



Queensland

# **Clean Energy Act 2008**

**Act No. 33 of 2008**





Queensland

# Clean Energy Act 2008

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Queensland

## Clean Energy Act 2008

### Act No. 33 of 2008

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**An Act to improve the efficiency and management of energy use, and the conservation of energy, by particular businesses and other activities, and to amend the *Coal Mining Safety and Health Act 1999*, the *Electricity Act 1994*, the *Mineral Resources Act 1989*, the *Mining and Quarrying Safety and Health Act 1999*, the *Petroleum Act 1923* and the *Petroleum and Gas (Production and Safety) Act 2004* for particular purposes**

**[Assented to 21 May 2008]**

## The Parliament of Queensland enacts—

### Part 1 Preliminary

#### 1 Short title

This Act may be cited as the *Clean Energy Act 2008*.

#### 2 Commencement

The provisions of the Act, other than the following provisions, commence on a day to be fixed by proclamation—

- (a) part 11, other than sections 40, 41 and 48;
- (b) part 14, other than sections 108, 109 and 116.

#### 3 Main object

The main object of this Act is to improve the efficiency and management of the use of energy, and the conservation of energy, in relation to particular businesses and other activities.

### Part 2 Interpretation

#### 4 Definitions

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

#### 5 Who is the *regulator*

The *regulator* is the chief executive.

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## 6 Meaning of *participating business*

- (1) A *participating business* is a person—
  - (a) who operates a business or carries out another activity at a site that used 10 terajoules or more of energy, but less than 500 terajoules of energy, in the most recently completed baseline year for the person; and
  - (b) who is not registered, and is not required to be registered, under the *Energy Efficiency Opportunities Act 2006* (Cwlth), part 4.
- (2) If the person is a participating business for 2 or more sites, a provision of this Act that applies to a participating business applies to the person separately in relation to each site for which the person is a participating business.
- (3) A government entity within the meaning of the *Government Owned Corporations Act 1993*, section 5, other than a GOC issued with a generation authority under the *Electricity Act 1994*, is not a *participating business*.

## 7 Meaning of *energy use threshold*

- (1) An *energy use threshold*, for a financial year, is the total amount of energy used by a person's business or other activity at a site in the financial year, if the amount used is 10 terajoules or more, but less than 500 terajoules.
- (2) An energy use threshold for a financial year is a *level 1 threshold* if the total amount of energy used in the financial year is 100 terajoules or more, but less than 500 terajoules.
- (3) An energy use threshold for a financial year is a *level 2 threshold* if the total amount of energy used in the financial year is 30 terajoules or more, but less than 100 terajoules.
- (4) An energy use threshold for a financial year is a *level 3 threshold* if the total amount of energy used in the financial year is 10 terajoules or more, but less than 30 terajoules.

## Part 3 Energy use information

### 8 Energy provider must give regulator information about energy use

- (1) An energy provider must give the regulator, within 2 months after the end of a financial year, the name and address of any customer the energy provider has supplied with 10 terajoules or more of energy, but less than 500 terajoules of energy, at the site of the customer, in the financial year.

Maximum penalty—200 penalty units.

- (2) An energy provider does not commit an offence under subsection (1) if compliance with the provision would be unlawful under another law of the State or a law of the Commonwealth.

- (3) In this section—

*energy provider* means any of the following entities if the regulator has given the entity written notice that this section applies to the entity—

- (a) the holder of a distribution authority, generation authority or retail authority under the *Electricity Act 1994*;
- (b) a special approval holder under the *Electricity Act 1994*;
- (c) the holder of a distribution authority or retail authority under the *Gas Supply Act 2003*;
- (d) the holder of a pipeline licence under the *Petroleum and Gas (Production and Safety) Act 2004*.

### 9 Obligation to record total energy consumption

- (1) If the regulator decides on reasonable grounds that a person is or may be a participating business, the regulator may give the person a written notice requiring the person to give the regulator sufficient information to establish the total amount of energy used by the person in the financial year (the *baseline year*) stated in the notice.

*Note—*

A written notice would be likely to be given under subsection (1) approximately every 5 years to ensure that a participating business has a current energy savings plan under section 16.

- (2) The person must give the regulator the information within 2 months after the end of the baseline year, or 2 months after receiving the notice, whichever is later.

Maximum penalty—200 penalty units.

- (3) The regulator must give the person an information notice for the decision of the regulator that the person is or may be a participating business.

## Part 4 Smart Energy Savings Register

### 10 Smart Energy Savings Register

- (1) The regulator must keep a register (the *Smart Energy Savings Register*) of each participating business that may be registered under subsection (2).
- (2) A participating business may be registered if—
  - (a) the regulator has given the participating business a notice under section 9(1); and
  - (b) the participating business has an energy use threshold that is—
    - (i) for a baseline year ending on or after 30 June 2010—a level 1 threshold; or
    - (ii) for a baseline year ending on or after 30 June 2011—a level 2 threshold; or
    - (iii) for a baseline year ending on or after 30 June 2015—a level 3 threshold.
- (3) The register must include the following information—
  - (a) the name of the participating business;

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- (b) the address of the principal place of business of the participating business;
- (c) if the participating business is a corporation, the address of the corporation's registered office;
- (d) the energy use threshold of the participating business for its most recently completed baseline year.

## **11 Registration of a person as participating business**

- (1) A participating business that may be registered under section 10(2) must apply to the regulator for registration.

Maximum penalty—100 penalty units.

- (2) The application must be made within 3 months after the end of each baseline year for the participating business.
- (3) The application must be in writing and include the information mentioned in section 10(3).

## **12 Exemption from registration**

- (1) A participating business may apply to the regulator for an exemption from registration under section 10 if the participating business does not ordinarily have an energy use threshold in a financial year.
- (2) The application must be in writing and include the following information—
  - (a) the total amount of energy used by the participating business in the most recently completed financial year;
  - (b) the total amount of energy expected to be used by the participating business in the current financial year and each of the following 2 financial years;
  - (c) the reason that the participating business does not ordinarily have an energy use threshold for a financial year.
- (3) The application must be made within 3 months after the end of the baseline year for the participating business.

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- (4) The regulator may exempt the person from registration if the regulator is satisfied the participating business does not ordinarily have an energy use threshold for a financial year.
  - (5) If the regulator decides to refuse the application, the regulator must give the participating business an information notice for the decision.

### **13 Deregistration**

- (1) A participating business may apply to the regulator for deregistration as a participating business.
- (2) The application must be in writing and include the following information—
  - (a) the total amount of energy used by the participating business in the most recently completed financial year;
  - (b) the total amount of energy expected to be used by the participating business in the current financial year and each of the following 2 financial years;
  - (c) the reason that the participating business is seeking to be deregistered.
- (3) The regulator must deregister the participating business if the regulator is satisfied—
  - (a) the participating business will not have an energy use threshold in the current financial year or either of the following 2 financial years; or
  - (b) the participating business is registered, or is required to be registered, under the *Energy Efficiency Opportunities Act 2006* (Cwlth), part 4.
- (4) If the regulator decides to refuse the application, the regulator must give the person an information notice for the decision.

### **14 Change of information in register**

A participating business must, within 14 days of any change to the information contained in the Smart Energy Savings

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Register under section 10(3) about the participating business, give the regulator written notice about the change.

Maximum penalty—20 penalty units.

## Part 5 Energy use audit

### 15 Participating business must carry out energy use audit

- (1) A registered participating business must carry out an energy audit within 12 months after the end of each baseline year for the participating business.

Maximum penalty—100 penalty units.

*Note—*

Given the length of an energy savings plan under section 16, a baseline year could be expected to be established approximately every 5 years under section 9.

- (2) In this section—

*energy audit* means an energy audit prescribed under a regulation, and if no energy audit is prescribed, an energy audit that complies with a level 2 energy audit under AS/NZS 3598:2000 (Energy Audits).

## Part 6 Energy Savings Plan

### 16 Participating business must give regulator energy savings plan

- (1) A registered participating business must give the regulator a plan (an *energy savings plan*) that complies with subsections (2) and (3), within 12 months after the end of each baseline year for the participating business.



Maximum penalty—200 penalty units.

- (2) The plan must be for a period that—
  - (a) starts on the day the plan is given to the regulator; and
  - (b) ends on the day that is 5 years after the end of the baseline year.
- (3) The plan must—
  - (a) be in the approved form; and
  - (b) include a copy of a report about the energy audit carried out by the participating business under section 15(1); and
  - (c) set out the measures the participating business intends to implement from the energy audit that are of the following type—
    - (i) efficiency measures;
    - (ii) conservation measures;
    - (iii) management measures; and
  - (d) state how the participating business intends to implement the measures.

## **17 Participating business may change energy savings plan**

- (1) A participating business may change an energy savings plan of the participating business to the extent that it relates to a matter mentioned in section 16(3)(c) or (d).
- (2) The participating business must, within 14 days of the change, give the regulator written notice setting out the change.

Maximum penalty—20 penalty units.

## **18 Review of energy savings plan**

- (1) This section applies if a participating business gives an energy savings plan to the regulator under section 16.

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- (2) The participating business must give the regulator a report, in the third financial year in the 5 year period of the plan, stating how the plan has been implemented by the participating business and the results of the implementation.

Maximum penalty—100 penalty units.

- (3) In this section—

**5 year period**, of an energy savings plan, means the period of 5 years starting from the end of the most recent baseline year to which the plan relates.

## 19 Publication of energy savings plan implementation

- (1) Within 28 days after a participating business gives the regulator an energy savings plan under section 16, the participating business must publish information, in the way stated in subsection (3), about the measures the participating business intends to implement under the plan that are of the following type—

- (a) efficiency measures;
- (b) conservation measures;
- (c) management measures.

Maximum penalty—20 penalty units.

- (2) Within 28 days of the start of the second and each subsequent financial year in the 5 year period of the plan, the participating business must publish information, in the way stated in subsection (3), about the implementation, and the results of implementation, of the measures mentioned in subsection (1).

Maximum penalty—20 penalty units.

- (3) Information under subsections (1) and (2) must be published in a way that is readily accessible to the public.

*Examples of how information may be published—*

- publishing on a website
- publishing in a local newspaper

- 
- (4) The participating business must, within 28 days after it complies with subsection (1) or (2)—
- (a) advise the regulator by written notice that the participating business has complied with the subsection; and
  - (b) give the regulator proof of compliance.
- Maximum penalty—20 penalty units.
- Example of how a participating business may prove compliance—*  
give the regulator a website address or a newspaper article

- (5) In this section—
- 5 year period**, of an energy savings plan, means the period of 5 years starting from the end of the most recent baseline year to which the plan relates.

## **Part 7                          Offences relating to documents and information**

### **20        False or misleading information**

- (1) A person must not state anything to the regulator that the person knows is false or misleading in a material particular.
- Maximum penalty—100 penalty units.
- (2) It is enough for a complaint for an offence against subsection (1) to state the statement made was ‘false or misleading’ to the person’s knowledge, without specifying which.

### **21        False or misleading document**

- (1) A person must not give to the regulator a document containing information the person knows is false or misleading in a material particular.
- Maximum penalty—100 penalty units.

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- (2) Subsection (1) does not apply to a person who, when giving the document—
  - (a) informs the regulator, to the best of the person’s ability, how it is false or misleading; and
  - (b) gives the correct information to the regulator if the person has, or can reasonably obtain, the correct information.
- (3) It is enough for a complaint for an offence against subsection (1) to state the document made was ‘false or misleading’ to the person’s knowledge, without specifying which.

## **22 Offence of improper disclosure of information**

- (1) A person who, directly or indirectly, discloses information obtained in the administration of this Act commits an offence, unless the disclosure is—
  - (a) made in connection with the administration of this Act; or
  - (b) made with the consent of the person to whom the information relates; or
  - (c) ordered by a court in relation to proceedings before it; or
  - (d) made with other lawful excuse.

Maximum penalty—100 penalty units.

- (2) In this section—

***court*** includes a tribunal, authority or person having power to require the production of documents or the answering of questions.

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## **Part 8                      Evidence and legal proceedings**

### **Division 1                Application**

#### **23        Application of part**

This part applies to a legal proceeding under this Act.

### **Division 2                Evidentiary aids**

#### **24        Appointments and authority**

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

- (a) the regulator's appointment;
- (b) the authority of the Minister or the regulator to do anything under this Act.

#### **25        Signatures**

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

### **Division 3                Offence proceedings**

#### **26        Summary proceedings for offences**

- (1) Proceedings for an offence against this Act are to be taken in a summary way under the *Justices Act 1886*.
- (2) A proceeding for an offence against this Act must start—
  - (a) within 1 year after the commission of the offence; or

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- (b) within 1 year after the offence comes to the complainant's knowledge, but within 2 years after the commission of the offence.

## **27 Executive officers must ensure corporation complies with Act**

- (1) The executive officers of a corporation must ensure the corporation complies with this Act.
- (2) If a corporation commits an offence against a provision of this Act, each of the corporation's executive officers also commits an offence, namely, the offence of failing to ensure the corporation complies with the provision.

Maximum penalty—the penalty for the contravention of the provision by an individual.

- (3) Evidence the corporation has been convicted of an offence against a provision of this Act is evidence that each of the executive officers committed the offence of failing to ensure the corporation complies with the provision.
- (4) However, it is a defence for an executive officer to prove—
  - (a) if the officer was in a position to influence the conduct of the corporation in relation to the offence—the officer exercised reasonable diligence to ensure the corporation complied with the provision; or
  - (b) the officer was not in a position to influence the conduct of the corporation in relation to the offence.
- (5) In this section—

*executive officer*, of a corporation, means any person, by whatever name called and whether or not the person is a director of the corporation, who is concerned, or takes part, in the management of the corporation.

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## Part 9 Appeal and review of decisions

### Division 1 Internal review

#### 28 Application for internal review

A person who is given, or is entitled to be given, an information notice about a decision of the regulator under this Act, may apply for an internal review of the decision.

#### 29 How to apply for internal review

- (1) An application for internal review of a decision must be—
  - (a) made—
    - (i) in the approved form; and
    - (ii) to the Minister; and
  - (b) supported by enough information to enable the Minister to decide the application.
- (2) The application must be made within 20 business days after—
  - (a) the day the person is given the information notice about the decision; or
  - (b) if paragraph (a) does not apply—the day the person otherwise becomes aware of the decision.

#### 30 Review decision

- (1) The Minister must, within 30 business days after receiving the application—
  - (a) review the decision (the *original decision*); and
  - (b) make a decision (the *review decision*) to—
    - (i) confirm the original decision; or
    - (ii) amend the original decision; or

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- (iii) substitute another decision for the original decision; and
  - (c) give the applicant notice (the *review notice*) of the review decision.
- (2) If the review decision is not the decision sought by the applicant, the review notice must also state the reasons for the review decision.
- (3) If the Minister does not comply with subsection (1), the Minister is taken to have made a decision confirming the original decision.

## **Division 2                      Appeals**

### **31            Who may appeal**

A person who has applied for a review of a decision under division 1 and is dissatisfied with the decision (the *dissatisfied person*) may appeal to a Magistrates Court against the decision.

### **32            Starting an appeal**

- (1) An appeal is started by—
  - (a) filing a notice of appeal with the clerk of the Magistrates Court; and
  - (b) giving a copy of the notice to the regulator; and
  - (c) complying with the rules of court applicable to the appeal.
- (2) The notice must be filed within 28 days after—
  - (a) the dissatisfied person receives notice of the decision appealed against; or
  - (b) the day the Minister is taken to have made the decision confirming the decision appealed against under section 30(3).



- (3) However, the court may at any time extend the period for filing the notice of appeal.
- (4) The notice of appeal must state fully the grounds of the appeal and the facts relied on.

### **33 Stay of operation of decisions**

- (1) The Magistrates Court may stay a decision appealed against to secure the effectiveness of the appeal.
- (2) A stay—
  - (a) may be given on conditions the court considers appropriate; and
  - (b) has effect for the period fixed by the court; and
  - (c) may be amended or revoked by the court.
- (3) The period of a stay must not extend past the time when the court decides the appeal.
- (4) The appeal affects the decision, or the carrying out of the decision, only if the decision is stayed.

### **34 Hearing procedures**

- (1) In deciding an appeal, the Magistrates Court—
  - (a) is not bound by the rules of evidence; and
  - (b) must comply with natural justice.
- (2) An appeal is by way of rehearing, unaffected by the decision appealed against.

### **35 Powers of court on appeal**

- (1) In deciding an appeal, the Magistrates Court may—
  - (a) confirm the decision appealed against; or
  - (b) vary the decision; or
  - (c) set aside the decision and substitute another decision; or

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- (d) set aside the decision and return the matter to the regulator with directions the court considers appropriate.
- (2) The decision as varied may be any decision the regulator may make.
- (3) If the court substitutes another decision, the substituted decision is, for the purposes of this Act, other than this part, taken to be the decision of the regulator.
- (4) The court may make an order for costs it considers appropriate.

## Part 10                      Miscellaneous

### 36        Delegations

- (1) The Minister or the regulator may delegate his or her functions under this Act to an appropriately qualified officer or employee of the department.
- (2) In this section—  
*appropriately qualified* includes having the qualifications, experience or standing appropriate to perform the function.

*Example of standing for an employee of the department—*

the employee's classification level in the department

*functions* includes powers.

### 37        Approval of forms

The regulator may approve forms for use under this Act.

### 38        Regulation-making power

- (1) The Governor in Council may make regulations under this Act.

- 
- (2) A regulation may provide for a maximum penalty of 20 penalty units for a contravention of the regulation.

## Part 11 **Amendment of Coal Mining Safety and Health Act 1999**

### **39 Act amended in pt 11**

This part amends the *Coal Mining Safety and Health Act 1999*.

### **40 Amendment of s 10 (Meaning of *on-site activities*)**

- (1) Section 10(2)(f)—  
*renumber* as section 10(2)(g).
- (2) Section 10(2)—  
*insert*—
- ‘(f) underground gasification activities on land the subject of—
- (i) a mineral development licence or a mining lease for activities relating to mineral (f); or
  - (ii) an exploration permit if the chief inspector has made a declaration under section 52A;’.

### **41 Insertion of new s 52A**

Part 4, division 1—  
*insert*—

### **‘52A Notice about underground gasification activities**

- ‘(1) This section applies if the site senior executive for a coal mine gives the chief inspector notice that particular exploration

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activities at the coal mine under an exploration permit are underground gasification activities.

- ‘(2) The chief inspector may by notice declare the activities to be underground gasification activities, with the agreement of the chief inspector, petroleum and gas.
- ‘(3) The chief inspector must give the site senior executive a copy of the notice.
- ‘(4) In this section—

*chief inspector, petroleum and gas* means the chief inspector under the *Petroleum and Gas (Production and Safety) Act 2004*.’.

#### **42 Amendment of s 128 (Functions of inspectors and inspection officers)**

- (1) Section 128(i)—  
*renumber* as section 128(j).
- (2) Section 128(h)—  
*omit, insert—*
  - ‘(h) to investigate serious accidents and high potential incidents at coal mines;
  - (i) to investigate matters at coal mines that affect the successful management of risk to persons;’.

#### **43 Amendment of s 129D (Functions of authorised officers)**

- (1) Section 129D(f)—  
*renumber* as section 129D(g).
- (2) Section 129D(e)—  
*omit, insert—*
  - ‘(e) to investigate serious accidents and high potential incidents at coal mines;

- (f) to investigate matters at coal mines that affect the successful management of risk to persons;’.

**44 Amendment of s 139 (General powers after entering coal mine or other places)**

- (1) Section 139(3), after ‘compliance with this Act,’—

*insert—*

‘or for conducting an investigation under this Act,’.

- (2) Section 139(3)(g), after ‘complied with’—

*insert—*

‘, or for the purpose of conducting an investigation under this Act’.

**45 Amendment of pt 11, div 1, hdg (Notification of accidents, incidents and inspections)**

Part 11, division 1, heading, ‘of accidents, incidents’—

*omit, insert—*

‘, **information**’.

**46 Amendment of s 198 (Notice of accidents, incidents, deaths or diseases)**

Section 198(3)—

*omit, insert—*

- ‘(3) The site senior executive must, as soon as possible after becoming aware of the accident, incident or death, by notice or orally notify an inspector and an industry safety and health representative about the accident, incident or death in terms that include the information (the *primary information*) stated in subsection (3A).

Maximum penalty—40 penalty units.

- ‘(3A) For subsection (3), the primary information is all of the following—

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- (a) the precise location where the accident, incident or death happened;
- (b) when the accident, incident or death happened;
- (c) the number of persons involved in the accident, incident or death;
- (d) if the notification is about a death, whether or not caused by an accident—the name of the person who died;
- (e) if the notification is about a serious accident or high potential incident—
  - (i) the name of any person who saw the accident or incident, or who was present when the accident or incident happened; and
  - (ii) the name of any person who was injured as a result of the accident or incident;
- (f) if no one was present when the person mentioned in paragraph (d) died or the person mentioned in paragraph (e)(ii) was injured—the name of the person who found the deceased or injured person;
- (g) a brief description of how the accident, incident or death happened.

*Examples of types of descriptions that may be given under paragraph (g)—*

- ‘A light vehicle fell into the pit after the light vehicle collided with a truck on a ramp leading into the pit.’
- ‘A worker fell from the top of a storage bin into the wash plant.’

- ‘(3B) If the site senior executive does not know the primary information at the time the notification is made under subsection (3), the site senior executive must—
- (a) take all reasonable steps to find out the primary information as soon as possible; and
  - (b) as soon as possible after the primary information becomes known to the site senior executive, give the primary information to the inspector and representative.

Maximum penalty—40 penalty units.

- ‘(3C) It is not a defence in a proceeding under subsection (3) or (3B) that the giving of the primary information might tend to incriminate the site senior executive.
- ‘(3D) The primary information is not admissible in evidence against the site senior executive in any criminal proceeding.
- ‘(3E) Subsection (3D) does not prevent the primary information being admitted in evidence in criminal proceedings about the falsity or misleading nature of the primary information.’.

#### **47 Insertion of new s 198A**

Part 11, division 1—

*insert—*

#### **‘198A Requirement to give primary information**

- ‘(1) For conducting an investigation into a serious accident, high potential incident or death at a coal mine, an officer may require a person to give the officer any of the following information (*primary information*) about the accident, incident or death—
  - (a) the precise location where the accident, incident or death happened;
  - (b) when the accident, incident or death happened;
  - (c) the number of persons involved in the accident, incident or death;
  - (d) if the notification is about a death, whether or not caused by an accident—the name of the person who died;
  - (e) if the notification is about a serious accident or high potential incident—
    - (i) the name of any person who saw the accident or incident, or who was present when the accident or incident happened; and
    - (ii) the name of any person who was injured as a result of the accident or incident;

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- (f) if no one was present when the person mentioned in paragraph (d) died or the person mentioned in paragraph (e)(ii) was injured—the name of the person who found the deceased or injured person;
- (g) a brief description of how the accident, incident or death happened.

*Examples of types of descriptions that may be given under paragraph (g)—*

- ‘A light vehicle fell into the pit after the light vehicle collided with a truck on a ramp leading into the pit.’
- ‘A worker fell from the top of a storage bin into the wash plant.’

‘(2) When making a requirement mentioned in subsection (1), the officer must warn the person it is an offence to fail to comply with the requirement.

‘(3) A person required to give primary information under subsection (1) must comply with the requirement.

Maximum penalty—40 penalty units.

‘(4) If the officer requires the person to give the officer primary information, it is not a defence in a proceeding under subsection (3) that the giving of the primary information might tend to incriminate the person, unless, in relation to an accident or incident—

- (a) the person is an involved person; and
- (b) the primary information is the information mentioned in subsection (1)(g).

‘(5) Primary information given under subsection (1) is not admissible in evidence against the person in any criminal proceeding.

‘(6) Subsection (5) does not prevent the primary information being admitted in evidence in criminal proceedings about the falsity or misleading nature of the primary information.

‘(7) In this section—

***involved person***, for an accident or incident, means a person who was directly involved in the accident or incident.



---

*Example of a person who is directly involved in an accident or incident—*

- a member of the crew of the deceased or injured person, who was present at the accident or incident
- a person who was operating plant involved in the accident or incident

***officer*** means an inspector, inspection officer or an authorised officer.’.

#### **48 Amendment of sch 3 (Dictionary)**

Schedule 3—

*insert—*

‘***mineral (f)*** see the *Mineral Resources Act 1989*, section 6(2)(f).

***underground gasification activity*** means an activity relating to—

- (a) the exploration for, and testing of, coal to be used for the production of mineral (f); or
- (b) the production, processing, refining, storage or transportation of mineral (f).’.

## **Part 12 Amendment of Electricity Act 1994**

#### **49 Act amended in pt 12**

This part amends the *Electricity Act 1994*.

#### **50 Amendment of s 20Q (Exemptions for Queensland Rail)**

Section 20Q(3), definition *Brisbane Airport Rail Link*, first and second dot points—

*omit, insert—*

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- ‘(a) starting at a point 0.313km from Queensland Rail’s north coast rail line (defined on the drawing as the *ownership transfer point*); and
- (b) finishing at the domestic terminal of Brisbane Airport.’.

## **51 Amendment of s 23 (Customers and their types)**

Section 23(6), after ‘is a’—

*insert—*

‘small’.

## **52 Insertion of new s 44A**

After section 44—

*insert—*

### **‘44A Additional condition to allow credit for electricity produced by photovoltaic generators**

- ‘(1) It is also a condition of a distribution authority that the distribution entity—
- (a) allow, as far as technically and economically practicable, a small customer to connect a qualifying generator to its supply network; and
  - (b) credit against the charges payable by the small customer, for customer connection services provided to the small customer in a relevant supply period, the amount of \$0.44 per kilowatt hour for electricity that is, at any instant in the relevant supply period—
    - (i) being produced by the qualifying generator; and
    - (ii) being supplied to the network; and
    - (iii) in excess of the amount of electricity being used by the small customer, not including electricity supplied through a circuit controlled by the distribution entity; and

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*Example of a circuit controlled by the distribution entity—*

a remotely switched circuit used for off-peak supply of hot water

- (c) give the regulator a report, within 28 days after 30 June and 31 December each year, stating—
  - (i) the number of small customers who have connected a qualifying generator to the network under paragraph (a); and
  - (ii) the amount of electricity supplied to the network in the previous 6 month period for which credit was given under paragraph (b); and
  - (iii) the total generation capacity of all qualifying generators connected to the network.
- ‘(2) The regulator must review this section to decide whether its provisions remain appropriate, after the first of the following to happen—
  - (a) the passing of 10 years after the commencement of this section;
  - (b) qualifying generators with sufficient capacity to produce a total of 8 megawatts or more of solar power are connected to the supply networks of 1 or more distribution entities under subsection (1)(a).
- ‘(3) This section expires on 1 July 2028.’

### **53 Insertion of new s 55DB**

After section 55DA—

*insert—*

#### **‘55DB Additional condition about electricity produced by small photovoltaic generators**

- ‘(1) It is also a condition of a retail authority that the retail entity must—
  - (a) reduce the amount payable by a small customer (the *amount due*), for electricity supplied to the small

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- customer in a relevant supply period, by the amount of any credit (*owed credit*) given by a distribution entity in relation to the small customer for the relevant supply period under section 44A(1)(b); and
- (b) if the owed credit is more than the amount due for the relevant supply period (the *first period*)—
    - (i) reduce the amount due for a subsequent relevant supply period by the unused amount of the owed credit; and
    - (ii) if, after the end of 12 months after the end of the first period, an amount of the owed credit has not been used under subparagraph (i)—pay the small customer an amount representing the amount of owed credit that has not been used; and
  - (c) give the small customer the following information for each relevant supply period—
    - (i) the amount of electricity supplied by the small customer to the distribution entity’s network for which credit was given under section 44A(1)(b);
    - (ii) the amount to be credited to the small customer under section 44A(1)(b); and
  - (d) give the regulator a report, within 28 days after 30 June and 31 December each year, stating—
    - (i) the number of small customers receiving credit under section 44A(1)(b) in the previous 6 month period; and
    - (ii) the amount credited to small customers under section 44A(1)(b) in the previous 6 month period.
- ‘(2) The regulator must review this section to decide whether its provisions remain appropriate, after the first of the following to happen—
- (a) the passing of 10 years after the commencement of this section;

- (b) qualifying generators with sufficient capacity to produce a total of 8 megawatts or more of solar power are connected to the supply networks of 1 or more distribution entities under section 44A(1)(a).

‘(3) This section expires on 1 July 2028.’

**54 Amendment of s 55G (Restriction on Ergon Energy and its subsidiaries)**

- (1) Section 55G(2)—

*insert—*

‘Maximum penalty—500 penalty units.’.

- (2) Section 55G(3), penalty—

*omit.*

**55 Insertion of new s 61B**

Chapter 2, part 7, after section 61A—

*insert—*

**‘61B Additional condition for electricity produced by photovoltaic generators**

‘(1) This section applies to a special approval holder prescribed under a regulation.

‘(2) It is a condition of the special approval that the holder must comply with—

- (a) if the holder is taken to be the holder of a distribution authority under section 59(3)—section 44A; and

- (b) if the holder is taken to be the holder of a retail authority under section 59(3)—section 55DB.’.

**56 Amendment of s 91C (Definitions for div 3)**

Section 91C—

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*insert—*

*'fixed principle* means a principle fixed under section 95(1).’.

**57 Amendment of s 91G (Total benchmark retail cost)**

Section 91G(1), ‘as c/kWh’—

*omit, insert—*

‘in cents per kilowatt hour’.

**58 Amendment of s 92 (Cost of energy)**

Section 92(2)(a), ‘13%’—

*omit, insert—*

‘Queensland’.

**59 Amendment of s 95 (Fixing of future principles for benchmark retail cost element)**

(1) Section 95, heading, ‘for benchmark retail cost element’—

*omit.*

(2) Section 95(1), after ‘element’—

*insert—*

‘and NEM load’.

(3) Section 95(1), note, ‘c/kWh’—

*omit, insert—*

‘cents per kilowatt hour’.

**60 Amendment of s 120ZM (Compliance with particular requirements under Fair Trading Act 1989, s 61 door-to-door contracts)**

Section 120ZM(4), ‘s 61(1)(h)(iii)’—

*omit, insert—*  
'section 61(1)(h)(iii)'.

**61 Amendment of s 132 (Grounds for disciplinary action)**

Section 132(1)—

*insert—*

'(f) for a retail entity—the entity has been suspended from trading under the National Electricity Rules.'

**62 Amendment of ch 5A, hdg (13% gas scheme)**

Chapter 5A, heading, '13%'—

*omit, insert—*

'Queensland'.

**63 Amendment of s 135AK (Other definitions for ch 5A)**

(1) Section 135AK, definition *13% liability*—

*omit.*

(2) Section 135AK—

*insert—*

'*annual GEC liability* see section 135EM(1).'

(3) Section 135AK, definitions *liable year* and *penalty imposition day*, '13%'—

*omit, insert—*

'annual GEC'.

**64 Amendment of s 135CM (Annual QUFs)**

(1) Section 135CM(2)—

*omit, insert—*

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‘(2) An estimated proportion is an *annual QUF* for the power station.’.

(2) Section 135CM(3), ‘The’—

*omit, insert—*

‘An’.

**65 Amendment of s 135CP (Power stations connected to national grid within same transmission zone)**

(1) Section 135CP(1)—

*omit, insert—*

‘(1) This section applies only in relation to the portion of a power station’s supply of electricity sent out directly or indirectly to the national grid.

‘(1A) The same annual QUF must be fixed for each power station that sends out electricity into the same transmission grid or supply network within the same transmission zone.’.

(2) Section 135CP(2)(b), ‘supplies’—

*omit, insert—*

‘sends out’.

(3) Section 135CP(2)(c)—

*omit.*

(4) Section 135CP(1A) to (5), as amended—

*renumber* as 135CP(2) to (6).

**66 Amendment of s 135D (Information notice about decision)**

Section 135D—

*insert—*

‘(2) This section does not apply if the customer is NEMMCO.’.



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**67 Insertion of new s 135ELA**

Chapter 5A, part 5, division 1, before section 135EM—  
*insert—*

**‘135ELA Definition for pt 5**

‘In this part—

the *prescribed percentage* means—

- (a) for 2008 and 2009—13%; or
- (b) for 2010—15%; or
- (c) for any year after 2010—a percentage, not more than 18%, prescribed under a regulation.’.

**68 Amendment of s 135EP (Liability)**

- (1) Section 135EP(1), ‘MWh’—

*omit, insert—*

‘megawatt hours’.

- (2) Section 135EP, ‘13%’—

*omit, insert—*

‘the prescribed percentage’.

- (3) Section 135EP(2), ‘MWhs’—

*omit, insert—*

‘megawatt hours’.

**69 Amendment of s 135EQ (How and when liability must be met)**

- (1) Section 135EQ(1) and (3), ‘13% liability’—

*omit, insert—*

‘annual GEC liability’.

- (2) Section 135EQ(1), ‘13% of’—

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*omit, insert—*  
‘the prescribed percentage of’.

**70 Amendment of s 135ET (How and when liability must be met)**

(1) Section 135ET(1), ‘13%’—

*omit, insert—*  
‘the prescribed percentage’.

(2) Section 135ET(3), ‘13%’—

*omit, insert—*  
‘annual GEC’.

**71 Amendment of s 135F (Amount of civil penalty)**

(1) Section 135F, formula, ‘(13% LL’—

*omit, insert—*  
‘(GEC LL’.

(2) Section 135F, definition *13%LL*—

*omit, insert—*  
‘**GEC LL** is the prescribed percentage of the liable load, in megawatt hours, for which the annual GEC liability was imposed.’.

(3) Section 135F, definition *GECs surrendered*, ‘13% liability’—

*omit, insert—*  
‘annual GEC liability’.

**72 Amendment of s 135FO (Credit to future 13% liability for over surrender)**

(1) Section 135FO, ‘13%’—

*omit, insert—*

‘annual GEC’.

- (2) Section 135FO(3)—  
*omit.*

**73 Amendment of sch 1 (Appeals against administrative decisions)**

- (1) Schedule 1, part 3, entry for sections 40A to 40D, note, ‘sections 17 and 18’—

*omit, insert—*

‘sections 18 and 19’.

- (2) Schedule 1, part 3, entry for sections 48E to 48I, note, ‘sections 17 and 18’—

*omit, insert—*

‘sections 18 and 19’.

**74 Amendment of sch 5 (Dictionary)**

- (1) Schedule 5, definitions *13% liability* and *approved industry code*—

*omit.*

- (2) Schedule 5—

*insert—*

**‘annual GEC liability** see section 135EM(1).

***prescribed percentage***, for chapter 5A, part 5, see section 135ELA.

***qualifying generator*** means a small photovoltaic generator that—

- (a) is installed at the premises of a small customer in a way that allows electricity generated by the generator to be first used by the small customer and, if not used by the small customer, supplied to a supply network; and



---

*insert—*

‘(c) mineral (f) is only a mineral if—

- (i) the coal or oil shale, from which it is extracted or produced, is held under a mineral development licence and it has been added to the licence under section 208; or
- (ii) the coal or oil shale, from which it is extracted or produced, is held under a mining lease and it is specified in the lease.’.

## **77 Replacement of ss 11 and 12**

Sections 11 and 12—

*omit, insert—*

## **‘11 Mining districts**

- ‘(1) The chief executive may by gazette notice declare an area of land to be a mining district.
- ‘(2) The notice must—
  - (a) state the name of the mining district; and
  - (b) give a description, by map or otherwise, of the location and boundaries of the mining district.’.

## **78 Amendment of s 13 (Definitions)**

Section 13, heading ‘Definitions’—

*omit, insert—*

‘**Definition for div 1**’.

## **79 Amendment of s 24 (Grant of prospecting permit)**

- (1) Section 24(2) and (5)—

*omit.*

- (2) Section 24(3) and (4)—

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*renumber* as section 24(2) and (3).

- (3) Section 24(3), as renumbered, ‘subsection (3)’—  
*omit, insert*—  
‘subsection (2)’.

## **80 Insertion of new s 24A**

After section 24—

*insert*—

### **‘24A Content of prospecting permit**

‘A prospecting permit granted by the mining registrar must—

- (a) be in the approved form for the type of permit granted;  
and
- (b) state the following information—
  - (i) the identification number of the permit;
  - (ii) the name of the holder;
  - (iii) the address for service of notices on the holder;
  - (iv) the description of land for which the permit is granted;
  - (v) the term and date of commencement of the permit;
  - (vi) the conditions, other than conditions prescribed by this Act, to which the permit is subject.’.

## **81 Amendment of s 93D (Renewal of claim must be in name of last recorded assignee)**

Section 93D(1)(b), ‘Minister’—

*omit, insert*—

‘mining registrar’.

---

**82 Amendment of s 127 (Land subject to exploration permit)**

Section 127(3)—

*omit, insert—*

- ‘(3) If the Minister, on the information contained in the application for an exploration permit, is satisfied that the program of work proposed in the application can be carried out using competent and efficient mineral exploration practices, an exploration permit may be granted for sub-blocks of land that do not have a common boundary.’

**83 Amendment of s 133 (Application for exploration permit)**

- (1) Section 133(1)(g), ‘acceptable to the Minister’—

*omit.*

- (2) Section 133(1)(h)(i), ‘acceptable to the Minister, but’—

*omit.*

- (3) Section 133(1)(h)(ii) and (iii)—

*renumber* as section 133(1)(h)(iv) and (v).

- (4) Section 133(1)(h)—

*insert—*

- (ii) if the application relates to land that includes sub-blocks of land that do not have a common boundary—a statement detailing how the work proposed can be carried out using competent and efficient mineral exploration practices; and
- (iii) if the application relates to an area of land that exceeds the area prescribed for the mineral or minerals—a statement about why the applicant requires more than the prescribed area of land; and’.

**84 Insertion of new s 133A**

After section 133—

*insert—*

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**‘133A Minister may request other information**

- ‘(1) The Minister may give an applicant for an exploration permit a notice requiring the applicant to give the Minister other information the Minister reasonably requires to assess the application.
- ‘(2) If the information is not given to the Minister within the reasonable period stated in the notice, the Minister may refuse the application.’.

**85 Omission of s 136 (Upon rejection of application, application fee or part may be retained)**

Section 136—

*omit.*

**86 Amendment of s 137 (Grant of exploration permit)**

- (1) Section 137(1) to (3)—

*omit, insert—*

- ‘(1) The Minister may—
  - (a) grant an exploration permit, with or without conditions;  
or
  - (b) refuse the application.
- ‘(2) In deciding whether to grant the exploration permit, the Minister must be satisfied that—
  - (a) the requirements of this Act have been complied with;  
and
  - (b) the applicant is an eligible person.
- ‘(3) The Minister must not grant an exploration permit unless the Minister also approves a program of work submitted with the application.



*Note—*

Under section 144(1), the Minister is also required to determine the amount of security to be deposited by the holder before granting an exploration permit.

- ‘(3A) In deciding whether to approve the program of work, the Minister must have regard to the following—
- (a) the extent of the proposed activities in the proposed area of the exploration permit;
  - (b) when and where the applicant proposes to carry out exploration activities in the proposed area of the exploration permit;
  - (c) whether the applicant has the financial and technical capability for carrying out the work.’.
- (2) Section 137—  
*insert—*
- ‘(5A) The Minister must not grant an exploration permit for land in a fossicking area, or for land that includes the whole or part of a fossicking area, unless the application was made, but not decided, before the land became a fossicking area.’.
- (3) Section 137—  
*insert—*
- ‘(7) If the Minister refuses to grant an application for an exploration permit the Minister may decide whether all or part of the application fee that accompanied the application will be retained.’.

## **87 Insertion of new s 137A**

After section 137—

*insert—*

### **‘137A Content of exploration permit**

‘An exploration permit granted by the Minister must be in the approved form and state the following information—

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- (a) the identification number of the permit;
- (b) the name of the holder;
- (c) the address for service of notices on the holder;
- (d) the description of land for which the permit is granted;
- (e) the term and date of commencement of the permit;
- (f) the conditions, other than conditions prescribed by this Act, to which the permit is subject;
- (g) the minerals the subject of the permit;
- (h) the programs of works and studies to be carried out under the permit.’.

## **88 Amendment of s 141 (Conditions of exploration permit)**

Section 141(1)(f)—

*omit, insert—*

- ‘(f) a condition that the holder must give the following reports to the Minister, in the way and containing the information prescribed under a regulation—
  - (i) an annual report, given each year during the term of the exploration permit, within 1 month after each anniversary of the day the exploration permit takes effect;
  - (ii) a report about a reduction in the area of the exploration permit, given within 2 months after the reduction takes effect;
  - (iii) a report summarising the results of exploration for the whole of the term of the exploration permit, given within 2 months after the exploration permit ends; and
- ‘(fa) a condition that the holder must, when and in the way the Minister directs, give to the Minister a report—
  - (i) about the exploration permit, that is in addition to any report mentioned in paragraph (f); and

- (ii) about materials obtained because of the holder's activities under the exploration permit; and'. .

**89 Amendment of s 147 (Application for renewal of exploration permit)**

Section 147(2)—

*omit, insert—*

- '(2) The application must be—
  - (a) made in the approved form; and
  - (b) accompanied by the fee prescribed under a regulation; and
  - (c) accompanied by a statement—
    - (i) describing the program of work proposed to be carried out under the authority of the exploration permit, if renewed; and
    - (ii) detailing the estimated human, technical and financial resources to be used to carry out the exploration work during each year of the term of the exploration permit, if renewed; and
    - (iii) detailing the applicant's financial and technical resources for carrying out the exploration work.'

**90 Insertion of new s 147AA**

After section 147—

*insert—*

**'147AA Minister may request other information**

- '(1) The Minister may give an applicant for renewal of an exploration permit a notice requiring the applicant to give the Minister other information the Minister reasonably requires to assess the application.

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‘(2) If the information is not given to the Minister within the reasonable period stated in the notice, the Minister may refuse the application.’.

**91 Amendment of s 181 (Obligations and entitlement under mineral development licence)**

Section 181(10)—

*omit.*

**92 Amendment of s 186 (Minister may grant or reject application for mineral development licence)**

(1) Section 186(6)—

*omit.*

(2) Section 186(7)—

*renumber* as section 186(6).

**93 Insertion of new s 186A**

After section 186—

*insert—*

**‘186A Content of mineral development licence**

‘A mineral development licence granted by the Minister must be in the approved form and state the following information—

- (a) the identification number of the licence;
- (b) the name of the holder;
- (c) the address for service of notices on the holder;
- (d) the description of land for which the licence is granted;
- (e) the term and date of commencement of the licence;
- (f) the conditions, other than conditions prescribed by this Act, to which the licence is subject;
- (g) the minerals the subject of the licence.’.

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**94 Amendment of s 208 (Adding other minerals to licence)**

Section 208—

*insert—*

- ‘(3A) If the mineral to be added to the licence is mineral (f), the Minister may only approve the application if the Minister is satisfied the public interest will not be adversely affected by the addition.’.

**95 Amendment of s 232 (Land subject to mining lease)**

Section 232—

*insert—*

- ‘(3) Despite subsection (1), a mining lease for a mineral or minerals that include mineral (f) may only be granted to an eligible person in respect of contiguous land that is comprised in a mineral development licence or mineral development licences.’.

**96 Amendment of s 286 (Application for renewal of mining lease)**

- (1) Section 286(2)—

*omit, insert—*

- ‘(2) The application must be—
- (a) made in the approved form; and
  - (b) accompanied by the fee prescribed under a regulation; and
  - (c) accompanied by a statement about the following matters—
    - (i) the term for which the mining lease is to be renewed;
    - (ii) the reason for seeking the renewal;
    - (iii) if the lease was granted for a purpose mentioned in section 234(1)(a)—whether the area the subject of

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- the application contains workable quantities of mineral or mineral bearing ore;
- (iv) if the lease was granted for a purpose mentioned in section 234(1)(b)—the particular purpose for which the renewal is sought;
  - (v) if a mining program is proposed to be carried out under the renewed lease—the proposed mining program and its method of operation;
  - (vi) whether the operations to be carried on during the term of the renewed lease are an appropriate land use and will conform with sound land use management;
  - (vii) whether the land and surface area in relation to which the renewal is sought is of an appropriate size and shape for the activities proposed to be carried out under the renewed lease;
  - (viii) the financial and technical resources available to the applicant to carry on mining operations under the renewed lease;
  - (ix) in relation to the parcels of land the whole or part of which are the subject of the application—
    - (A) a description of the parcels of land; and
    - (B) the current use of the land; and
    - (C) the name and address of the owner of the land (the *primary land*) and the name and address of any other land which may be used to access the primary land.’.

## 97 Insertion of new s 286AA

After section 286—

*insert—*

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**‘286AA Mining registrar may request other information**

- ‘(1) The mining registrar may give an applicant for renewal of a mining lease a notice requiring the applicant to give the mining registrar other information the mining registrar reasonably requires to assess the application.
- ‘(2) If the information is not given to the mining registrar within the reasonable period stated in the notice, the Minister may refuse the application.’.

**98 Amendment of s 318BK (Application of sdiv 8)**

Section 318BK(b), ‘section 318AT’ and footnote—  
*omit, insert—*  
‘section 318AX’.

**99 Amendment of s 342 (Powers of mining registrars and others)**

Section 342(1)(d), from ‘who’ to ‘Minister’—  
*omit, insert—*  
‘who is authorised in that behalf by the chief executive’.

**100 Insertion of new s 344**

Part 10, division 1—  
*insert—*

**‘344 Access to abandoned mine**

- ‘(1) A prescribed person may, within 5 business days after giving notice to the owner of land on which an abandoned mine exists, enter the land to carry out any of the following activities (*rehabilitation activities*)—
- (a) investigate the condition of the land;
  - (b) cap a mine shaft;

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- (c) remove, or make safe, structures or equipment at or near the abandoned mine;
  - (d) clean up pollution remaining at or near the abandoned mine;
  - (e) repair erosion, or preventing further erosion, of land or vegetation at or near the abandoned mine;
  - (f) another activity at or near the abandoned mine to make it safe.
- ‘(2) Despite subsection (1), the prescribed person may enter the land to carry out rehabilitation activities without giving notice to the owner of the land if the activities are necessary to preserve life or property.
- ‘(3) If entry is made by a prescribed person under subsection (2), the prescribed person must give the land owner a notice, within 10 business days after the entry, about the entry and any rehabilitation activities carried out on the land.
- ‘(4) In this section—
- abandoned mine*** means a site—
- (a) where mining or mining exploration activities have been carried out; and
  - (b) for which no current mining lease or mining claim is granted.
- prescribed person*** means a person who is authorised by the chief executive to carry out rehabilitation activities.’.

## **101 Amendment of s 391 (Restriction on grants etc.)**

- (1) Section 391, ‘The Governor in Council may, by regulation’—  
*omit, insert—*
- ‘(1) The Minister may by gazette notice’.
- (2) Section 391(e)—  
*omit, insert—*



‘(e) require that an application for the grant of a prospecting permit, mining claim, exploration permit, mineral development licence or mining lease be referred to any of the following bodies seeking its views on the application—

- (i) a stated department;
- (ii) a Commonwealth Government department;
- (iii) a local government;
- (iv) a statutory body under the *Statutory Bodies Financial Arrangements Act 1982*;
- (v) a GOC.’.

(3) Section 391—

*insert—*

‘(2) The Minister must consider the public interest before acting under subsection (1).’.

## **102 Replacement of s 398 (Delegation by Minister)**

Section 398—

*omit, insert—*

### **‘398 Delegation**

‘(1) The Minister or the chief executive may delegate his or her functions under this Act to an appropriately qualified officer or employee of the department.

‘(2) In this section—

***appropriately qualified*** includes having the qualifications, experience or standing appropriate to perform the function.

*Example of standing for an employee of the department—*

the employee’s classification level in the department

***functions*** includes powers.’.

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**103 Amendment of s 411 (Indemnity against liability)**

Section 411(1), ‘section 342(10) or 343’—

*omit, insert—*

‘section 342(10), 343 or 344’.

**104 Amendment of s 420 (Exclusion of certain agreed acts from pts 13 to 17)**

Section 420, heading ‘13 to 17’—

*omit, insert—*

‘13–17’.

**105 Insertion of new pt 19, div 10**

Part 19—

*insert—*

**‘Division 10 Transitional provision for Clean Energy Act 2008**

**‘767 Continuation of regulation under s 391**

- ‘(1) This section applies to the *Mineral Resources Regulation 2003*, part 8 and schedule 3 (the ***restricted area arrangements***), as in force immediately before the commencement of this section.
- ‘(2) The restricted area arrangements continue to have effect as if the amendment of section 391 under the *Clean Energy Act 2008* had not commenced.
- ‘(3) Any provision included in the restricted area arrangements may be repealed by a regulation under this Act but a provision may not be amended.’.

**106 Amendment of schedule (Dictionary)**

Schedule—

*insert—*

‘*mineral (f)* see section 6.’

## **Part 14**                      **Amendment of Mining and Quarrying Safety and Health Act 1999**

### **107 Act amended in pt 14**

This part amends the *Mining and Quarrying Safety and Health Act 1999*.

### **108 Amendment of s 10 (Meaning of *operations*)**

(1) Section 10(2)(h)—

*renumber* as section 10(2)(i).

(2) Section 10(2)—

*insert—*

‘(h) underground gasification activities on land the subject of—

- (i) a mineral development licence or mining lease for activities relating to mineral (f); or
- (ii) an exploration permit if the chief inspector has made a declaration under section 47A;’.

### **109 Insertion of new s 47A**

Part 4, division 1—

*insert—*

[s 110]

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**‘47A Notice about underground gasification activities**

- ‘(1) This section applies if the site senior executive for a mine gives the chief inspector notice that particular exploration activities at the mine are underground gasification activities.
- ‘(2) The chief inspector may by notice declare the activities to be underground gasification activities, with the agreement of the chief inspector, petroleum and gas.
- ‘(3) The chief inspector must give the site senior executive a copy of the notice.
- ‘(4) In this section—

*chief inspector, petroleum and gas* means the chief inspector under the *Petroleum and Gas (Production and Safety) Act 2004*.’.

**110 Amendment of s 125 (Functions of inspectors and inspection officers)**

- (1) Section 125(i)—  
*renumber* as section 125(j).
- (2) Section 125(h)—  
*omit, insert—*
  - ‘(h) to investigate serious accidents and high potential incidents at mines;
  - (i) to investigate matters at mines that affect the successful management of risk to persons;’.

**111 Amendment of s 126D (Functions of authorised officers)**

- (1) Section 126D(f)—  
*renumber* as section 126D(g).
- (2) Section 126D(e)—  
*omit, insert—*

- 
- ‘(e) to investigate serious accidents and high potential incidents at mines;
  - (f) to investigate matters at mines that affect the successful management of risk to persons;’.

**112 Amendment of s 136 (General powers after entering mine or other places)**

- (1) Section 136(3), after ‘compliance with this Act,’—  
*insert—*  
‘or for conducting an investigation under this Act,’.
- (2) Section 136(3)(g), after ‘complied with’—  
*insert—*  
‘, or for the purpose of conducting an investigation under this Act’.

**113 Amendment of pt 11, div 1, hdg (Notification of accidents, incidents and inspections)**

- Part 11, division 1, heading, ‘of accidents, incidents—  
*omit, insert—*  
‘, information’.

**114 Amendment of s 195 (Notice of accidents, incidents, deaths and diseases)**

- (1) Section 195(3)—  
*omit, insert—*
  - ‘(3) The site senior executive must, as soon as possible after becoming aware of the accident, incident or death, by notice or orally notify an inspector and a district workers’ representative about the accident, incident or death in terms that include the information (the *primary information*) stated in subsection (3A).
- Maximum penalty—40 penalty units.

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‘(3A) For subsection (3), the primary information is all of the following—

- (a) the precise location where the accident, incident or death happened;
- (b) when the accident, incident or death happened;
- (c) the number of persons involved in the accident, incident or death;
- (d) if the notification is about a death, whether or not caused by an accident—the name of the person who died;
- (e) if the notification is about a serious accident or high potential incident—
  - (i) the name of any person who saw the accident or incident, or who was present when the accident or incident happened; and
  - (ii) the name of any person who was injured as a result of the accident or incident;
- (f) if no one was present when the person mentioned in paragraph (d) died or the person mentioned in paragraph (e)(ii) was injured—the name of the person who found the deceased or injured person;
- (g) a brief description of how the accident, incident or death happened.

*Examples of types of descriptions that may be given under paragraph (g)—*

- ‘A light vehicle fell into the pit after the light vehicle collided with a truck on a ramp leading into the pit.’
- ‘A worker fell from the top of a storage bin into the wash plant.’

‘(3B) If the site senior executive does not know the primary information at the time the notification is made under subsection (3), the site senior executive must—

- (a) take all reasonable steps to find out the primary information as soon as possible; and

- (b) as soon as possible after the primary information becomes known to the site senior executive, give the primary information to the inspector and representative.

Maximum penalty—40 penalty units.

‘(3C) It is not a defence in a proceeding under subsection (3) or (3B) that the giving of the primary information might tend to incriminate the site senior executive.

‘(3D) The primary information is not admissible in evidence against the site senior executive in any criminal proceeding.

‘(3E) Subsection (3D) does not prevent the primary information being admitted in evidence in criminal proceedings about the falsity or misleading nature of the primary information.’.

(2) Section 195(4), ‘or (2)’—

*omit, insert—*

‘or (3)’.

## 115 Insertion of new s 195A

Part 11, division 1—

*insert—*

### ‘195A Requirement to give primary information

- ‘(1) For conducting an investigation into a serious accident, high potential incident or death at a mine, an officer may require a person to give the officer any of the following information (***primary information***) about the accident, incident or death—
- (a) the precise location where the accident, incident or death happened;
  - (b) when the accident, incident or death happened;
  - (c) the number of persons involved in the accident, incident or death;
  - (d) if the notification is about a death, whether or not caused by an accident—the name of the person who died;

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- (e) if the notification is about a serious accident or high potential incident—
  - (i) the name of any person who saw the accident or incident, or who was present when the accident or incident happened; and
  - (ii) the name of any person who was injured as a result of the accident or incident;
- (f) if no one was present when the person mentioned in paragraph (d) died or the person mentioned in paragraph (e)(ii) was injured—the name of the person who found the deceased or injured person;
- (g) a brief description of how the accident, incident or death happened.

*Examples of types of descriptions that may be given under paragraph (g)—*

- ‘A light vehicle fell into the pit after the light vehicle collided with a truck on a ramp leading into the pit.’
- ‘A worker fell from the top of a storage bin into the wash plant.’

‘(2) When making a requirement mentioned in subsection (1), the officer must warn the person it is an offence to fail to comply with the requirement.

‘(3) A person required to give primary information under subsection (1) must comply with the requirement.

Maximum penalty—40 penalty units.

‘(4) If the officer requires the person to give the officer primary information, it is not a defence in a proceeding under subsection (3) that the giving of the primary information might tend to incriminate the person, unless, in relation to an accident or incident—

- (a) the person is an involved person; and
- (b) the primary information is the information mentioned in subsection (1)(g).



‘(5) Primary information given under subsection (1) is not admissible in evidence against the person in any criminal proceeding.

‘(6) Subsection (5) does not prevent the primary information being admitted in evidence in criminal proceedings about the falsity or misleading nature of the primary information.

‘(7) In this section—

***involved person***, for an accident or incident, means a person who was directly involved in the accident or incident.

*Example of a person who is directly involved in an accident or incident—*

- a member of the crew of the deceased or injured person, who was present at the accident or incident
- a person who was operating plant involved in the accident or incident

***officer*** means an inspector, inspection officer or an authorised officer.’.

## 116 Amendment of sch 2 (Dictionary)

Schedule 2—

*insert—*

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

***mineral (f)*** see the *Mineral Resources Act 1989*, section 6(2)(f).

***underground gasification activity*** means an activity relating to—

- (a) the exploration for, and testing of, oil shale to be used for the production of mineral (f); or
- (b) the production, processing, refining, storage or transportation of mineral (f).’.

## **Part 15**                      **Amendment of Petroleum and Gas (Production and Safety) Act 2004**

### **117 Act amended in pt 15**

This part amends the *Petroleum and Gas (Production and Safety) Act 2004*.

### **118 Amendment of s 10 (Meaning of *petroleum*)**

Section 10(1)(c)—

*insert—*

*‘Example of a fluid that is petroleum under paragraph (c)—  
mineral (f)’.*

### **119 Amendment of s 12 (What is a *prescribed storage gas*)**

(1) Section 12(a)—

*omit.*

(2) Section 12(b) and (c)—

*renumber* as section 12(a) and (b).

### **120 Amendment of s 256 (Lodging report)**

Section 256(1), ‘the following office (the *relevant office*)’—  
*omit.*

### **121 Amendment of s 331 (Application of div 2)**

Section 331(1)—

*omit, insert—*

‘(1) This division applies if—

- 
- (a) land is in the area of a coal or oil shale exploration tenement; and
  - (b) a person who, under section 117, may make an ATP-related application for all or part of the land wishes to make that application; and
  - (c) the tenement holder has consented to the making of the application.’.

**122 Amendment of s 670 (What is an *operating plant*)**

- (1) Section 670(2)(c), ‘, or proposed to be authorised under,’—  
*omit.*
- (2) Section 670(5)—  
*insert—*  
‘(da) an underground gasification activity;’.

**123 Insertion of new s 815**

After section 814—  
*insert—*

**‘815 Fuel gas suppliers must not use other supplier’s containers**

- ‘(1) This section applies to a container with a water capacity of more than 25kg that is the property of a fuel gas supplier (the *owner*).
- ‘(2) Another fuel gas supplier must not supply LPG in the container without the owner’s permission.  
Maximum penalty—100 penalty units.’.

**124 Amendment of sch 2 (Dictionary)**

- (1) Schedule 2, definition *distribution system*—  
*omit.*

[s 124]

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(2) Schedule 2—

*insert—*

**‘distribution system** means a system (a **relevant system**) of distribution pipelines and meters and other equipment used for, or in connection with, the supply of fuel gas to more than 1 consumer within a fuel gas market, but does not include—

- (a) a relevant system at a multi-tenanted premises; or
- (b) pipelines connected from the exit point of a meter installed for a consumer’s premises; or
- (c) appliances or equipment connected to—
  - (i) a relevant system mentioned in paragraph (a); or
  - (ii) pipelines mentioned in paragraph (b).’.

**mineral (f)** see the *Mineral Resources Act 1989*, section 6(2)(f).

**multi-tenanted premises** means a premises, or part of a premises, prescribed under a regulation, where fuel gas is supplied to a number of persons at separate locations within the premises under a contract or other arrangement.

*Example of multi-tenanted premises—*

a shopping centre containing a number of individual shops

**underground gasification activity** means an activity on a coal or oil shale mining tenement or a petroleum authority relating to—

- (a) the exploration for, and testing of, coal or oil shale to be used for the production of mineral (f); or
- (b) the production, processing, refining, storage or transportation of mineral (f).’.

## **Part 16                      Amendment of other Acts**

### **125      Acts amended in sch 1**

Schedule 1 amends the Acts mentioned in it.

## Schedule 1      Minor amendments

section 125

### Amendment of Electricity Act 1994

- 1      **Section 91F(3), ‘kWh’—**  
*omit, insert—*  
‘kilowatt hours’.
  
- 2      **Section 133(3), ‘a a civil’—**  
*omit, insert—*  
‘a civil’.
  
- 3      **Section 135AA(3)(a), ‘MWh’—**  
*omit, insert—*  
‘megawatt hour’.
  
- 4      **Section 135BA(2)(b), ‘MWh’—**  
*omit, insert—*  
‘megawatt hour’.
  
- 5      **Section 135CC, definitions *EE* and *SO Gen*, ‘MWh’—**  
*omit, insert—*  
‘megawatt hours’.
  
- 6      **Section 135CD(6), definition *ED*, ‘MWh’—**  
*omit, insert—*  
‘megawatt hours’.

- 7 Section 135CV(2), ‘MWh’—**  
*omit, insert—*  
‘megawatt hours’.
- 8 Section 135CY(4), definition *SO Gen*, ‘MWh’—**  
*omit, insert—*  
‘megawatt hours’.
- 9 Section 135CZ(5), definition *ED*, ‘MWh’—**  
*omit, insert—*  
‘megawatt hours’.
- 10 Section 135DE, ‘MWh’—**  
*omit, insert—*  
‘megawatt hour’.
- 11 Section 135EC(2), example, ‘13%’—**  
*omit, insert—*  
‘annual GEC’.
- 12 Chapter 5A, part 5, heading, ‘13%’—**  
*omit, insert—*  
‘Annual GEC’.
- 13 Section 135EM(1), ‘13%’—**  
*omit, insert—*  
‘*annual GEC*’.

- 14 Section 135EM(6), ‘13%’—**  
*omit, insert—*  
‘annual GEC’.
- 15 Chapter 5A, part 5, division 2, heading, ‘13%’—**  
*omit, insert—*  
‘annual GEC’.
- 16 Chapter 5A, part 5, division 2, subdivision 1, heading, ‘13%’—**  
*omit, insert—*  
‘annual GEC’.
- 17 Chapter 5A, part 5, division 2, subdivision 2, heading, ‘13%’—**  
*omit, insert—*  
‘annual GEC’.
- 18 Chapter 5A, part 5, division 2, subdivision 3, heading, ‘13%’—**  
*omit, insert—*  
‘annual GEC’.
- 19 Section 135EU, ‘13%’—**  
*omit, insert—*  
‘annual GEC’.
- 20 Section 135EV, ‘13%’—**  
*omit, insert—*  
‘annual GEC’.



- 
- 21 Section 135EW, ‘13%’—**  
*omit, insert—*  
‘annual GEC’.
- 22 Chapter 5A, part 5, division 3, heading, ‘13%’—**  
*omit, insert—*  
‘annual GEC’.
- 23 Section 135EX, ‘13%’—**  
*omit, insert—*  
‘annual GEC’.
- 24 Section 135EY, ‘13%’—**  
*omit, insert—*  
‘annual GEC’.
- 25 Section 135EZ, ‘13%’—**  
*omit, insert—*  
‘annual GEC’.
- 26 Section 135FC(2), ‘13%’—**  
*omit, insert—*  
‘annual GEC’.
- 27 Section 135FD, ‘13%’—**  
*omit, insert—*  
‘annual GEC’.

- 28 Section 135FG(1), ‘13%’—**  
*omit, insert—*  
‘annual GEC’.
- 29 Section 135FH, ‘13%’—**  
*omit, insert—*  
‘annual GEC’.
- 30 Section 135FI, ‘13%’—**  
*omit, insert—*  
‘annual GEC’.
- 31 Section 135FJ, ‘13%’—**  
*omit, insert—*  
‘annual GEC’.
- 32 Section 135FK(1) and (3), ‘13%’—**  
*omit, insert—*  
‘annual GEC’.
- 33 Section 135FN, ‘13%’—**  
*omit, insert—*  
‘annual GEC’.
- 34 Section 135FQ(2)(c)(i), ‘13%’—**  
*omit, insert—*  
‘annual GEC’.

- 
- 35 Section 135FR(3), ‘13%’—**  
*omit, insert—*  
‘annual GEC’.
- 36 Section 135GC(c), ‘13%’—**  
*omit, insert—*  
‘annual GEC’.
- 37 Chapter 14, part 3, heading, ‘provisions’—**  
*omit, insert—*  
‘provision’.
- 38 Chapter 14, part 7, heading, ‘provisions’—**  
*omit, insert—*  
‘provision’.
- 39 Schedule 2, section 3B(a)(i) and (ii), ‘;’—**  
*omit, insert—*  
‘; or’.
- 40 Schedule 2, section 3B(h)(i), (ii) and (iii), ‘;’—**  
*omit, insert—*  
‘; or’.
- 41 Schedule 2, section 3B(i)(i), (ii) and (iii), ‘;’—**  
*omit, insert—*  
‘; or’.

## **Amendment of Petroleum Act 1923**

- 1 Section 2, definition *excluded land*, ‘40C’—**  
*omit, insert—*  
‘40B’.
  
- 2 Section 3(6), definition *transportation mining lease*, ‘Act’—**  
*omit, insert—*  
‘Act,’.

## **Amendment of Petroleum and Gas (Production and Safety) Act 2004**

- 1 Section 412(1)(b), after ‘constructed;’—**  
*insert—*  
‘and’.
  
- 2 Section 503(3), definition *permanent impact*, second example, ‘that unlikely’—**  
*omit, insert—*  
‘that is unlikely’.
  
- 3 Section 580(2)(a), ‘with; and’—**  
*omit, insert—*  
‘with;’.

**4 Section 637(1)(i), after ‘;’—**

*insert—*

‘and’.

**5 Section 637(1)(j), ‘regulation.’—**

*omit, insert—*

‘regulation; and’.

**6 Section 705B(b)(ii), ‘response.’—**

*omit, insert—*

‘response; and’.

## Schedule 2 Dictionary

### section 4

**baseline year**, for a participating business, see section 9(1).

**conservation measures** mean measures that will result in a reduction of energy used.

*Example of a conservation measure—*

turning off stand-by power on electronic equipment

**dissatisfied person** see section 31.

**efficiency measures** mean measures that will result in a reduction of energy used for the same or a higher output.

*Example of an efficiency measure—*

installing new technology to make a process more efficient

**energy** means electricity or processed natural gas, or electricity and processed natural gas.

**energy savings plan** see section 16(1).

**energy use threshold** see section 7(1).

**information notice**, about a decision of the regulator, means a written notice stating each of the following—

- (a) the decision;
- (b) the reasons for the decision;
- (c) that the person to whom the notice is given may, within 20 business days after the day the notice is given, ask the Minister to review the decision;
- (d) how the person may have the decision reviewed.

**level 1 threshold** see section 7(2).

**level 2 threshold** see section 7(3).

**level 3 threshold** see section 7(4).

***management measures*** mean measures that will result in an improvement in a participating business' ability to implement conservation measures and efficiency measures.

*Example of a management measure—*

making it the responsibility of each person in a senior management position in a participating business to ensure that conservation measures and efficiency measures are implemented by the participating business

***participating business*** see section 6.

***processed natural gas*** see the *Gas Supply Act 2003*.

***registered participating business*** means a participating business that is registered under section 10.

***regulator*** see section 5.

***Smart Energy Savings Register*** see section 10(1).