chief inspector may establish technical advisory committees to consider matters relating to safety, quality, and measurement.

Examples of matters for subsection (1)—

- proposed regulation exemptions from requirements relating to coal seam gas
 - reviewing safety requirements
 - developing relevant protocols or standards
- ‘(2) The chief inspector may decide the following for a technical advisory committee—

- (a) its functions or terms of reference;
 - (b) its membership;
 - (c) who is to be its chairperson.
- ‘(3) The chief inspector may call for nominations for a technical advisory committee from relevant stakeholder organisations.’.

217 Amendment of s 733 (Certification of gas device or gas fitting)

- (1) Section 733(3)—
renumber as section 733(4).
- (2) Section 733—
insert—
- ‘(3) An approval of a gas device by an approved person or body ceases to have force if the chief inspector, by notice to the approved person or body cancels or suspends the approval of the gas device.’.

218 Amendment of s 742 (Return of identity card)

Section 742, penalty, ‘20’—
omit, insert—
‘50’.

219 Replacement of s 745 (Inspector’s additional entry power for operating plant)

Section 745—
omit, insert—

‘745 Inspector’s additional entry power for operating plant

‘An inspector may, at any reasonable time, enter a place where an operating plant is situated, other than a part of the place where a person resides.’.

220 Amendment of s 756 (Failure to comply with help requirement)

Section 756(1), penalty, '200'—

omit, insert—

'500'.

221 Amendment of s 759 (Failure to produce document)

Section 759(1), penalty, '200'—

omit, insert—

'500'.

222 Amendment of s 760 (Failure to certify copy of document)

Section 760, penalty, '200'—

omit, insert—

'500'.

223 Amendment of s 762 (Failure to comply with information requirement)

Section 762(1), penalty, '200'—

omit, insert—

'500'.

224 Amendment of s 766 (Failure to comply with seizure direction)

Section 766, penalty, '100'—

omit, insert—

'500'.

225 Amendment of s 768 (Offence to unlawfully interfere with seized thing)

Section 768(1), penalty, '100'—

omit, insert—

‘500’.

226 Amendment of s 782 (Failure to comply with compliance direction)

Section 782(1), penalty, ‘300’—

omit, insert—

‘500’.

227 Amendment of s 785 (Failure to comply with dangerous situation direction)

Section 785, penalty, ‘400’—

omit, insert—

‘1 000’.

228 Amendment of s 790 (Types of noncompliance action that may be taken)

(1) Section 790(1)(b), ‘(a *relinquishment requirement*)’—

omit.

(2) Section 790(1)(f), ‘1 000’—

omit, insert—

‘2 000’.

(3) Section 790(2)(a)—

omit.

(4) Section 790(4) and (5)—

omit.

(5) Section 790(6) to (9)—

renumber as section 790(4) to (7).

229 Amendment of s 791 (When noncompliance action may be taken)

Section 791(1)—

insert—

‘(c) the petroleum authority for which the noncompliance action is taken relates to the event for which the action is taken.’.

230 Amendment of s 798 (Decision on proposed noncompliance action)

Section 798(2), from ‘If’ to ‘tenure, the’—

omit, insert—

‘The’.

231 Insertion of new s 799A

Chapter 10, after section 799—

insert—

‘799A Consequence of failure to comply with relinquishment requirement

‘(1) This section applies if—

- (a) noncompliance action taken is a requirement, under section 790(1)(b),²⁵¹ of a petroleum authority holder; and
- (b) the requirement is not complied with.

‘(2) The holder must be given a notice requiring the holder to comply with the requirement under section 790(1)(b) within 20 business days after the giving of the notice.

‘(3) If the holder does not comply with the requirement under the notice, the authority to prospect is cancelled.

251 Section 790 (Types of noncompliance action that may be taken)

- ‘(4) However, the cancellation does not take effect until the holder is given a notice stating that the authority has been cancelled because of the operation of subsection (3).’.

232 Amendment of s 800 (Restriction on petroleum tenure activities)

Section 800(1)(a)—

omit, insert—

- ‘(a) the activity is carried out under this Act or the 1923 Act and under the authority of a petroleum tenure or a 1923 Act petroleum tenure; or’.

233 Amendment of s 804 (Duty to avoid interference in carrying out authorised activities)

- (1) Section 804, ‘in the area of the authority’—

omit.

- (2) Section 804, penalty, ‘100’—

omit, insert—

‘500’.

234 Amendment of s 805 (Obstruction of petroleum authority holder)

Section 805(1), penalty, ‘100’—

omit, insert—

‘500’.

235 Amendment of s 807 (Restriction on building on pipeline land)

Section 807(2), penalty, ‘100’—

omit, insert—

‘500’.

236 Amendment of s 808 (Restriction on changing surface of pipeline land)

Section 808, penalty, '100'—

omit, insert—

'500'.

237 Amendment of s 809 (Unlawful taking of petroleum or fuel gas prohibited)

Section 809, penalty, '500'—

omit, insert—

'1 500'.

238 Amendment of s 810 (Restriction on building on petroleum facility land)

Section 810, penalty, '100'—

omit, insert—

'500'.

239 Amendment of s 811 (Obstruction of inspector or authorised officer)

Section 811, penalty, '300'—

omit, insert—

'500'.

240 Amendment of s 812 (Pretending to be inspector or authorised officer)

Section 812, penalty, '250'—

omit, insert—

'200'.

241 Amendment of s 813 (False or misleading information)

Section 813, penalties, ‘200’—

omit, insert—

‘500’.

242 Amendment of s 843 (Additional information may be required about application)

(1) Section 843(3)—

omit.

(2) Section 843(4)—

renumber as section 843(3).

(3) Section 843—

insert—

‘(4) If—

(a) another provision of this Act provides that the application must be granted in particular circumstances or if particular requirements have been complied with; and

(b) the additional information or declaration required to be given relates to whether any of the circumstances exist or whether the requirements have been complied with;

to remove any doubt, it is declared that subsection (3) applies despite the other provision.’.

243 Amendment of s 853 (Additional information about reports and other matters)

Section 853(3), penalty, ‘300’—

omit, insert—

‘500’.

244 Amendment of s 858 (Approved forms)

Section 858—

insert—

- ‘(3) A form may be approved for use under this Act that is combined with, or is to be used together with, an approved form under another Act.’.

245 Amendment of s 865 (Licences under repealed regulation that become an authorisation)

Section 865(3), ‘6 months’—

omit, insert—

‘12 months’.

246 Renumbering of ch 15, pt 3, heading (Transitional provisions for Petroleum and Gas (Production and Safety) Act 2004)

Chapter 15, part 3, heading—

renumber as chapter 15, part 4.

247 Insertion of new ch 15, pt 3

After section 871—

insert—

‘Part 3 Transitional provisions relating to 1923 Act

‘Division 1 Preliminary

‘872 Definitions for pt 3

‘In this part—

converted ATP see section 876(a).

converted lease see section 894(a).

converted petroleum authority means—

- (a) a converted ATP; or

- (b) a converted lease; or
- (c) an entry permission that, under section 915, becomes a survey licence; or
- (d) a converted licence under section 916; or
- (e) a refinery permission under the 1923 Act, former section 66, that, under section 919 becomes a petroleum facility licence.

converted petroleum tenure means a converted ATP or converted lease.

CSG-related, for a 1923 Act ATP, means a 1923 Act ATP designated as ATP 337P, ATP 364P, ATP 553P or ATP 564P.

existing tenure see section 908.

grant application see section 908.

relevant 1923 Act ATP, for a converted ATP or a replacement tenure that is an authority to prospect, means the 1923 Act ATP that the converted ATP or replacement tenure replaced, or is to replace.

relevant 1923 Act ATP, for a converted lease or a replacement tenure that is a petroleum lease, means the 1923 Act lease that the converted lease or replacement tenure replaced, or is to replace.

replacement tenure see section 908.

‘873 What is the *current term* of a converted ATP

- ‘(1) The ***current term*** of a converted ATP is the period that starts on the later of the following days and ends when it is first renewed after the 2004 Act start day—
 - (a) the day the relevant 1923 Act ATP was granted;
 - (b) the day that the last renewal of the relevant 1923 Act ATP before the 2004 Act start day became effective.
- ‘(2) However, a relevant 1923 Act ATP granted between 1 January 1994 and 23 December 1996 ends on a day decided by the Minister.

- ‘(3) For subsection (1)(b), a renewal of the relevant 1923 Act ATP is taken to have become effective on the day immediately after the end of its last term before the renewal.

‘874 What are the *transitional notional sub-blocks* for a converted ATP

- ‘(1) The *transitional notional sub-blocks*, for a converted ATP, are the sub-blocks stated in the instrument for the converted ATP at the start of its current term.
- ‘(2) However, the *transitional notional sub-blocks* do not include any of the sub-blocks stated in the instrument that are completely within the area of a petroleum lease or 1923 Act lease.
- ‘(3) For subsection (1), if the instrument—
- (a) states that the area of the converted ATP includes land within a block; but
 - (b) does not include or exclude any particular sub-block within that block;

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

‘Division 2 Conversion of particular 1923 Act ATPs to an authority to prospect under this Act

‘Subdivision 1 Conversion provisions

‘875 Application of div 2

‘This division applies to any 1923 Act ATP in force immediately before the 2004 Act start day if it is not a 1923 Act ATP as follows or a renewal of a 1923 Act ATP as follows—

- (a) a 1923 Act ATP designated as ATP 212P, ATP 259P, ATP 267P, ATP 269P, ATP 299P, ATP 333P, ATP 336P, ATP 337P, ATP 364P, ATP 375P, ATP 470P, ATP 471P, ATP 526P, ATP 529P, ATP 539P, ATP 543P, ATP 545P, ATP 548P, ATP 549P, ATP 552P, ATP 553P, ATP 554P, ATP 556P, ATP 560P, ATP 564P ATP 701P; or
- (b) a 1923 Act ATP prescribed under a regulation notified before the 2004 Act start day.

'876 Conversion on 2004 Act start day

'On the 2004 Act start day—

- (a) the 1923 Act ATP ceases to be a 1923 Act ATP and becomes an authority to prospect under this Act (a *converted ATP*); and
- (b) the holder of the 1923 Act ATP is the holder of the converted ATP; and
- (c) the conditions of the 1923 Act ATP about expenditure or work become the work program for the converted ATP; and
- (d) the period to which the conditions apply is taken to be the plan period for the work program; and
- (e) any condition of the 1923 Act ATP ceases to be a condition of the converted ATP if the condition is the same, or substantially the same, as any relevant environmental condition for the 1923 Act ATP; and
- (f) the converted ATP continues, subject to this Act, for the balance of the 1923 Act ATP's term; and
- (g) the converted ATP is held subject to this Act and the conditions of the 1923 Act ATP, as modified under this division; and
- (h) the area of the 1923 Act ATP becomes the area of the converted ATP.

‘Subdivision 2 Special provisions for converted ATPs

‘877 Exclusion from area of land in area of coal mining lease or oil shale mining lease

- ‘(1) This section applies to land if it—
- (a) is within any transitional notional sub-block of a converted ATP; and
 - (b) was, when the relevant 1923 Act ATP was granted, in the area of a coal mining lease or oil shale mining lease, whether or not the land was in the area of the 1923 Act ATP.
- ‘(2) Despite section 98,²⁵² the land—
- (a) does not form part of the area of the converted ATP; and
 - (b) is taken to be excluded land for the converted ATP.

‘878 Relinquishment condition if converted ATP includes a reduction requirement

- ‘(1) This section applies if a converted ATP requires its area to be reduced to a stated number of blocks on or before stated days.
- ‘(2) Until the first renewal of the converted ATP after the 2004 Act start day—
- (a) the requirement is the *relinquishment condition* for the converted ATP; and
 - (b) the requirement applies instead of chapter 2, part 1, division 4, subdivision 2.²⁵³
- ‘(3) However, the relinquishment condition is taken to include a requirement that, before the first renewal of the converted ATP after the 2004 Act start day, at least 5% of the transitional

252 Section 98 (Area of authority to prospect)

253 Chapter 2, part 1, division 4, subdivision 2 (Standard relinquishment condition and related provisions)

notional sub-blocks of the converted ATP must have been relinquished for each 12 month period of its current term.

- ‘(4) Also, a relinquishment of a part of the area of the converted ATP that overlaps with the area of a lease under this Act or a 2004 Act lease can not be counted as a relinquishment for the relinquishment condition.

‘879 Relinquishment condition if authority does not include a reduction requirement

- ‘(1) If the authority does not include a requirement mentioned in section 878(1), the *relinquishment condition* for the authority is the relinquishment condition under section 65,²⁵⁴ with the following changes—
- (a) the required percentage is 5% instead of 8.33%;
 - (b) the reference in section 66(2) to the authority originally taking effect is a reference to the start of its current term.
- ‘(2) Chapter 2, part 1, division 4, subdivision 2 applies to the authority, subject to the changes under subsection (1).

‘880 Provision for conflicting conditions

- ‘(1) If a provision of a converted ATP conflicts with any of the following (the *overruling provision*) the overruling provision prevails to the extent of the inconsistency—
- (a) a provision of this Act;
 - (b) a mandatory condition for authorities to prospect under this Act;
 - (c) a relevant environmental condition for the converted ATP.
- ‘(2) However, section 98(7)²⁵⁵ does not apply for the converted ATP.

254 Section 65 (Standard relinquishment condition)

255 Section 98 (Area of authority to prospect)

'881 Additional conditions for renewal application

- '(1) This section applies as well as section 81.²⁵⁶
- '(2) A converted ATP holder can not apply to renew the converted ATP—
 - (a) if section 878²⁵⁷ applies and the relinquishment condition under that section has not been complied with; or
 - (b) if a whole sub-block is in the area of a petroleum lease or 1923 Act lease.

'882 Term of renewed converted ATP

'Despite section 85(7),²⁵⁸ a converted ATP may be renewed for a renewed term that ends no more than 12 years from—

- (a) if the renewal decision is made before the end of the current term for the converted ATP—the end of the current term; or
- (b) if the renewal decision is made after the end of the current term for the converted ATP—the day the decision is made.

'883 Exclusion of s 98(7) for any renewal

'Section 98(7)²⁵⁹ does not apply to a renewal of a converted ATP.

'884 Existing renewal applications

- '(1) This section applies if—
 - (a) a 1923 Act ATP is in force immediately before the 2004 Act start day; and

256 Section 81 (Conditions for renewal application)

257 Section 878 (Relinquishment condition if converted ATP includes a reduction requirement)

258 Section 85 (Provisions and term of renewed authority)

259 Section 98 (Area of authority to prospect)

- (b) under section 876,²⁶⁰ the 1923 Act ATP becomes a converted ATP on the 2004 Act start day; and
 - (c) before the 2004 Act start day an application to renew the 1923 Act ATP had been made under the 1923 Act, but the application had not been granted before that day.
- ‘(2) On the 2004 Act start day, the application is taken to be a renewal application for the converted ATP made under sections 81 and 82²⁶¹.
- ‘(3) Sections 882 and 883 apply to the renewal.

‘885 Continued application of 1923 Act, former s 22 to converted ATP for previous acts or omissions

‘Despite its repeal the 1923 Act, former section 22²⁶², as it was in force immediately before the 2004 Act start day, continues to apply to a converted ATP for an act done or omission made in relation to the relevant 1923 Act ATP that happened before that day, as if the converted ATP were still a 1923 Act ATP.

‘Division 3 Unfinished applications for 1923 Act ATPs (other than applications for which a Commonwealth Native Title Act s 29 notice has been given)

‘886 Application of div 3

‘This division applies for any 1923 Act ATP application if, immediately before the 2004 Act start day—

- (a) the application had not been granted or rejected; and

260 Section 876 (Conversion on 2004 Act start day)

261 Sections 81 (Conditions for renewal application) and 82 (Requirements for making application)

262 1923 Act, former section 22 (Cancellation of authority to prospect)

- (b) a notice under the Commonwealth Native Title Act, section 29,²⁶³ had not been given for the proposed 1923 Act ATP the subject of the application.²⁶⁴

‘887 Applications for which notice of intention to grant has been given

- ‘(1) This section applies if, before the 2004 Act start day, the Minister gave the applicant a notice of intention to grant the applicant a 1923 Act ATP, subject to stated requirements.
- ‘(2) The application is taken to be a tender, under chapter 2, part 1, division 2,²⁶⁵ for a proposed authority to prospect, made in response to a call for tenders for that proposed authority.
- ‘(3) The closing time for the call is taken to have passed.
- ‘(4) The applicant is taken to have been appointed, under section 39,²⁶⁶ as the preferred tenderer for the call.
- ‘(5) The stated requirements are taken to be requirements made under section 40.²⁶⁷

‘888 Applications in response to public notice

- ‘(1) This section applies if—
- (a) a notice of intention to grant mentioned in section 887(1) had not been given before the 2004 Act start day; and
- (b) the application was made in response to a public notice, published by the Minister or the department, inviting applications for a 1923 Act ATP; and

263 Commonwealth Native Title Act, section 29 (Notification of parties affected)

264 If a notice under the Commonwealth Native Title Act section 29 has been given, see the 1923 Act, section 151 (Unfinished authority to prospect applications for which a Commonwealth Native Title Act s 29 notice has been given).

265 Chapter 2, part 1, division 2 (Obtaining authority to prospect)

266 Section 39 (Process for deciding tenders)

267 Section 40 (Provisions for preferred tenderers)

- (c) the notice complies, or substantially complies with section 35(2).²⁶⁸
- ‘(2) The public notice is taken to be a call for tenders for a proposed authority to prospect.
- ‘(3) The call is taken to have been made when the public notice was published.
- ‘(4) The closing time for the call is taken to be the day stated in the public notice by which applications must be submitted.
- ‘(5) The application is taken to be a tender, under chapter 2, part 1, division 2, for the proposed authority, made in response to the call.

‘889 Other applications made before introduction of Petroleum and Other Legislation Amendment Bill 2004

‘If the application—

- (a) was made before the day the *Petroleum and Other Legislation Amendment Bill 2004* was introduced into Parliament; and
- (b) is not an application to which section 887 or 888 applies;

it is taken to be a tender, under chapter 2, part 1, division 2 for a proposed authority to prospect, made in response to a call for tenders for the proposed authority.

‘890 Lapsing of all other applications

‘The application lapses on the 2004 Act start day unless it is an application to which section 887, 888 or 889 applies.

268 Section 35 (Call for tenders)

**‘Division 4 Transition, by application, from
1923 Act ATP to petroleum lease
under this Act**

‘891 Right of 1923 Act ATP holder to apply for petroleum lease

- ‘(1) The holder of a 1923 Act ATP may, after the 2004 Act start day, apply for a petroleum lease under this Act for all or part of the area of the 1923 Act ATP.
- ‘(2) The application may include a request that excluded land for the 1923 Act ATP be declared to be excluded land for the petroleum lease.

‘892 Provisions for deciding application and grant of petroleum lease

- ‘(1) The following provisions of this Act apply for the application as if a reference in the provisions to an authority to prospect included a reference to the 1923 Act ATP—
 - (a) chapter 2, part 2, division 2, other than sections 120, 121 and 122;
 - (b) chapter 2, part 2, division 4;
 - (c) chapter 2, part 2, division 7, subdivision 1;
 - (d) section 101.²⁶⁹

²⁶⁹ Chapter 2, part 2, divisions 2 (Transition from authority to prospect to petroleum lease) and 4 (Development plans)

Sections 120 (Right to grant if requirements for grant met), 121 (Requirements for grant) and 122 (Exception for particular relevant arrangements)

Chapter 2, part 2, division 4 (Development plans)

Chapter 2, part 2, division 7, subdivision 1 (Area and term of petroleum lease)

Section 101 (Area of authority to prospect reduced on grant of petroleum lease)

Note—

Chapter 3 may also apply for the application. See section 297.²⁷⁰

(2) This section does not limit division 7.²⁷¹

‘Division 5 Conversion of particular 1923 Act leases to petroleum leases

‘Subdivision 1 Conversion provisions

‘893 Application of sdiv 1

(1) This division applies to—

- (a) the 1923 Act lease numbered 195; and
- (b) another 1923 Act lease prescribed under a regulation notified before the 2004 Act start day.

‘894 Conversion on 2004 Act start day

‘On the 2004 Act start day—

- (a) the 1923 Act lease ceases to be a 1923 Act lease and becomes a petroleum lease under this Act (a *converted lease*); and
- (b) the holder of the 1923 Act lease is the holder of the converted lease; and
- (c) the current program for development and production for the 1923 Act lease is taken to be the development plan for the converted lease; and
- (d) any condition of the 1923 Act lease ceases to be a condition of the converted lease if the condition is the

270 Chapter 3 (Provisions for coal seam gas)

Section 297 (Relationship with chs 2 and 5 and ch 15, pt 3)

271 Division 7 (Later grant of petroleum tenure to replace equivalent 1923 Act petroleum tenure)

- same, or substantially the same as any relevant environmental condition for the converted lease; and
- (e) the converted lease continues, subject to this Act, for the balance of the 1923 Act lease's term; and
 - (f) the converted lease is held subject to this Act and the conditions of the 1923 Act lease, other than any condition mentioned in paragraph (d); and
 - (g) the area of the 1923 Act lease becomes the area of the converted lease.

'Subdivision 2 Special provisions for converted leases

'895 Provision for conflicting conditions

- '(1) If a provision of the 1923 Act lease conflicts with any of the following (the *overruling provision*) the overruling provision prevails to the extent of the inconsistency—
- (a) a provision of this Act;
 - (b) a mandatory condition for petroleum leases under this Act;
 - (c) a relevant environmental condition for the converted lease.
- '(2) However, section 168(6)²⁷² does not apply to the converted lease or for any renewal of the lease.

'896 Sunsetting of particular activities

- '(1) This section applies if—
- (a) an activity for a converted lease is provided for under the provisions of the lease; and
 - (b) the activity was, under the relevant 1923 Act lease, being carried out before the 2004 Act start day; and

272 Section 168 (Area of petroleum lease)

- (c) the carrying out of the activity—
 - (i) is, other than for this section, not an Act authorised activity for the converted lease; or
 - (ii) is inconsistent with an Act authorised activity.
- ‘(2) Despite the provisions of the lease or the definition of authorised activity in schedule 4, the activity is taken to be an authorised activity for the converted lease.
- ‘(3) Subsection (2) ceases to apply on the fifth anniversary of the 2004 Act start day.
- ‘(4) Subsection (2) applies whether or not the activity was being carried out immediately before the 2004 Act start day.
- ‘(5) In this section—

Act authorised activity means an activity that, under a provision of this Act, is an authorised activity for a petroleum lease.

‘897 Additional obligation of converted lease holder to lodge proposed later development plan

- ‘(1) This section applies, as well as section 159,²⁷³ to a converted lease holder.
- ‘(2) If any of the area of the converted lease is, on the 2004 Act start day, the subject of an application for a coal exploration tenement or coal mining lease, the holder must lodge a proposed later development plan for the converted lease before 6 months after 2004 Act start day (the *relevant time*).
- ‘(3) If, on the 2004 Act start day, the remaining term of the converted lease is 5 years or more, the holder must lodge a proposed later development plan for the converted lease before the first anniversary of the original grant of the relevant 1923 Act lease that happens after 6 months after the 2004 Act start day (also the *relevant time*).
- ‘(4) The obligation under subsection (2) or (3) is complied with only if the proposed later development plan—

273 Section 159 (Obligation to lodge proposed later development plan)

- (a) is lodged at—
 - (i) the office of the department for lodging proposed later development plans, as stated in a gazette notice by the chief executive; or
 - (ii) if no office is gazetted under subparagraph (i)—the office of the chief executive; and
 - (b) complies with the later development plan requirements;²⁷⁴ and
 - (c) is accompanied by the relevant fee.
- ‘(5) If, before the relevant time, a decision is made not to approve a proposed later development plan lodged under subsection (2) or (3), the holder may lodge another proposed later development plan before that time.
- ‘(6) If the holder does not lodge any proposed later development plan before the relevant time—
- (a) the holder must be given a notice requiring the holder to lodge a proposed later development plan for the lease within 20 business days after the giving of the notice; and
 - (b) the holder must comply with the requirement.
- ‘(7) Chapter 2, part 2, division 4, subdivision 5²⁷⁵ applies to a proposed later development plan lodged under this section.
- ‘(8) In this section—
- relevant fee**, for the lodgement of the proposed plan, means—
- (a) if the proposed plan is lodged before the relevant time—the fee prescribed under a regulation; or
 - (b) if the proposed plan is lodged after the relevant time and—

274 See chapter 2, part 2, division 4, subdivision 4 (Requirements for proposed later development plans).

For leases mentioned in subsection (2) see also section 384 (Additional criteria).

275 Chapter 2, part 2, division 4, subdivision 5 (Approval of proposed later development plans)

- (i) it is lodged under subsection (5)—nil; or
- (ii) otherwise 20 times the prescribed fee.

‘898 Consequence of failure to comply with notice to lodge proposed later development plan

- ‘(1) If a converted lease holder does not comply with a requirement under section 898(6)(a), the lease is cancelled.
- ‘(2) However, the cancellation does not take effect until the holder is given a notice stating that the lease has been cancelled because of the operation of subsection (1).

‘899 Existing renewal applications

‘If—

- (a) under section 894, a former 1923 Act lease becomes a converted lease on the 2004 Act start day; and
- (b) before the 2004 Act start day, an application to renew the lease had been made under the 1923 Act; and
- (c) immediately before the 2004 Act start day the application had not been granted;

on the 2004 Act start day, the application is taken to be a renewal application for the converted lease, made under sections 161 and 162.²⁷⁶

‘900 Exclusion of s 168(8) for any renewal application

‘Section 168(8)²⁷⁷ does not apply to—

- (a) a renewal application to which section 899 applies; or
- (b) any subsequent renewal application for the converted lease the subject of that application.

²⁷⁶ Sections 161 (Conditions for renewal application) and 162 (Requirements for renewal application)

²⁷⁷ Section 168 (Area of petroleum lease)

'901 Lapsing of undecided applications to unite converted leases that relate to a converted lease

'If—

- (a) immediately before the 2004 Act start day, an application had been made under the 1923 Act, section 100, to unite 1923 Act leases; and
- (b) on the 2004 Act start day—
 - (i) any of the 1923 Act leases becomes a converted lease; and
 - (ii) the application had not been decided;

the application lapses on the 2004 Act start day.

'Division 6 Provisions for particular 1923 Act lease applications and 1923 Act lease renewal applications²⁷⁸**'Subdivision 1 Existing 1923 Act, s 40 applications relating to a CSG-related 1923 Act ATP or a converted ATP****'902 Application of sdiv 1**

'This subdivision applies if—

- (a) before the 2004 Act start day, an application had been made under the 1923 Act, section 40,²⁷⁹ by the holder of a 1923 Act ATP for a 1923 Act lease; and
- (b) immediately before the 2004 Act start day, the application had not been decided; and
- (c) either—
 - (i) the 1923 Act ATP is CSG-related; or

278 For other applications, see the 1923 Act, part 10 (Transitional provisions for 1923 Act petroleum tenures from 2004 Act start day).

279 1923 Act, section 40 (Lease to holder of authority to prospect)

- (ii) under section 876,²⁸⁰ the 1923 Act ATP becomes a converted ATP on the 2004 Act start day.

‘903 Applications for CSG-related 1923 Act ATPs

- ‘(1) If the 1923 Act ATP is CSG-related, the application is taken to be an application under the following division—
- (a) if the relevant coal or oil shale mining tenement is a coal or oil shale exploration tenement—whichever of chapter 3, part 2, division 1 or 2 applies;
 - (b) if the relevant coal or oil shale mining tenement is a coal mining lease or oil shale mining lease—whichever of chapter 3, part 3, division 2 or 3 applies.²⁸¹
- ‘(2) However, no step may be taken in relation to the application until the relevant requirements under the division for making an application have been complied with.²⁸²
- ‘(3) For section 842,²⁸³ the application is taken to be an application under this Act.

‘904 Other applications

- ‘(1) If the 1923 Act ATP is not CSG-related, the application is taken to be an ATP-related application.

280 Section 876 (Conversion on 2004 Act start day)

281 Chapter 3, part 2 (Obtaining petroleum lease over land in area of coal or oil shale exploration tenement), division 1 (Obtaining petroleum lease other than by or jointly with, or with the consent of, coal or oil shale exploration tenement holder) or 2 (Petroleum lease application by or jointly with, or with the consent of, coal or oil shale exploration tenement holder)

Chapter 3, part 3 (Obtaining petroleum lease over land in area of coal mining lease or oil shale mining lease), division 2 (Petroleum lease application other than by or jointly with coal mining lease holder or oil shale mining lease holder) or 2 (Petroleum lease application by or jointly with coal mining lease holder or oil shale mining lease holder)

282 See also section 843 (Additional information may be required about application).

283 Section 842 (Substantial compliance with application requirements may be accepted)

‘(2) Chapter 2, part 2, division 2, applies to the application.²⁸⁴

Note—

Chapter 3 may also apply for the application. See section 297.²⁸⁵

‘(3) For section 842, the application is taken to be an application under this Act.

‘Subdivision 2 Petroleum leases provided for under particular agreements before or after 2004 Act start day

‘905 Application of sdiv 2

‘This subdivision applies if, before or after the 2004 Act start day, an agreement as follows provides for the granting of a proposed petroleum lease under this Act—

- (a) an agreement mentioned in the Commonwealth Native Title Act, section 31(1)(b);²⁸⁶
- (b) an indigenous land use agreement registered on the register of indigenous land use agreement under the Commonwealth Native Title Act.²⁸⁷

‘906 Petroleum lease under this Act may be granted if so provided

‘(1) If the agreement provides for the proposed petroleum lease to be granted under this Act, it may be applied for and granted under this Act.

284 Chapter 2, part 2, division 2 (Transition from authority to prospect to petroleum lease)

285 Chapter 3 (Provisions for coal seam gas)
Section 297 (Relationship with chs 2 and 5 and ch 15, pt 3)

286 Commonwealth Native Title Act, section 31 (Normal negotiation procedure)

287 See section 908 (Right to apply for petroleum tenure).

- ‘(2) If the agreement provides for the proposed lease to be renewed under this Act, it may be renewed as a petroleum lease under this Act.

‘907 Restriction on term of petroleum lease

‘The term of the renewed petroleum lease must not be longer than the shorter of the following—

- (a) 30 years;
- (b) the original term of the petroleum lease;
- (c) its last renewed term.

‘Division 7 Later grant of petroleum tenure to replace equivalent 1923 Act petroleum tenure

‘Subdivision 1 Applying for and obtaining replacement tenure

‘908 Right to apply for petroleum tenure

- ‘(1) The holder of a 1923 Act ATP (the *existing tenure*) may apply (the *grant application*) for an authority to prospect (the *replacement tenure*) under this Act for all or part of the area of the 1923 Act ATP.
- ‘(2) The holder of a 1923 Act lease (also the *existing tenure*) may apply (also the *grant application*) for a petroleum lease under this Act (also the *replacement tenure*) for all or part of the area of the 1923 Act lease.
- ‘(3) The grant application can not be made before the 2004 Act start day.
- ‘(4) The grant application may include a request that excluded land for the existing tenure be declared to be excluded land for the replacement tenure.

‘909 Continuing effect of existing tenure for grant application

- ‘(1) This section applies if before the grant application is decided the term of the existing tenure ends.
- ‘(2) Despite the ending of the term, the existing tenure continues in force until the earlier of the following to happen—
 - (a) the replacement tenure is granted;
 - (b) the application is rejected;
 - (c) the application is withdrawn;
 - (d) the existing tenure is cancelled under the 1923 Act.

‘910 Renewal application provisions apply for making and deciding grant application

- ‘(1) Subject to subdivision 2, the following provisions apply to the making and deciding of the grant application and to the replacement tenure—
 - (a) if the existing tenure is a 1923 Act ATP—
 - (i) chapter 2, part 1, division 5, other than section 83; and
 - (ii) sections 99 and 100;
 - (b) if the existing tenure is a 1923 Act lease—
 - (i) chapter 2, part 2, division 6, other than section 163;
 - (ii) sections 169 and 170.²⁸⁸
- ‘(2) The provisions applied under subsection (1) apply as if—
 - (a) the grant application were an application to renew the type of petroleum tenure that corresponds to the existing tenure; and

288 Chapter 2, part 1, division 5 and part 2, division 6 (Renewals)

Sections 83 (Continuing effect of authority for renewal application) and 163 (Continuing effect of lease for renewal application)

Sections 99 and 169 (Minister’s power to decide excluded land) and 100 and 170 (Minister may add excluded land)

- (b) in chapter 2, part 1, division 5, a reference to—
 - (i) the authority to prospect were a reference to the 1923 Act ATP; and
 - (ii) the authority to prospect holder were a reference to the 1923 Act ATP holder; and
 - (iii) a work program for the authority to prospect were a reference to the work program for the 1923 Act ATP; and
 - (iv) the renewed authority to prospect were a reference to the replacement tenure; and
- (c) in chapter 2, part 2, division 6, a reference to—
 - (i) the petroleum lease were a reference to the 1923 Act lease; and
 - (ii) the petroleum lease holder were a reference to the 1923 Act lease; and
 - (iii) a development plan for the petroleum lease were a reference to the development plan under the 1923 Act for the 1923 Act lease; and
 - (iv) the renewed petroleum lease were a reference to the replacement tenure; and
- (d) a reference to—
 - (i) the civil penalty were a reference to the civil penalty under the 1923 Act; and
 - (ii) interest were a reference to interest under the 1923 Act.

‘(3) Sections 98 and 168 do not apply to the replacement tenure.’²⁸⁹

Note—

Chapter 3 may also apply for the grant application. See section 297.²⁹⁰

289 Sections 98 (Area of authority to prospect) and 168 (Area of petroleum lease)

290 Chapter 3 (Provisions for coal seam gas)

Section 297 (Relationship with chs 2 and 5 and ch 15, pt 3)

‘911 Effect of replacement tenure on existing tenure

- ‘(1) This section applies if the replacement tenure takes effect.
- ‘(2) If the area the subject of the grant application is all the land in the area of the existing tenure, the existing tenure ends.
- ‘(3) If the area the subject of the grant application is only part of the land in the area of the existing tenure—
 - (a) the part ceases to be in the area of the existing tenure; and
 - (b) land that, at any time, is declared to be excluded land for the replacement tenure ceases to be excluded land for the existing tenure.

‘Subdivision 2 Special provisions for the replacement tenure**‘912 Restrictions on term and renewed terms**

- ‘(1) If the replacement tenure is an authority to prospect the term of any renewal of the tenure must not end more than 12 years from the end of its current term.
- ‘(2) The *current term* of an authority to prospect is the period that starts on the later of the following days and ends when it is first renewed after the 2004 Act start day—
 - (a) the day the relevant 1923 Act ATP was granted;
 - (b) the day that the last renewal of the relevant 1923 Act ATP before the 2004 Act start day became effective.
- ‘(3) However, a relevant 1923 Act ATP granted between 1 January 1994 and 23 December 1996 ends on a day decided by the Minister.
- ‘(4) For subsection (2)(b), a renewal of the authority is taken to have become effective on the day immediately after the end of its last term before the renewal.
- ‘(5) If the replacement tenure is a petroleum lease, the term of the tenure ends on the earlier of the following—

- (a) 30 years after the grant of the replacement lease;
- (b) the balance of the term of the relevant 1923 Act lease.

‘913 Relinquishment condition for replacement authority to prospect

‘If the replacement tenure is an authority to prospect (the *replacement authority*), section 878 or 879²⁹¹ applies as if a reference in the section to a converted ATP were a reference to the replacement authority.

‘Division 8 Matters relating to licence equivalents before 1923 Act start day

‘914 Requests for entry permission

‘If, before the 2004 Act start day, the Minister was asked to grant an entry permission under the 1923 Act for land, the Minister may treat the request as a survey licence application made under chapter 4, part 1 for the land.

‘915 Entry permissions

- ‘(1) This section applies if an entry permission under the 1923 Act former section 67²⁹² is in force immediately before the 2004 Act start day for land.
- ‘(2) On the 2004 Act start day—
 - (a) the permission is a survey licence under this Act for the land; and
 - (b) the holder of the permission is the holder of the licence.

291 Section 878 (Relinquishment condition if converted ATP includes a reduction requirement) or 879 (Relinquishment condition if authority does not include a reduction requirement)

292 1923 Act, former section 67 (Permission to enter land)

- ‘(3) The licence continues, subject to this Act, for the shorter of the following periods to end—
 - (a) the balance of the permission’s term;
 - (b) the period that ends 1 year after the 2004 Act start day.
- ‘(4) The licence is held subject to this Act and the conditions of the permission.
- ‘(5) However, if a condition of the permission conflicts with a mandatory condition for survey licences²⁹³ or any relevant environmental condition for the licence, the mandatory condition or relevant environmental condition prevails to the extent of the inconsistency.

‘916 Pipeline licences

- ‘(1) This section applies if a pipeline licence (the *old licence*) under the 1923 Act is in force immediately before the 2004 Act start day for land.
- ‘(2) On the 2004 Act start day—
 - (a) the old licence is a pipeline licence under this Act for the land (a *converted licence*); and
 - (b) the holder of the old licence is the holder of the converted licence; and
 - (c) if the old licence had a term, the converted licence is for the balance of the old licence’s term; and
 - (d) the converted licence is held subject to this Act and the conditions of the old licence, other than any condition that is the same, or substantially the same, as any relevant environmental condition for the converted licence.
- ‘(3) However, if a condition of the old licence conflicts with any of the following (the *overruling provision*) the overruling provision prevails to the extent of the inconsistency—
 - (a) a provision of this Act;

293 See chapter 5 (Common petroleum authority provisions).

- (b) a mandatory condition for pipeline licences under this Act;
- (c) a relevant environmental condition for the converted licence.

‘917 Requests for pipeline licence

‘If, before the 2004 Act start day, the Minister was asked to grant a pipeline licence under the 1923 Act for land, the Minister may treat the request as a pipeline licence application made under chapter 4, part 2 for the land.

‘918 Approvals under 1923 Act, s 75(5) continue in force

‘An approval under the 1923 Act, former section 75(5),²⁹⁴ that is in force immediately before the 2004 Act start day for land, despite the repeal of former section 75, continues in force for the land.

‘919 Refinery permissions

- ‘(1) This section applies if a refinery permission under the 1923 Act, former section 66,²⁹⁵ is in force immediately before the 2004 Act start day.
- ‘(2) If, immediately before the 2004 Act start day, the refinery had been constructed and was in operation, on the 2004 Act start day—
 - (a) the permission is a petroleum facility licence; and
 - (b) the holder of the permission is the holder of the licence; and
 - (c) if the permission had a term—the term of the licence is the balance of the permission’s term; and
 - (d) if the permission did not have a term—the term of the licence ends 30 years after the 2004 Act start day; and

294 1923 Act, former section 75 (Construction etc. of pipeline)

295 1923 Act, former section 66 (Oil refineries)

- (e) the licence is held subject to this Act and the conditions of the permission, other than any condition that is the same, or substantially the same, as any relevant environmental condition for the licence; and
 - (f) until an annual fee is prescribed for the licence, the annual fee for the licence is the annual fee payable for the permission.
- ‘(3) However, if a condition of the permission conflicts with any of the following (the *overruling provision*) the overruling provision prevails to the extent of the inconsistency—
- (a) a provision of this Act;
 - (b) a mandatory condition for petroleum facility licences;
 - (c) a relevant environmental condition for the petroleum facility licence.
- ‘(4) If the refinery had not been constructed or was not in operation immediately before the 2004 Act start day, the permission lapses.

‘Division 9 **Securities**

‘920 **Monetary securities**

- ‘(1) This section applies to security (the *existing security*) held as money in relation to a converted petroleum authority immediately before the 2004 Act start day.
- ‘(2) The department must, as soon as practicable, after the 2004 Act start day, transfer the following part of the existing security (the *environmental component*) to the administering authority under the Environmental Protection Act—
- (a) if the converted petroleum authority is an authority to prospect—the amount of the existing security, less \$4 000;
 - (b) if the converted petroleum authority is a petroleum lease—the amount of the existing security, less \$10 000.

- ‘(3) On the transfer, the rest of the existing security is taken to be security given under this Act for the converted petroleum authority.
- ‘(4) Until the transfer happens, the existing security may continue to be used for any purpose for which it was given.
- ‘(5) In this section—
used includes realised, in whole or part.

‘921 Non-monetary securities

- ‘(1) This section applies to security held, other than as money, in relation to a converted petroleum authority.
- ‘(2) From the 2004 Act start day, the security may continue to be used for any purpose for which it was given.
- ‘(3) However, subsection (2) does not—
 - (a) prevent the security being used after the 2004 Act start day in relation to an act done or omission made before the 2004 Act start day if it could have been used in relation to the act or omission immediately before the 2004 Act start day; or
 - (b) affect the power under this Act to require replacement security or additional security for the converted petroleum authority;²⁹⁶ or
 - (c) affect any power under the Environmental Protection Act to require financial assurance for any relevant environmental authority for the converted petroleum authority.
- ‘(4) In this section—
used includes realised, in whole or part.

‘Division 10 Compensation

296 See chapter 5, part 1 (Security).

‘922 Accrued compensation rights relating to converted petroleum authority

- ‘(1) This section applies if—
- (a) a right, under the former 1923 Act compensation provisions, to compensation existed immediately before the 2004 Act start day; and
 - (b) the right relates to a converted petroleum authority.
- ‘(2) The right continues after the 2004 Act start day.
- ‘(3) The compensation must be decided under the former 1923 Act compensation provisions as if the provisions had not been repealed.
- ‘(4) A matter relating to the compensation that, before the 2004 Act start day, had been referred to the tribunal but not decided must be decided under the former 1923 Act compensation provisions.
- ‘(5) In this section—
- 1923 Act former compensation provisions* means sections 18(5) and 97 to 99 of the 1923 Act, as they were in force immediately before the 2004 Act start day.

‘923 Existing compensation agreements relating to converted petroleum authority

- ‘(1) This section applies to an agreement mentioned in section 98(1)²⁹⁷ of the 1923 Act, as it was in force immediately before the 2004 Act start day, for compensation relating to a converted petroleum authority.
- ‘(2) On the 2004 Act start day, the agreement is taken to be a compensation agreement made under this Act.
- ‘(3) The agreement may be enforced as if the agreement were a compensation agreement under chapter 5, part 5.²⁹⁸

297 1923 Act, section 98 (Power to agree as to compensation)

298 Chapter 5, part 5 (General compensation provisions)

- ‘(4) However, the agreement can not be the subject of an application under section 534.²⁹⁹
- ‘(5) Subsection (3) applies even if the agreement was not valid because section 98(2) of the 1923 Act, as it was in force immediately before the 2004 Act start day, had not been complied with.

‘Division 11 Miscellaneous provisions

‘924 **Conversion of unitisation arrangement or unit development agreement to coordination arrangement**

- ‘(1) This section applies to a unit development agreement approved under the 1923 Act, section 102(2) or unitisation arrangement under that Act, if the agreement or arrangement was in force immediately before the 2004 Act start day.
- ‘(2) On the 2004 Act start day, the agreement or arrangement is taken to be a coordination arrangement approved under section 236.³⁰⁰
- ‘(3) The parties to the agreement or arrangement are the parties to the coordination arrangement.
- ‘(4) For the *Trade Practices Act 1974* (Cwlth), the approval and authority under section 63(5) of that Act, as in force immediately before the 2004 Act start day, continues for the unitisation arrangement.

‘925 **Entry notices under Petroleum Regulation 1966, s 17**

- ‘(1) This section applies if a notice of entry under the *Petroleum Regulation 1966*, section 17 is in force immediately before the 2004 Act start day and the notice relates to a converted petroleum tenure or a replacement tenure.
- ‘(2) On the 2004 Act start day—
 - (a) the notice of entry is taken to be an entry notice; and

299 Section 534 (Tribunal review of compensation)

300 Section 236 (Ministerial approval of proposed coordination arrangement)

- (b) the entry notice is taken to have been given under chapter 5, part 2;³⁰¹ and
- (c) the entry period for the entry notice is the shorter of the following periods to end—
 - (i) the balance of the period of the notice of entry;
 - (ii) the period that ends 6 months after the 2004 Act start day.

‘926 Provisions for petroleum royalty

- ‘(1) If immediately before the 2004 Act start day—
 - (a) royalty was payable under the 1923 Act for petroleum produced before the 2004 Act start day; and
 - (b) the royalty had not been paid;from the 2004 Act start day, the royalty may be recovered from the petroleum producer as petroleum royalty payable under this Act.
- ‘(2) Chapter 6³⁰² applies to petroleum produced before the 2004 Act start day if liability under the 1923 Act for the production had not arisen before that day.
- ‘(3) Despite subsections (1) and (2), petroleum royalty is not payable under this Act for production testing approved under the 1923 Act before the 2004 Act start day.

‘927 Corresponding approvals and decisions under 1923 Act for a converted petroleum authority

- ‘(1) This section applies to an approval or decision—
 - (a) about one of the following—
 - (i) a converted petroleum authority;
 - (ii) a petroleum tenure that replaces a 1923 Act petroleum tenure;

301 Chapter 5, part 2 (Private land)

302 Chapter 6 (Petroleum royalty)

- (iii) a 1923 Act lease that becomes a lease under this Act; and
 - (b) made under the 1923 Act about a matter provided for under this Act; and
 - (c) that continues to have effect immediately before the 2004 Act start day.
- ‘(2) On the 2004 Act start day, the approval or decision is taken to be an approval or decision made for the corresponding matter under this Act.
- ‘(3) Subsection (2) applies subject to any other provision of this part.
- ‘(4) For subsection (2), an approval under the 1923 Act, former section 56(1)(c)³⁰³ is taken be—
- (a) for a converted ATP—an approval under section 73; or
 - (b) for a converted lease—an approval under 152.³⁰⁴

‘928 Existing dealing applications

- ‘(1) This section applies if, before the 2004 Act start day—
- (a) an application was made under the 1923 Act for approval of, or consent to, a dealing relating to a 1923 Act petroleum tenure or a licence under that Act that a converted petroleum authority replaced; and
 - (b) the application had not been decided.
- ‘(2) If the dealing is of a type that is a permitted dealing, the application is taken to be an application under this Act for approval of a permitted dealing.
- ‘(3) Otherwise, the application lapses.

303 1923 Act, former section 56 (Royalty not payable in certain cases)

304 Sections 73 and 152 (Permitted period for production or storage testing)

‘929 Continuance of fees under 1923 Act

- ‘(1) Subsection (2) applies if a fee (the *existing fee*) for a matter relating to a type of authority under the 1923 Act (the *corresponding matter*) is imposed under that Act.
- ‘(2) Until a fee is prescribed for the corresponding matter for the corresponding type of authority under this Act, the existing fee is taken to be the prescribed fee under this Act for the corresponding matter.
- ‘(3) Subsection (2) applies to a petroleum authority whether or not it—
 - (a) was granted under this Act; or
 - (b) is a converted petroleum authority.
- ‘(4) Subsection (5) applies if—
 - (a) under a converted petroleum authority, a fee (also the *existing fee*) is imposed for a matter relating to the authority; and
 - (b) the 1923 Act does not provide for a fee for the matter.
- ‘(5) Until a fee is prescribed for the corresponding matter for the converted petroleum authority, the existing fee is taken to be the prescribed fee under this Act for the corresponding matter under this Act.
- ‘(6) In this section—

fee includes application fee, annual or other rent, licence fee and petroleum royalty.

‘930 Fees for existing applications

- ‘If—
 - (a) before the 2004 Act start day, an application had been made for or about an approval, authority, lease, licence or permission under the 1923 Act that becomes, or will, if granted, become a petroleum authority under this Act; and
 - (b) a fee is prescribed under this Act for the application or the corresponding application under this Act;

the Minister may waive payment of the fee, in whole or part.

‘931 References in Acts and documents to 1923 Act

- ‘(1) Subject to divisions 2 and 5,³⁰⁵ a reference in an Act or document to—
- (a) the 1923 Act is, if the context permits, a reference to this Act; and
 - (b) a provision of the 1923 Act is, if the context permits, a reference to the corresponding provision of this Act.
- ‘(2) However, subsection (1) does not apply if the reference is in relation to a 1923 Act petroleum tenure that, on the 2004 Act start day, does not become a converted petroleum tenure.’.

248 Renumbering of ss 872–993

Sections 872 to 993—

renumber as sections 932 to 1053.

249 Amendment of s 933, as renumbered under this Act (Deferral of s 115(1) for existing petroleum leases)

Section 933, as renumbered under this Act, ‘6 months after the commencement’—

omit, insert—

‘12 months after the 2004 Act start day’.

250 Amendment of s 934, as renumbered under this Act (Substituted restriction for petroleum leases relating to mineral hydrocarbon mining leases)

- (1) Section 934(1), as renumbered under this Act, ‘when’—
- omit.*

305 Divisions 2 (Conversion of particular 1923 Act ATPs to an authority to prospect under this Act) and 5 (Conversion of particular 1923 Act leases to petroleum leases)

- (2) Section 934(1), as renumbered under this Act, from ‘in that section’—

omit, insert—

‘in section 364(2)(b) to—

- (a) incidental coal seam gas were a reference to coal seam gas; and
- (b) the mine working envelope were a reference to the area of the mineral hydrocarbon mining lease.’.

251 Renumbering of ch 15 part 4, as renumbered under this Act, div 3

Chapter 15, part 4, as renumbered under this Act, division 3—
renumber as chapter 15, part 4, as renumbered under this Act, division 4.

252 Insertion of new ch 15, part 4, as renumbered under this Act, div 3

Chapter 15, part 4, as renumbered under this Act—
insert—

‘Division 3 Provisions for existing Water Act bores

‘934A Exemption from, or deferral of, reporting provisions for existing petroleum tenure holders

- ‘(1) This section applies to the holder of any petroleum tenure in force on the 2004 Act start day.
- ‘(2) The holder must, within 12 months after the 2004 Act start day, lodge at the following office a statement about the need to have an underground water impact report for the tenure—
 - (a) the office of the department for lodging the statement, as stated in a gazette notice by the chief executive;
 - (b) if no office is gazetted under paragraph (a)—the office of the chief executive.

- ‘(3) The chief executive may, after considering the statement, decide whether an underground water impact report is required for the tenure.
- ‘(4) The chief executive may require the holder to give the chief executive further information to enable the chief executive to make a decision under subsection (3).
- ‘(5) If the chief executive decides an underground water impact report is not required, sections 256 and 267³⁰⁶ are taken never to have applied to the holder.
- ‘(6) If the chief executive decides an underground water impact report is required, the chief executive may decide a reasonable time by which the report must be lodged.
- ‘(7) If, under subsection (5), the chief executive decides a time, section 256 is taken not to apply to the holder until that time.
- ‘(8) A decision under this section has no effect until the holder is given notice of it.

‘934B Make good obligation only applies for existing Water Act bores on or from the 2004 Act start day

‘Section 250³⁰⁷ only applies in relation to an existing Water Act bore that was in existence on the 2004 Act start day or came into existence after that day.’.

253 Amendment of s 935, as renumbered under this Act (Continuation of petroleum royalty exemption for flaring or venting under 1923 Act)

- (1) Section 935, as renumbered under this Act, heading, ‘flaring or venting’—
omit, insert—
‘petroleum flared or vented’.
- (2) Section 935(2), as renumbered under this Act, ‘The flaring or venting of petroleum’—

306 Sections 256 (Lodging report) and 267 (Obligation to lodge review reports)

307 Section 250 (The make good obligation)

omit, insert—

‘Petroleum flared or vented’.

254 Insertion of new s 935A

After section 935, as renumbered under this Act—

insert—

‘935A Deferred application of s 526 for particular petroleum authority holders

‘If, immediately before the 2004 Act start day, a petroleum authority holder is lawfully carrying out an authorised activity for the authority on public land, section 526³⁰⁸ does not apply to the holder until 6 months after the 2004 Act start day.’.

255 Insertion of new s 942A (Amendment of s 41 of Act No. 39 of 1999)

After section 942, as renumbered under this Act—

insert—

‘942A Amendment of s 41 (Obligations of coal mine operators)

‘(1) Section 41(1)(c) to (f)—

renumber as section 41 (d) to (g).

‘(2) Section 41(1)—

insert—

‘(c) not to carry out an activity at the coal mine that creates a risk to a person on an adjacent or overlapping petroleum authority if the risk is higher than an acceptable level of risk under the *Petroleum and Gas (Production and Safety) Act 2004*;’.

‘(3) Section 41—

insert—

‘ ‘(3) In this section—

308 Section 526 (Public land authority approval required for particular activities)

adjacent or overlapping petroleum authority means any of the following under an Act as follows if, under that Act, its area is adjacent to, or overlaps with, the land the subject of the mining tenure under which the coal mine is operated—

- (a) a 1923 Act petroleum tenure under the *Petroleum Act 1923*;
- (b) a petroleum tenure under the *Petroleum and Gas (Production and Safety) Act 2004*.’.’.

256 Amendment of s 944, as renumbered under this Act (Amendment of sch 2 (Subject matter for regulations) of Act No. 39 of 1999)

- (1) Section 944(1), as renumbered under this Act, after inserted item 2A—

insert—

- ‘2B Matters relating to the drilling, completion and abandonment of drill holes and the reporting of information relating to the matters.’.’.

- (2) Section 944(2), as renumbered under this Act, inserted item 36A, after ‘management systems’—

omit, insert—

‘to identify, assess, mitigate, remediate, monitor and report on the potential of the impacts of coal mining operations on the safety of adjacent or overlapping petroleum activities, including requirements for principal hazard management plans for operating plant.’.

- (3) Section 944(2), as renumbered under this Act, inserted item 36B and 36C —

omit, insert—

- ‘36B Requirements to identify, assess, mitigate, remediate, monitor and report on the potential of coal seam gas extraction activities on the future safe and efficient carrying out of coal mining operations, including coal seam gas exploration and production activities at coal mines.

‘36C The granting of exemptions by the chief inspector from complying with all or part of the requirements of a regulation made under item 2A or 2B, for a stated coal mining operation at a coal mine or for a stated coal seam.’.

257 Amendment of s 985, as renumbered under this Act (Amendment of s 239 (Contingency supply plans—content requirements) of Act No. 29 of 2003)

‘Section 985, as renumbered under this Act, ‘a provision of a relevant safety management plan’—

omit, insert—

‘a safety-related provision’.

258 Insertion of new s 993A (Insertion of new s 132A of Act No. 12 of 2004)

After section 993, as renumbered under this Act—

insert—

‘993A Insertion of new s 132A

Chapter 7, part 7—

insert—

‘ ‘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) schedule 2, to the extent it contains words mentioned in a petroleum safety provision under paragraph (a) or (b).³⁰⁹’.

259 Amendment of s 1010, as renumbered under this Act (Insertion of new s 3A of Act No. 110 of 1989)

- (1) This section amends section 1010, as renumbered under this Act.
- (2) Inserted section 3A, ‘petroleum tenure’—
omit, insert—
‘petroleum authority’.
- (3) Inserted section 3A(3), after ‘petroleum lease’—
insert—
‘or petroleum facility licence’.
- (4) Inserted section 3A(6), after ‘authority to prospect’—
insert—
‘or pipeline licence’.

260 Amendment of s 1020, as renumbered under this Act (Insertion of new pt 7AA of Act 110 of 1989)

- (1) This section amends section 1020, as renumbered under this Act.

³⁰⁹ *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) and schedule 2 (Dictionary)

- (2) Inserted section 318AP(1)(c), after ‘(the *CSG assessment criteria*)—
insert—
‘, other than the matter mentioned in subsection (2)(c)(iii)’.
- (3) Inserted section 318AP(2)(c)(iii), after ‘section 318AT(1)(b)’—
insert—
‘and any change of the type mentioned in section 318AT(1)(c)’.
- (4) Inserted section 318AW(a), ‘section 318AT’—
omit, insert—
‘sections 318AP and 318AT’.
- (5) Inserted section 318BA(1)(c)
omit, insert—
‘(c) there is the level of knowledge about the deposit, as prescribed under a regulation;’.
- (6) Inserted section 318BD(1), ‘may be given only under this section’—
omit, insert—
‘must not be given unless this section has been complied with’.
- (7) Inserted section 318BE—
omit.
- (8) Inserted section 318BL(1), from ‘CSG assessment’ to ‘adjacent lease’—
omit, insert—
‘prescribed criteria’.
- (9) Inserted section 318BL—
insert—
- ‘(3) In this section—
prescribed criteria means each of the following—

- (a) the CSG assessment criteria;
 - (b) the affect of the mining lease on safe and efficient petroleum production under any adjacent lease;
 - (c) the affect on safe and efficient petroleum production under any future petroleum lease that arises from the authority to prospect.’.
- (10) Inserted section 318CO(3)—
insert—
‘(c) for incidental coal seam gas that is vented as or with mine ventilation air—it is not commercially practicable to use the air.’.
- (11) Inserted section 318CP(b), ‘proposed lease.’—
omit, insert—
‘proposed lease.’³¹⁰
- (12) Inserted section 318CR, words before subsection (2)—
omit, insert—

‘318CR Restriction on carrying out particular authorised activities

- ‘(1) The mining lease holder must not carry out a relevant activity for an adjacent lease or proposed adjacent lease unless—
- (a) the adjacent lease holder, or the proposed adjacent lease holder, has consented in writing to the carrying out of the activity; or
 - (b) the activity is carried out under—
 - (i) a coordination arrangement mentioned in section 318CQ; or
 - (ii) a decision of the tribunal under section 318CS.’.
- (13) Inserted section 318CR(2), ‘mining coal seam gas mentioned in subsection (1)’—
omit, insert—

310 See also section 52A (Application of 2004 Act provisions about coextensive natural underground reservoirs) of the 1923 Act.

‘carrying out the relevant activity’.

(14) Inserted section 318CR—

insert—

‘(3) In this section—

relevant activity, for an adjacent lease or proposed adjacent lease, means—

- (a) the mining, under the mining lease, of coal seam gas that comes, or is likely to come, from the part of the reservoir that is in the area of an adjacent lease or the proposed adjacent lease; or
- (b) another authorised activity under the mining lease that physically adversely affects, or may physically adversely affect, the carrying out of authorised activities under an adjacent lease or the proposed adjacent lease.’.

(15) Inserted section 318CS(1)—

omit, insert—

‘(1) This section applies if—

- (a) an adjacent lease holder, or the proposed adjacent lease holder, has not consented in writing to the carrying out of a relevant activity under section 318CR; and
- (b) the mining lease holder and the adjacent lease holder or proposed adjacent lease holder (the *parties*) have not made a coordination arrangement mentioned in section 318CQ.’.

(16) Inserted section 318CS(2)(c), after ‘coordinated’—

insert—

‘or monitored’.

(17) Inserted section 318CS(2)—

insert—

‘(d) remediation requirements, as prescribed under a regulation, in relation to the matters mentioned in

section 115(3)(c), definition *relevant activity*, paragraph (b).’.

(18) Inserted section 318CV(1)(a)—

insert—

‘(vi) whether there was any subsidence and, if there was any, its nature; and’.

(19) Inserted section 318CV(1)(b) to (d)—

renumber as section 318CV(1)(c) to (e).

(20) Inserted section 318CV(1)—

insert—

‘(b) if the report states there was subsidence, includes a plan showing its extent; and’.

(21) Inserted section 318CV(2), penalty, ‘100’—

omit, insert—

‘150’.

(22) Inserted section 318CV(4), definition *mine working envelope*—

omit, insert—

‘***mine working envelope*** means land that covers any of the following or is needed for post-production activities—

(a) past mine workings;

(b) current mine workings;

(c) mine workings scheduled to be mined within the next 5 years;

(d) authorised activities for the mining lease associated with the processing, transportation, storage and use of the coal seam gas produced.’.

(23) Inserted section 318CX, penalties, ‘200’—

omit, insert—

‘150’.

(24) Inserted section 318CY, penalty, ‘200’—

omit, insert—

‘150’.

- (25) Inserted section 318DG—

insert—

‘(5) After the application has been decided, the applicant and the coal or oil shale exploration tenement holder must be given notice of the decision.’.

- (26) Inserted section 318DI(4), ‘the late fee prescribed under a regulation’—

omit, insert—

‘an amount that is 10 times the renewal fee prescribed under section 286(2)(b)’.

- (27) Inserted section 318DM—

insert—

‘(4) The fee prescribed under section 299 need not accompany the application.’.

- (28) Inserted section 318EB(3)(b)—

omit, insert—

‘(b) as soon as practicable after the holder proposes or becomes aware of a significant change to the nature and extent of an authorised activity that is not already dealt with under the current development plan for the lease; or’.

- (29) Inserted section 318EB(5), after ‘current plan period’—

omit, insert—

‘or if subsection (4) applies and the holder does not lodge another proposed later development plan within the current plan period’.

- (30) Inserted section 318EK(1)(b)(i) to (iii)—

renumber as section 318EK(1)(b)(ii) to (iv).

- (31) Section 318EK(1)(b)—

insert—

‘(i) someone else whom the recipient has authorised to carry out the authorised activities for the recipient’s coal or oil shale mining tenement or petroleum tenure; or’.

(32) Section 318EL, ‘318EL’—

omit, insert—

‘318EK’.

261 Insertion of new s 1025A, as renumbered under this Act (Insertion of new s 396A of Act No. 110 of 1989)

After section 1025, as renumbered under this Act—

insert—

‘1025A Insertion of new s 396A

‘After section 396—

insert—

‘ 396A Transfer of coal exploration or production well to petroleum tenure holder

- ‘ (1) Subsection (3) permits, in particular circumstances, the transfer of a coal exploration or production well by a mining tenement holder.
- ‘ (2) A purported transfer of a coal exploration or production well is of no effect unless—
 - (a) the transfer is permitted under subsection (3); and
 - (b) the requirements under subsection (3) for making the transfer have been complied with.
- ‘ (3) The mining tenement holder may transfer the coal exploration or production well to the holder of a petroleum tenure if—
 - (a) it is in the area of the mining tenement and the petroleum tenure; and
 - (b) a notice in the approved form and the transfer fee prescribed under a regulation have been lodged at—

- (i) the office of the department for lodging the notice, as stated in a gazette notice by the chief executive; or
 - (ii) if no office is gazetted under subparagraph (i)—the office of the chief executive.
- ‘(4) If the well is transferred under subsection (3), any obligation the transferor had under this Act or another law in relation to the coal exploration or production well ceases.

- ‘(5) In this section—

coal exploration or production well means a well or drill hole drilled and authorised under this Act to—

- (a) explore for coal or coal seam gas; or
- (b) mine or produce coal or coal seam gas; or
- (c) monitor the mining or production of coal or coal seam gas; or
- (d) monitor the impacts of an activity mentioned in paragraphs (a) to (c).

transfer, of a coal exploration or production well means a transfer of—

- (a) the control of and responsibility for the well; and
- (b) the ownership of any works constructed in connection with the well.’.

262 Amendment of s 1027, as renumbered under this Act (Amendment of s 417 of Act 110 of 1989)

- (1) Section 1027(1), as renumbered under this Act, after inserted paragraph (ga)—

insert—

‘(gb) drilling, completing and abandoning drill holes, and hazard reporting;’.

- (2) Section 1027(2), as renumbered under this Act, ‘(p)’—

omit, insert—

‘(q)’.

**263 Amendment of s 1028, as renumbered under this Act
(Insertion of new pt 19, div 6 of Act 110 of 1989)**

- (1) This section amends section 1028, as renumbered under this Act.
- (2) Inserted section 739, definition *mineral hydrocarbon mining lease*, after ‘mining leases’—
insert—
‘or its replacement, or any consolidation of 2 or more of the following leases the area of which does not include land not in the area of the following mining leases’.
- (3) Inserted section 741(3) and (4)—
renumber as section 741(4) and (5)
- (4) Inserted section 741(2)—
omit, insert—
‘(2) Subject to subsection (3), an addition to the area of an existing special coal mining lease must not be made under a special agreement Act if the addition was applied for or requested, but not made, before the commencement.
- ‘(3) Subsection (2) does not apply if the addition is additional surface areas within the area of the existing special coal mining lease and the special coal mining lease was granted under the *Thiess Peabody Coal Pty. Ltd. Agreement Act 1962*.’.
- (5) Inserted section 747(3)(a)(iii), ‘sections 576 and 577’—
omit, insert—
‘sections 800 and 802’.
- (6) Inserted section 753(1)(b), ‘amending the statement for*’—
omit, insert—
‘proposing, for the Minister’s approval, amendments to’.
- (7) Inserted section 753—
insert—
‘(4) The proposed amendments have no effect unless the Minister approves them.’.

- (8) Inserted section 757, ‘Section 318DR does not’—
omit, insert—
 ‘Sections 318DQ and 318DR³¹¹ do not’.

264 Amendment of s 1045, as renumbered under this Act (Amendment of s 203 of Act 34 of 2000)

Section 1045(2), as renumbered under this Act, inserted definition *petroleum tenure holder*, paragraph (a)—

omit, insert—

‘(a) holds—

- (i) a 1923 Act petroleum tenure under the *Petroleum Act 1923*; or
- (ii) a petroleum tenure under the *Petroleum and Gas (Production and Safety) Act 2004*; and’.

265 Insertion of new s 1052A (Insertion of new s 1136A of Act No. 34 of 2000)

After section 1052, as renumbered under this Act—

insert—

‘1052A Insertion of new s 1136A

‘Chapter 9, part 5, after section 1136—

insert—

‘ ‘1136A Transitional provision for the Petroleum and Other Legislation Amendment Act 2004

- ‘ (1) This section applies for the definition of *priority group* for a petroleum tenure holder or a licensee, inserted under the *Petroleum and Other Legislation Amendment Act 2004*.
- ‘ (2) It is taken that, before the day that Act was introduced into Parliament, no water licence to take underground water had

311 Sections 318DQ (Requirement to have development plan) and 318DR (Obligation to comply with development plan)

been refused because of the reason mentioned in the definition.’.’.

266 Insertion of new ch 16, pt 28

Chapter 16—

insert—

‘Part 28 Amendment of Workplace Health and Safety Act 1995

‘1054 Act amended in pt 28

‘This part amends the *Workplace Health and Safety Act 1995*.

‘1055 Amendment of s 3 (Application of Act)

Section 3(1)(c)—

‘ ‘(c) land on which an authorised activity for any of the following is being carried out—

- (i) a 1923 Act petroleum tenure under the *Petroleum Act 1923*;
- (ii) a petroleum authority under the *Petroleum and Gas (Production and Safety) Act 2004*; or
- (d) land on which an activity authorised under the *Geothermal Exploration Act 2004* is being carried out.’.’.

267 Amendment of sch 1 (Reviews and appeals)

- (1) Schedule 1, table 1—

insert—

- '705C Decision about whether proposed provision for principal hazard management plan for an operating plant is reasonable
- 728C Refusal of application for gas work licence or authorisation
- 728C Decision to impose a condition on, or to limit, a gas work licence or authorisation, other than a condition or limitation agreed to or requested by the applicant'.

- (2) Schedule 1, table 2, entry for section 488, under heading 'description of decision'—

omit, insert—

'Decision to require security for petroleum authority other than security in the form and amount prescribed under section 488(2)'.

- (3) Schedule 1, table 2, entry for section 489, under heading 'description of decision'—

omit, insert—

'Decision to require increase in total security required to more than the prescribed amount under section 488(2) when the requirement is made'.

- (4) Schedule 1, table 2, entry for section 526—

omit.

- (5) Schedule 1, table 2, entry for section 527(1), 'public land authority approval'—

omit, insert—

'entry on public land'.

268 Amendment of sch 2 (Dictionary)

- (1) Schedule 2, definitions *entry notice, entry period, mineable coal seam, original notional sub-blocks, public land, public*

land authority approval, relinquishment condition and waiver of entry notice—

omit.

(2) Schedule 2—

insert—

‘2004 Act start day means the day section 32 commences.

entry notice—

(a) for chapter 5, part 2—see section 497(1)(a); and

(b) for chapter 5, part 3—see section 526(2)(b).

entry period—

(a) for chapter 5, part 2—see section 499(1)(b); and

(b) for chapter 5, part 3—see section 526B(1)(b).

initial work program requirements see section 46.

original notional sub-blocks of an authority to prospect—

1. The original notional sub-blocks, of an authority to prospect, are the sub-blocks stated in the instrument for the authority at the following time—

(a) if the authority was granted before the 2004 Act start day—immediately after its first renewal after that day;

(b) if the authority was granted after the 2004 Act start day—when it was originally granted.

2. However, the original notional sub-blocks do not include any sub-block stated in the instrument that is completely within the area of a petroleum lease or 1923 Act lease.

3. For item 1, if the instrument—

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

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

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

prescribed incidents see section 706(1)(a).

principal hazard management plan, for an operating plant, means the principal hazard management plan for the plant, as made under section 705A.

public land means land other than—

- (a) private land; or
- (b) land to the extent of any of the following interests in relation to land—
 - (i) a mining interest;
 - (ii) an occupation right under a permit under the *Land Act 1994*.

relinquishment condition—

1. Generally, the *relinquishment condition*, for an authority to prospect is the *relinquishment condition* under section 65(1).
2. However if chapter 15, part 3, division 2 applies, and the authority is an authority to which section 878 or 879 applies, the *relinquishment condition* for the authority is the *relinquishment condition* under that section.
3. The *relinquishment condition* for a lease is the *relinquishment condition* under section 329(2).

services of the State has the same meaning that the term has in relation to the State of Queensland under the *Copyright Act 1968* (Cwlth), section 183(1).³¹²

waiver of entry notice—

- (a) for chapter 5, part 2—see section 497(3); and
- (b) for chapter 5, part 2—see section 526(3).’.

312 *Copyright Act 1968* (Cwlth), section 183 (Use of copyright material for the services of the Crown)

- (3) Schedule 2, definition *holder*, paragraph (c)—
omit, insert—
‘(c) of a water monitoring authority, means the person who is its holder as provided for under section 201; or’.
- (4) Schedule 2, definition *petroleum producer*, ‘means’—
omit, insert—
‘includes’.
- (5) Schedule 2, definition *owner*, item 1, paragraphs (h) and (i)—
omit, insert—
‘(h) for a conservation park or resources reserve under the *Nature Conservation Act 1992* (the *NCA*) for which there are trustees—
(A) if, under the *NCA*, the park or reserve has trustees whose powers are not restricted—the trustees; or
(B) otherwise—the chief executive of the department in which the *NCA* is administered;’.
- (6) Schedule 2, definition *owner*, item 1, paragraphs (j) to (q)—
renumber as paragraphs (i) to (p).
- (7) Schedule 2, definition *owner*, item 1—
insert—
‘(q) for any of the following land under the *NCA*—the State—
(i) a national park;
(ii) a national park (Aboriginal land);
(iii) a national park (scientific);
(iv) a national park (Torres Strait Islander land);
(v) a national park (recovery);
(vi) a forest reserve.’.
- (8) Schedule 2, definition *the public interest*—

insert—

‘(g) impacts on aesthetic, amenity, cultural or environmental values.’.

Part 4 Amendment of Environmental Protection Act 1994

269 Act amended in pt 4

This part amends the *Environmental Protection Act 1994*.

270 Insertion of new ch 13, pt 6

Chapter 13—

insert—

‘Part 6 Transitional provisions for Petroleum and other Legislation Amendment Act 2004

‘631 Financial assurance if security for related petroleum authority is monetary

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

- (a) under the *Petroleum Act 1923* or the *Petroleum and Gas (Production and Safety) Act 2004*, the environmental authority is the relevant environmental authority for a petroleum authority; and

- (b) the *Petroleum Act 1923*, section 159 or the *Petroleum and Gas (Production and Safety) Act 2004*, section 920 applies to security held for the petroleum authority.³¹³
- ‘(2) A condition is taken to have, under section 364, been imposed on the environmental authority that its holder must give the administering authority financial assurance for the environmental authority in the amount required to be transferred under the section.
- ‘(3) The amount is taken to also be the financial assurance.
- ‘(4) The financial assurance is taken to be for the matters mentioned in section 364(1) in relation to the environmental authority.
- ‘(5) On the making of the transfer, the requirement under the condition to give the financial assurance is taken to have been complied with.

‘632 Financial assurance if security for related petroleum authority is non-monetary

- ‘(1) This section applies to an environmental authority if—
 - (a) under the *Petroleum Act 1923* or the *Petroleum and Gas (Production and Safety) Act 2004*, the environmental authority is the relevant environmental authority for a petroleum authority; and
 - (b) the *Petroleum Act 1923*, section 160 or the *Petroleum and Gas (Production and Safety) Act 2004*, section 921 applies to security held for the petroleum authority.³¹⁴
- ‘(2) A condition is taken to have, under section 364, been imposed on the environmental authority that its holder must give the

313 The *Petroleum Act 1923*, section 160 (Non-monetary securities)

Petroleum and Gas (Production and Safety) Act 2004, section 921 (Non-monetary securities)

314 *Petroleum Act 1923*, section 160 (Non-monetary securities)

Petroleum and Gas (Production and Safety) Act 2004, section 921 (Non-monetary securities)

administering authority financial assurance for the environmental authority.

- ‘(3) The security mentioned in the section is taken to also be the financial assurance.
- ‘(4) The financial assurance is taken to be for the matters mentioned in section 364(1) in relation to the environmental authority.
- ‘(5) Subsection (3) and (4) applies despite the terms of an instrument granting the security or any other document, including, for example, a term that the security or its benefit is not transferable.
- ‘(6) The condition ends at the earlier of the following to happen—
 - (a) the amendment, under section 634, of the condition;
 - (b) the end of 12 months after the 2004 Act start day under the *Petroleum and Gas (Production and Safety) Act 2004*.

‘633 Effect of financial assurance on the security

- ‘(1) A condition about financial assurance imposed under this part only affects a security to the extent provided under this part.
- ‘(2) Without limiting subsection (1), section 632 does not affect or change—
 - (a) the security mentioned in section 632(1) as a security under the *Petroleum Act 1923* or the *Petroleum and Gas (Production and Safety) Act 2004*; or
 - (b) the matters for which the security was given under that Act; or
 - (c) the enforcement of the security under that Act.
- ‘(3) Section 632, or any thing done under it, does not—
 - (a) discharge a security; or
 - (b) discharge or release a surety or other obligee, wholly or partly, from an obligation; or
 - (c) fulfil a condition allowing a person to terminate an instrument or be released, wholly or partly, from an

obligation or modify the operation or effect of an instrument or obligation.

- ‘(4) If the advice or consent of, or giving notice to, a person would be necessary to give effect to the giving of the financial assurance—
- (a) the advice is taken to have been obtained; and
 - (b) the consent or notice is taken to have been given.

‘634 Amendment of financial assurance condition under this part

- ‘(1) The administering authority may amend a condition about financial assurance imposed under this part to require the giving of replacement financial assurance, in a form and amount decided by the authority.
- ‘(2) Section 364 applies for the amendment as if a reference in the section to the imposition of a condition requiring financial assurance were a reference to the amendment.
- ‘(3) Sections 130 to 138 do not apply for the amendment.
- ‘(4) Chapter 7, part 6, applies for the financial assurance.³¹⁵’.

Part 5 Amendment of Forestry Act 1959

271 Act amended in pt 5

This part amends the *Forestry Act 1959*.

272 Amendment of s 5 (Definitions)

Section 5, definition *Mining Acts*, after ‘1989’—
insert—

³¹⁵ Chapter 7, part 6 (Financial assurances)

275 Insertion of new s 70QA

After section 70Q—

insert—

‘70QA Prohibition on mining in forest reserves

‘A mining interest under section 27³¹⁸ can not be granted in relation to land in a forest reserve.’.

Schedule Minor amendments

section 69(2)

Petroleum And Gas (Production and Safety) Act 2004**1 Section 18(1)(e), after ‘survey licence’—***omit, insert—*

‘granted under section 396;’.

2 Section 18(1)(h) and (i)—*omit, insert—*‘(h) a *gas work licence* granted under chapter 9, part 6, division 3, subdivision 1;³¹⁹(i) a *gas work authorisation* granted under chapter 9, part 6, division 3, subdivision 1.’.**3 Section 18(2), ‘gas work licence or gas work authorisation’—***omit, insert—*

‘gas work licence or authorisation’.

4 Section 23(2), after ‘program applies has’—*insert—*

‘started and’.

5 Section 28(2)(d)—*omit.*

319 Chapter 9, part 6, division 3, subdivision 1 (Applying for and obtaining gas work licence or authorisation)

Schedule (continued)

- 6 Section 42(3) and (4)—**
relocate and *renumber* as section 42(8A) and (8B).
- 7 Section 42(5) to (9)—**
renumber as section 42(3) to (9).
- 8 Section 50, from ‘proposed work program’—**
omit, insert—
‘proposed later work program for an authority to prospect.³²⁰’.
- 9 Section 59(1), ‘period’—**
omit, insert—
‘program period’.
- 10 Section 59(2), ‘division’—**
omit, insert—
‘subdivision’.
- 11 Section 60(2), from ‘plan’—**
omit, insert—
‘work program for carrying out work under the program.’.
- 12 Section 64, note 1, ‘parts 4, 8 and 10’—**
omit, insert—
‘parts 4, 9 and 10’.

³²⁰ For the requirements to lodge a proposed later work program, see sections 79(Obligation to lodge proposed later work program), 100 (Minister may add excluded land), 104 (Requirements for making application), 372 (Requirements for making application) and 790 (Types of noncompliance action that may be taken).

Schedule (continued)

- 13 Section 65(3)(a), ‘notice (the)’—**
omit, insert—
‘notice (’.
- 14 Section 68(1), ‘are less’—**
omit, insert—
‘is less’.
- 15 Section 71, heading, ‘it’—**
omit, insert—
‘its’.
- 16 Section 79(1), note 2, ‘section 81(1)’—**
omit, insert—
‘section 82(1)’.
- 17 Section 79(4), ‘current plan period’—**
omit, insert—
‘current work program period’.
- 18 Section 84(5)(b)—**
omit, insert—
‘(b) give, under section 488,³²¹ security for the renewed authority.’.

321 Section 488 (Power to require security for petroleum authority)

Schedule (continued)

- 19 Section 85(2), after ‘relinquishment day’—**
insert—
‘for the renewed authority’.
- 20 Section 85(2)—**
renumber and relocate as section 85(4A).
- 21 Section 85(3) to (4A)—**
renumber as section 85(2) to (4).
- 22 Section 85(8)(a), ‘that’—**
omit, insert—
‘than’.
- 23 Section 92(3), ‘However’—**
omit, insert—
‘Despite subsection (1)’.
- 24 Section 100(4)(a), before ‘work program’—**
insert—
‘the’.
- 25 Section 142, from ‘petroleum lease’—**
omit, insert—
‘petroleum lease.³²²’.

³²² For the requirements to lodge a proposed later development plan, see sections 79 (Minister may add excluded land), 100 (Obligation to lodge proposed later development plan) and 372 (Requirements for making application) and 790 (Types of noncompliance action that may be taken).

Schedule (continued)

- 26 Section 151(2), ‘authority’—**
omit, insert—
‘lease’.
- 27 Section 151(4)(b), ‘mining’—**
omit.
- 28 Section 159(6)(a), ‘under under’—**
omit, insert—
‘under’.
- 29 Section 173(4), ‘to’, second mention—**
omit.
- 30 Section 198, ‘the area of the area of’—**
omit, insert—
‘the area of’.
- 31 Section 203, ‘apply to amend’—**
omit, insert—
‘apply for the amendment of’.
- 32 Section 213(2)(c), ‘for deciding the claim, as’—**
omit.
- 33 Section 215(6), ‘any the’—**
omit, insert—
‘any of the’.

Schedule (continued)

- 34 Section 220, heading, ‘tender’—**
omit, insert—
‘tenderer’.
- 35 Section 220(1), ‘following person’—**
omit, insert—
‘following persons’.
- 36 Section 220(1)(b), after ‘according’—**
insert—
‘to’.
- 37 Section 232(2), ‘the the’—**
omit, insert—
‘the’.
- 38 Section 232(3), ‘stating the following’—**
omit, insert—
‘stating each of the following’.
- 39 Section 234(3)(a), ‘section 223’—**
omit, insert—
‘section 242’.
- 40 Section 234(6), definition *authorised activity*, paragraphs (a) and (b)—**
omit, insert—
‘(a) a mining lease, means an activity that, under the Mineral Resources Act, is an authorised activity for the lease; or

Schedule (continued)

- (b) a 1923 Act lease, means an activity that, under the 1923 Act, is an authorised activity for the lease.’.

41 Section 277(1)(c), ‘for the area of’—

omit, insert—

‘of’.

42 Section 282, heading, ‘water observation bore or water observation bore’—

omit, insert—

‘water observation bore or water supply bore’.

43 Section 288(4), definition *relevant office*, paragraph (a), ‘applications under this section’—

omit, insert—

‘documents mentioned in subsection (3)’.

44 Section 289(b)(i), ‘application’—

omit, insert—

‘notice’.

45 Section 297(2) and (3), ‘met’—

omit, insert—

‘complied with’.

46 Section 350(2)(a), ‘petroleum lease holder’—

omit, insert—

‘mining lease holder’.

Schedule (continued)

- 47 Section 472(1), ‘under this part’—**
omit.
- 48 Section 474(1), ‘apply to amend’—**
omit, insert—
‘apply for the amendment of’.
- 49 Section 495(c), ‘had’—**
omit, insert—
‘has’.
- 50 Section 500(1), ‘an authority holder’—**
omit, insert—
‘a petroleum authority holder’.
- 51 Section 500(4), ‘section 499(5)’—**
omit, insert—
‘section 499(6)’.
- 52 Section 503(1)(a), ‘entry’—**
omit, insert—
‘exercise of the rights’.
- 53 Section 506, heading, after ‘provisions for’—**
insert—
‘access and’.

Schedule (continued)

- 54 Section 506(1), ‘the a’—**
omit, insert—
‘a’.
- 55 Section 522(2)(a), ‘proposal’—**
omit, insert—
‘proposed’.
- 56 Section 523(3), ‘, with necessary changes,’—**
omit.
- 57 Section 525(1)(a) and (b)—**
omit, insert—
‘(a) the relevant public road authority; and
(b) the relevant petroleum authority holder; and
(c) each of their personal representatives, successors and assigns.’.
- 58 Section 529, ‘mining lease or petroleum lease’—**
omit, insert—
‘mining or petroleum lease’.
- 59 Section 530(1), ‘mining lease or petroleum lease’—**
omit, insert—
‘mining or petroleum lease’.
- 60 Section 539(3), ‘under which pipeline is constructed or operated’—**
omit.

Schedule (continued)

- 61 Section 531(5), definition *relevant owner or occupier*, paragraph (a), ‘private land or public land’—**
omit, insert—
‘private or public land’.
- 62 Section 534(1)(a), before ‘compensation liability’, first mention—**
insert—
‘the’.
- 63 Section 544(6), definition *relevant period*, paragraph (a), ‘from 5 business days after the discovery to’—**
omit, insert—
‘of’.
- 64 Section 546(1), ‘held the petroleum tenure’—**
omit, insert—
‘held the tenure’.
- 65 Section 548(1), ‘section 170’—**
omit, insert—
‘section 547’.
- 66 Section 548(5), ‘subsection (2)’—**
omit, insert—
‘subsection (3)’.

Schedule (continued)

- 67 Section 560(2)(a), ‘or;’—**
omit, insert—
‘; or’.
- 68 Section 568(1)(d), ‘paragraph (a)’—**
omit, insert—
‘paragraph (c)’.
- 69 Section 570(4), ‘subsection (1)’—**
omit, insert—
‘subsection (2)’.
- 70 Section 572(1), after ‘A holder of’—**
insert—
‘a’.
- 71 Section 663, ‘stating the following’—**
omit, insert—
‘stating each of the following’.
- 72 Section 681(4), after ‘Maximum penalty’—**
insert—
‘for subsection (4)’.
- 73 Section 707(2), ‘relevant plant operator or site safety manager’—**
omit, insert—
‘operator of, or site safety manager for, any relevant operating plant’.

Schedule (continued)

- 74 Section 746, ‘land the subject’—**
omit, insert—
‘the area’.
- 75 Section 746, ‘land’, second mention—**
omit, insert—
‘area’.
- 76 Section 766, heading, ‘direction’—**
omit, insert—
‘requirement’.
- 77 Section 792(2), ‘subdivision 3 or 4’—**
omit, insert—
‘subdivision 4’.
- 78 Section 793, ‘gas work licence or gas work authorisation’—**
omit, insert—
‘gas work licence or authorisation’.
- 79 Section 800(2)(b), ‘coal seam gas mining;’—**
omit, insert—
‘coal seam gas mining;³²³’.

323 See the Mineral Resources Act, section 318CN (Use that may be made under mining lease of incidental coal seam gas).

Schedule (continued)

- 80 Section 801(2), after ‘products are’—**
insert—
‘each of’.
- 81 Section 801(2)(f)—**
omit, insert—
‘(f) for a petroleum tenure holder—associated water for the tenure;’.
- 82 Section 801(2)(g), ‘is to’—**
omit, insert—
‘must’.
- 83 Section 805(1)(a), after ‘part 2 or 3’—**
insert—
‘, to the extent the part is relevant,’.
- 84 Section 808, after ‘pipeline land’—**
insert—
‘for a pipeline licence’.
- 85 Section 823(1)(b)—**
omit.
- 86 Section 834(a)(iii)—**
omit, insert—
‘(iii) an authority under this Act;³²⁴’.

324 For the authorities under this Act, see section 18 (Types of authority under Act).

Schedule (continued)

- 87 Section 834(e), ‘a petroleum authority or a gas work licence or authorisation’—**
omit, insert—
‘an authority under this Act’.
- 88 Section 834(g), ‘a petroleum authority or gas work licence or authorisation’—**
omit, insert—
‘an authority under this Act’.
- 89 Section 843(2), ‘, or land to be subject to,’—**
omit.
- 90 Section 845(3)—**
omit, insert—
‘(3) The withdrawal takes effect when the notice is lodged.’.
- 91 Section 849, heading, ‘authority’—**
omit, insert—
‘instrument for authority’.
- 92 Section 849(1), ‘authority’—**
omit, insert—
‘instrument for the authority’.
- 93 Section 849(2), ‘petroleum’—**
omit.

Schedule (continued)

- 94 Section 849(3)—**
omit, insert—
(3) If the official is reasonably satisfied the instrument has been lost, stolen or destroyed, the official must replace it.’.
- 95 Section 849(4), ‘authority’—**
omit, insert—
‘instrument’.
- 96 Section 864, heading, ‘a gas work licence’—**
omit, insert—
‘gas work licences’.
- 97 Section 864(1)(b), ‘;’—**
omit, insert—
‘.’.
- 98 Section 865, heading, ‘an authorisation’—**
omit, insert—
‘gas work authorisations’.
- 99 Section 868, heading, ‘and other officers’—**
omit.
- 100 Section 869(1), after ‘applies if’—**
insert—
‘, immediately’.

Schedule (continued)

- 101 Section 932(1), as renumbered under this Act, ‘under the Mineral Resources Act’—**
omit.
- 102 Section 932(2), as renumbered under this Act, ‘were’—**
omit, insert—
‘had been’.
- 103 Chapter 15, part 4, as renumbered under this Act, division 2, heading—**
omit.
- 104 Section 933, as renumbered under this Act, ‘at’—**
omit, insert—
‘on’.
- 105 Chapter 15, part 4, as renumbered under this Act, before section 934—**
insert—
- ‘Division 2 Provision for coal seam gas’.**
- 106 Section 935(2), as renumbered under this Act, ‘payable for the petroleum’—**
omit, insert—
‘payable for the production of the petroleum’.
- 107 Section 936, as renumbered under this Act, heading, ‘Deferred application of’—**
omit, insert—
‘Deferral of’.

Schedule (continued)

- 108 Section 937(1), as renumbered under this Act, from ‘section if’—**
omit, insert—
‘section if, other than for this section, this Act applies to the operation or activity.’.
- 109 Section 937(2)(b), as renumbered under this Act, ‘of this section’—**
omit.
- 110 Section 999(2) and (4), as renumbered under this Act, ‘Subsection (1)’—**
omit, insert—
‘Subsection (3)’.
- 111 Schedule 1, heading, ‘823(2)’—**
omit, insert—
‘823(3)’.
- 112 Schedule 1, table 1, ‘625(1)’—**
omit, insert—
‘625(1) or (6)’.
- 113 Schedule 1, table 1, entry for section 622, under heading ‘description of decision’—**
omit, insert—
‘Refusal to issue gas quality approval’.

Schedule (continued)

- 114 Schedule 1, table 1, entry for section 646(2), under heading ‘description of decision’—**
omit, insert—
‘Decision to give revision notice about measurement scheme’.
- 115 Schedule 1, table 1, entry for section 681(2), under heading ‘description of decision’—**
omit, insert—
‘Decision to give revision notice about safety management plan’.
- 116 Schedule 1, ‘gas work licence or gas work authorisation’—**
omit, insert—
‘gas work licence or authorisation’.
- 117 Schedule 1, table 2, entry for section 84, under heading ‘description of decision’—**
omit, insert—
‘Refusal to renew authority to prospect’.
- 118 Schedule 1, table 2, entry for section 97, under heading ‘description of decision’—**
omit, insert—
‘Decision to take proposed action under section 96 for authority to prospect’.
- 119 Schedule 1, table 2, entry for section 164, under heading ‘description of decision’—**
omit, insert—
‘Refusal to renew petroleum lease’.

Schedule (continued)

- 120** **Schedule 1, table 2, ‘437’—**
omit, insert
‘215’.
- 121** **Schedule 1, table 2, entry for section 482, under heading ‘description of decision’—**
omit, insert—
‘Refusal to renew licence’.
- 122** **Schedule 1, table 2, heading ‘decisions under chapter 4’**
omit, insert—
‘decisions under chapter 5’.
- 123** **Schedule 2, definition *additional relinquishment condition*, ‘section 62(5)’,**
omit, insert—
‘section 62(6)’.
- 124** **Schedule 2, definition *block*, ‘29(2)’—**
omit, insert—
‘29(1)’.
- 125** **Schedule 2, definition *compensation agreement*, paragraph (a), ‘.’—**
omit, insert—
‘; or’.

Schedule (continued)

- 126** Schedule 2, definition *compensation agreement*, paragraph (b), ‘; or’—
omit, insert—
‘.’.
- 127** Schedule 2, definition *compensation liability*, paragraph (b), ‘otherwise’—
omit, insert—
‘for chapter 5, part 5’.
- 128** Schedule 2, definition *holder*, paragraph (d), ‘gas work licence or gas work authorisation’—
omit, insert—
‘gas work licence or authorisation’.
- 129** Schedule 2, definition *inspector*, paragraph (b), after ‘deputy chief inspector’—
insert—
‘, petroleum and gas’.
- 130** Schedule 2, definition *interfere with*, after ‘tamper’—
insert—
‘with’.
- 131** Schedule 2, definition *occupier*, item 1, ‘land’—
omit, insert—
‘place’.

Schedule (continued)

- 132** Schedule 2, definition *operate*, item 2, after ‘petroleum’—
insert—
‘or if, under section 402, the pipeline may be used to transport another substance prescribed under a regulation, the other substance’.
- 133** Schedule 2, definition *public road authority*, ‘*Transport Infrastructure Act 1991*’—
omit, insert—
‘*Transport Infrastructure Act 1994*’.

**Petroleum and Gas (Production and Safety) Act 2004
(amendments of Gas Supply Act 2003)**

- 134** Amendment of s 989(3), as renumbered under this Act, ‘*Petroleum and Gas (Production and Safety) Act 2004*’—
omit, insert—
‘Petroleum and Gas (Production and Safety) Act’.

**Petroleum and Gas (Production and Safety) Act 2004
(amendments of Geothermal Exploration Act 2004)**

- 135** Section 991, as renumbered under this Act, inserted section 7(3)(a), before ‘an’—
insert—
‘for’.

Schedule (continued)

- 136 Section 991, as renumbered under this Act, inserted section 7(3)(b), (c) and (d), before ‘a’—**
insert—
‘for’.
- 137 Section 994(2), as renumbered under this Act, ‘petroleum tenure’—**
omit, insert—
‘1923 Act petroleum tenure’.

Petroleum and Gas (Production and Safety) Act 2004 (amendments of Mineral Resources Act 1989)

- 138 Section 1020, as renumbered under this Act, inserted section 318A, after ‘part are’—**
insert—
‘, in conjunction with the Petroleum and Gas (Production and Safety) Act, chapter 3, and the *Petroleum Act 1923*, part 6F,³²⁵’.
- 139 Section 1020, as renumbered under this Act, inserted section 318AB(2) and (3), ‘met’—**
omit, insert—
‘complied with’.

325 Petroleum and Gas (Production and Safety) Act, chapter 3 and the *Petroleum Act 1923*, part 6F (Provisions for coal seam gas)

Schedule (continued)

- 140 Section 1020, as renumbered under this Act, inserted section 318AT(1)(d)(vi), ‘the the’—**
omit, insert—
‘the’.
- 141 Section 1020, as renumbered under this Act, inserted section 318DA(1), ‘apply to amend’—**
omit, insert—
‘apply for the amendment of’.
- 142 Section 1020, as renumbered under this Act, inserted section 318EA(1), ‘proposed proposed’—**
omit, insert—
‘proposed’.
- 143 Section 1020, as renumbered under this Act, inserted section 318EI(2)(a), ‘schedule 2’—**
omit, insert—
‘schedule 1’.
- 144 Section 1020, as renumbered under this Act, inserted section 318EL, ‘does comply with section 318EL’—**
omit, insert—
‘does not comply with section 318EK’.
- 145 Section 1028, as renumbered under this Act, inserted section 742, ‘part’—**
omit, insert—
‘division’.

Schedule (continued)

- 146 Section 1028, as renumbered under this Act, inserted section 755(4), definition *required notice*, after ‘authorised activity’—**

insert—

‘for the MDL’.

- 147 Section 1028, as renumbered under this Act, inserted section 761(2)(a), ‘notice’—**

omit, insert—

‘report’.

**Petroleum and Gas (Production and Safety) Act 2004
(amendments of Water Act 2000)**

- 148 Section 1050(1), as renumbered under this Act, ‘state rate’—**

omit, insert—

‘stated rate’.