



Queensland

# **Mines and Energy Legislation Amendment Act 2008**

**Act No. 56 of 2008**





## Queensland

# Mines and Energy Legislation Amendment Act 2008

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Queensland

## **Mines and Energy Legislation Amendment Act 2008**

**Act No. 56 of 2008**

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**An Act to amend the Coal Mining Safety and Health Act 1999, Electricity Act 1994, Energy Ombudsman Act 2006, Mineral Resources Act 1989, Mining and Quarrying Safety and Health Act 1999, Petroleum Act 1923 and the Petroleum and Gas (Production and Safety) Act 2004 for particular purposes**

**[Assented to 5 November 2008]**

[s 1]

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**The Parliament of Queensland enacts—**

## **Part 1 Preliminary**

### **1 Short title**

This Act may be cited as the *Mines and Energy Legislation Amendment Act 2008*.

### **2 Commencement**

Sections 108 and 109 commence on a day to be fixed by proclamation.

## **Part 2 Amendment of Coal Mining Safety and Health Act 1999**

### **3 Act amended in pt 2 and schedule**

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

### **4 Amendment of s 279 (Notices about coal industry statistics or information)**

(1) Section 279(3), penalty, ‘for subsection (3)’—

*omit.*

(2) Section 279—

*insert—*

‘(4) The chief executive may—

- (a) use the information to produce statistics and other data; and
- (b) publish the statistics and other data produced under paragraph (a).’.

## **Part 3    Amendment of Electricity Act 1994**

### **5            Act amended in pt 3**

This part amends the *Electricity Act 1994*.

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

Section 23—

*insert—*

‘(11) A ***street lighting customer***, for premises, is a customer for the premises in the following circumstances—

- (a) the premises are street lighting;
- (b) the customer is the State or a local government.

‘(12) In this section—

***street lighting*** includes a system of street lighting.’.

### **7            Amendment of s 40DF (Provisions for large customers)**

(1) Section 40DF, heading, after ‘large customers’—

*insert—*

**‘and street lighting customers’**.

(2) Section 40DF(1), ‘a large customer’s premises’—

*omit, insert—*

[s 8]

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‘the premises of a large customer or a street lighting customer’.

**8 Amendment of s 48D (When area retail entity must provide the services to an applicant)**

(1) Section 48D(1)(c), after ‘large market customer’—

*insert—*

‘or street lighting market customer’.

(2) Section 48D(2)(b), after ‘large customer’—

*insert—*

‘or street lighting customer’.

(3) Section 48D(4)—

*insert—*

‘*street lighting market customer*, for premises, means a street lighting customer for the premises who is also a market customer for the premises.’.

**9 Amendment of s 49 (Retail contract types)**

Section 49(4), after ‘a large customer’—

*insert—*

‘or street lighting customer’.

**10 Amendment of s 51 (Retail contract with financially responsible retail entity)**

Section 51(3), after ‘a large customer’—

*insert—*

‘or street lighting customer’.

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**11 Amendment of s 53 (Making or amending terms of standard large customer retail contract)**

- (1) Section 53, heading, after ‘large customer’—  
*insert—*  
‘**or street lighting customer**’.
- (2) Section 53(2)(c), after ‘large customers’—  
*insert—*  
‘and street lighting customers’.
- (3) Section 53(4), ‘large customer of the’—  
*omit, insert—*  
‘large customer or street lighting customer of the’.

**12 Amendment of s 54 (Required and permitted terms of standard large customer retail contract)**

- (1) Section 53, heading, after ‘large customer’—  
*insert—*  
‘**or street lighting customer**’.
- (2) Section 54(2)(a), note—  
*omit.*
- (3) Section 54(2)(a), (4) and (6), ‘large’—  
*omit.*

**13 Amendment of s 135AA (How main purposes are achieved)**

Section 135AA(3)(c)—  
*omit, insert—*

- ‘(c) liable persons must surrender to the regulator a particular percentage of the electricity sold or used by them for each year from 2008 to 2019; and

[s 14]

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*Note—*

For the percentage, see section 135ELA.’.

**14 Amendment of s 214 (Who may apply for review etc.)**

Section 214(1)(a), after ‘customer’—

*insert—*

‘or street lighting customer’.

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

Schedule 1, part 3, entry for sections 40A to 40D and entry for sections 48E to 48I, after ‘large customer’—

*insert—*

‘or a street lighting customer’.

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

Schedule 5—

*insert—*

‘*street lighting customer* see section 23(11)’.

## **Part 4 Amendment of Energy Ombudsman Act 2006**

**17 Act amended in pt 4**

This part amends the *Energy Ombudsman Act 2006*.

**18 Amendment of s 6 (Who is a *small customer*)**

(1) Section 6(2), after ‘the term’—

*insert—*

‘small customer’.

- (2) Section 6(2)—

*renumber* as section 6(3).

- (3) Section 6—

*insert—*

- ‘(2) However, a street lighting customer for premises, as defined under the *Electricity Act 1994*, section 23(11), is not a small customer for the premises.’.

## **Part 5**                      **Amendment of Mineral Resources Act 1989**

### **19      Act amended in pt 5 and schedule**

This part and the schedule amend the *Mineral Resources Act 1989*.

### **20      Insertion of new s 10AA**

After section 10—

*insert—*

#### **‘10AA Joint holders of mining tenement**

- ‘(1) A mining tenement may be held by 2 or more persons as joint tenants or as tenants in common.
- ‘(2) If, under this Act—
- (a) an application is made for, or for approval to assign, a mining tenement for more than 1 proposed holder or assignee; and

[s 24]

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

(c) the application is granted;

the chief executive or a mining registrar must record in the appropriate register that the holders or assignees hold the mining tenement as tenants in common.

‘(3) In this section—

*mining tenement* includes an interest in a mining tenement.’

**24 Amendment of s 74 (Grant of mining claim to which no objection is lodged)**

(1) Section 74(3) to (5)—

*renumber* as section 74(4) to (6).

(2) Section 74—

*insert*—

‘(3) Without limiting subsection (2), the mining registrar may refuse to grant the mining claim if the mining registrar considers the grant is not in the public interest.’

**25 Amendment of s 78 (Land Court’s determination on hearing)**

Section 78(2)(d), ‘public right and interest’—

*omit, insert*—

‘public interest’.

**26 Amendment of s 81 (Conditions of mining claim)**

(1) Section 81, after subsection (1)—

*insert*—



---

‘(1AA) Without limiting subsection (1), a mining registrar may impose a condition on a mining claim if the mining registrar considers the condition is in the public interest.’

(2) Section 81(3), ‘subsections (1), (1A) and (2)’—

*omit, insert—*

‘subsections (1) to (2)’.

**27 Amendment of s 82 (Variation of conditions of mining claim)**

(1) Section 82(3) to (5)—

*renumber* as section 83(4) to (6).

(2) Section 82—

*insert—*

‘(3) Without limiting subsection (1), a mining registrar may refuse to vary a condition of a mining claim if the mining registrar considers the variation is not in the public interest.’

**28 Amendment of s 93 (Renewal of mining claim)**

(1) Section 93(4) to (9)—

*renumber* as section 93(6) to (9).

(2) Section 93—

*insert—*

‘(4) Despite subsection (3), the mining registrar may refuse the renewal if the mining registrar considers the renewal is not in the public interest.

‘(5) Without limiting subsection (3), the mining registrar may determine a condition of the renewed licence if the mining registrar considers the condition is in the public interest.’

**29 Amendment of s 95 (Rental payable on mining claim)**

(1) Section 95(1), ‘31 December’—

[s 29]

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- omit, insert—*  
'31 August'.
- (2) Section 95(2), 'yearly rental'—  
*omit, insert—*  
'rental payable for a rental year'.
- (3) Section 95(2), 'for the year'—  
*omit, insert—*  
'for the rental year'.
- (4) Section 95(3), 'each year'—  
*omit, insert—*  
'each rental year'.
- (5) Section 95(3), 'year's'—  
*omit, insert—*  
'rental year's'.
- (6) Section 95(3), '31 December of the previous year'—  
*omit, insert—*  
'31 August of the previous rental year'.
- (7) Section 95(4), 'year's rental'—  
*omit, insert—*  
'rental payable for a rental year'.
- (8) Section 95(4), from 'amount prescribed'—  
*omit, insert—*  
'amount prescribed under a regulation for that rental year'.
- (9) Section 95(5), after 'If'—  
*insert—*  
' , for a particular rental year,'.
- (10) Section 95(5)(a), '31 January of that year'—

*omit, insert—*

‘30 September of that rental year’.

- (11) Section 95(5)(b), ‘year’s rental’—

*omit, insert—*

‘rental payable for the rental year’.

- (12) Section 95(5)(b), ‘1 April of that year’—

*omit, insert—*

‘1 December of that rental year’.

- (13) Section 95(5)(b), from ‘prescribed in respect of’ to ‘falls’—

*omit, insert—*

‘prescribed under a regulation for that rental year’.

- (14) Section 95(6), ‘1 January’—

*omit, insert—*

‘1 September’.

- (15) Section 95(7), ‘year’—

*omit, insert—*

‘rental year’.

- (16) Section 95(7), ‘31 December’—

*omit, insert—*

‘31 August’.

**30 Amendment of s 106 (Contravention by holder of mining claim)**

- (1) Section 106(2)(a), ‘year’—

*omit, insert—*

‘rental year’.

- (2) Section 106(2)(a), ‘1 April’—

[s 31]

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*omit, insert—*

‘1 December’.

**31 Amendment of s 133A (Minister may request other information)**

Section 133A, ‘other’—

*omit.*

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

(2) Section 137(3)—

*omit, insert—*

‘(3) The Minister must not grant an exploration permit unless—

(a) the applicant has paid rental for the first year of the term of the permit under section 138; and

(b) the Minister has approved the program of work that, under section 133(1)(g)(i), accompanied the application.

*Note—*

Under section 144, an exploration permit can not be granted until the applicant has deposited security decided under that section.’.

(4) Section 137(5A)—

*omit, insert—*

‘(5A) The Minister must refuse an exploration permit for land if all or any part of the land is—

(a) in a fossicking area; or

(b) subject to an exploration permit for the same mineral.

‘(5B) However subsection (5A)(a) does not apply if the application was made but not decided before the land became a fossicking area.’.

**33 Amendment of s 138 (Rental payable on exploration permit)**

Section 138(1)—

*omit, insert—*

- ‘(1) Rental for the first year of the term of an exploration permit (its *first rental period*) is payable before the granting of the permit under section 137 (the *original permit*).’.

**34 Amendment of s 141 (Conditions of exploration permit)**

- (1) Section 141(2) and (3)—

*omit.*

- (2) Section 141(6), ‘, (2)’—

*omit.*

**35 Amendment of s 141C (Application to vary conditions of existing permit)**

Section 141C—

*insert—*

- ‘(5) The chief executive must, within 5 business days after making a variation under subsection (3), give the EPA administering authority written notice of the variation.’.

**36 Amendment of s 147AA (Minister may request other information)**

Section 147AA, ‘other’—

*omit.*

**38 Replacement of s 147C (Continuation of permit while application being dealt with)**

Section 147C—

*omit, insert—*

[s 38]

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**‘147C Continuation of permit while application being dealt with**

- ‘(1) This section applies to an application for renewal of an exploration permit if—
- (a) the application is not withdrawn, refused or granted before the permit’s expiry day ends; and
  - (b) after the expiry day, the holder—
    - (i) continues to pay rental on the permit and other amounts required to be paid under this Act; and
    - (ii) otherwise complies with this Act and the permit conditions.
- ‘(2) If the application is a properly made application, the permit continues in force subject to the rights, entitlements and obligations in effect immediately before the end of the expiry day until the application is withdrawn, refused or granted.
- ‘(3) If the application is an outstanding request application, the permit continues in force subject to the rights, entitlements and obligations in effect immediately before the end of the expiry day until either of the following days, whichever happens first—
- (a) the application is withdrawn;
  - (b) the period in which the information that must be given under section 147AA(2) ends.
- ‘(4) In this section—
- outstanding request application*, for renewal of an exploration permit, means an application—
- (a) that complies with section 147(2)(a) and (b), but does not comply with all or part of section 147(2)(c); and
  - (b) for which—
    - (i) the Minister has requested information, under section 147AA; and

- (ii) the period to give the information to the Minister under section 147AA(2) ends after the permit's expiry day; and
- (iii) the information has not been given to the Minister.

*properly made application*, for renewal of an exploration permit, means an application that complies with all of section 147(2).'

### **39 Amendment of s 151 (Assignment of exploration permit)**

- (1) Section 151—

*insert—*

'(4A) The Minister must not approve the assignment unless the Minister is satisfied the assignee has the human, technical and financial resources to comply with the conditions of the exploration permit under section 141.'

- (2) Section 151(6), from 'complied with'—

*omit, insert—*

'complied with if—

- (a) the holder has made an application for approval of the assignment in the approved form; and
- (b) the application is accompanied by—
  - (i) a signed statement by the proposed assignee agreeing to the conditions of the exploration permit; and
  - (ii) the fee prescribed under a regulation; and
- (c) the Minister is satisfied the Minister would have approved the exercise of the power if the subsections had been complied with.'

### **40 Amendment of s 183 (Application for mineral development licence)**

- (1) Section 183(1)(m)—

[s 40]

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*omit, insert—*

‘(m) be accompanied by a statement—

- (i) giving a detailed description and technical particulars of the mineral occurrence for which the mineral development licence is sought together with any necessary supporting documents; and
- (ii) stating any activities proposed to be carried out under the mineral development licence, including, for example, work programs, amounts to be spent and studies to be performed; and
- (iii) stating the estimated human, technical and financial resources proposed to be committed to authorised activities for the mineral development licence during each year of the licence, if granted; and

(n) be accompanied by—

- (i) a statement, separate from the statement mentioned in paragraph (m), detailing the applicant’s financial and technical resources; and
- (ii) proof of the applicant’s identity; and
- (iii) the application fee prescribed under a regulation.’.

(2) Section 183(2) and (3)—

*renumber* as section 183(3) and (4).

(3) Section 183—

*insert—*

‘(2) Only an eligible person may apply for a mineral development licence.’.

(4) Section 183(4), as renumbered, ‘Subsection (2)’—

*omit, insert—*

‘Subsection (3)’.



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**41 Insertion of new s 183A**

After section 183—

*insert—*

**‘183A Minister may request information**

- ‘(1) The Minister may give an applicant for a mineral development licence a notice requiring the applicant to give the Minister 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.’.

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

Section 186—

*omit, insert—*

**‘186 Minister may grant or refuse application**

- ‘(1) The Minister may—
  - (a) grant a mineral development licence, with or without conditions, for all or part of the land the subject of an application (the *relevant land*) for the licence; or
  - (b) refuse the application.
- ‘(2) Without limiting subsection (1), the Minister may refuse to grant a mineral development licence if the Minister considers the grant is not in the public interest.
- ‘(3) The Minister may grant the mineral development licence only if—
  - (a) the Minister is satisfied—
    - (i) the requirements of this Act have been complied with; and
    - (ii) the applicant is an eligible person; and

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- (iii) the applicant has paid rental for the first year of the term of the licence under section 193(1); and
- (b) the Minister has approved the statements that, under section 183(1), accompanied the application.

*Note—*

Under section 190, a mineral development licence can not be granted until the applicant has deposited security decided under that section.

- ‘(4) The Minister must refuse to grant a mineral development licence for land if any part of the land is—
  - (a) in a fossicking area; or
  - (b) subject to a mineral development licence for the same mineral.
- ‘(5) However, subsection (4)(a) does not apply if the application was made but not decided before the land became a fossicking area.
- ‘(6) In deciding whether to approve the statements mentioned in subsection (3)(b), the Minister must have regard to—
  - (a) whether there exists to a high degree of definition on or in the land a significant mineral occurrence of possible economic potential; and
  - (b) whether the area of land applied for is appropriate to further investigation of that occurrence; and
  - (c) whether the applicant has the financial and technical capability to comply with the conditions of the mineral development licence under section 194.
- ‘(7) If a mineral development licence is only granted for part of the relevant land—
  - (a) the application is taken to be refused for the rest of the relevant land; and
  - (b) the Minister must give the applicant written notice of the reasons for the refusal.
- ‘(8) The chief executive must, within 5 business days after granting a mineral development licence or refusing an

application under this section, give the EPA administering authority written notice of the grant or refusal.

- ‘(9) If the Minister refuses the mineral development licence the Minister may decide whether all or part of the application fee that accompanied the application will be retained.’.

**43 Amendment of s 193 (Rental payable on mineral development licence)**

- (1) Section 193(1)—

*omit, insert—*

- ‘(1) Rental for the first year of the term of a mineral development licence (its *first rental period*) is payable before the granting of the licence under section 186.’.

- (2) Section 193(2), ‘yearly rental’—

*omit, insert—*

‘rental payable for a rental year’.

- (3) Section 193(2), ‘for the year’—

*omit, insert—*

‘for the rental year’.

- (4) Section 193(3), ‘each year’—

*omit, insert—*

‘each rental year’.

- (5) Section 193(3), ‘year’s’—

*omit, insert—*

‘rental year’s’.

- (6) Section 193(3), ‘31 December of the previous year’—

*omit, insert—*

‘31 August of the previous rental year’.

- (7) Section 193(4), ‘year’s rental’—

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*omit, insert—*

‘rental payable for a rental year’.

- (8) Section 193(4), from ‘amount prescribed’—

*omit, insert—*

‘amount prescribed under a regulation for that rental year’.

- (9) Section 193(5), after ‘If’—

*insert—*

‘, for a particular rental year,’.

- (10) Section 193(5)(a), ‘31 January of that year’—

*omit, insert—*

‘30 September of that rental year’.

- (11) Section 193(5)(b), ‘year’s rental’—

*omit, insert—*

‘rental payable for the rental year’.

- (12) Section 193(5)(b), ‘1 April of that year’—

*omit, insert—*

‘1 December of that rental year’.

- (13) Section 193(5)(b), from ‘prescribed in respect of’ to ‘falls’—

*omit, insert—*

‘prescribed under a regulation for that rental year’.

- (14) Section 193(6), ‘1 January’—

*omit, insert—*

‘1 September’.

- (15) Section 193(7), ‘year’—

*omit, insert—*

‘rental year’.

- (16) Section 193(7), ‘31 December’—

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*omit, insert—*

‘31 August’.

**44 Amendment of s 194 (Conditions of mineral development licence)**

(1) Section 194(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) a report for each year of the term of the mineral development licence, given within 1 month after each day that is an anniversary of the day the mineral development licence takes effect;

(ii) a report about a reduction in the area of the mineral development licence, given within 2 months after the reduction takes effect;

(iii) a report summarising the results of activities carried out under the mineral development licence during all of its term, given within 2 months after the mineral development licence ends; and

‘(fa) a condition that the holder must, when and in the way the Minister requires, give to the Minister—

(i) a report about the mineral development licence, that is in addition to any report mentioned in paragraph (f); and

(ii) materials obtained because of the holder’s activities under the mineral development licence; and’.

(2) Section 194(2) and (3)—

*omit.*

(3) Section 194(1A)—

*renumber* as section 194(3).

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(4) Section 194—

*insert—*

‘(2) Without limiting subsection (1), the Minister may determine a condition of a mineral development licence if the Minister considers the condition is in the public interest.’

(5) Section 194(6), ‘subsections (1), (1A), (2) and (5)’—

*omit, insert—*

‘subsections (1), (2), (3) and (5)’.

**45 Amendment of s 194AC (Application to vary conditions of existing licence)**

(1) Section 194AC(4)—

*renumber* as section 194AC(5).

(2) Section 194AC—

*insert—*

‘(4) Without limiting subsection (3), the Minister may refuse to make a variation mentioned in subsection (3)(a) if the Minister considers the variation is not in the public interest.

‘(6) The chief executive must, within 5 business days after making a variation under subsection (3), give the EPA administering authority written notice of the variation.’

**46 Amendment of s 197 (Application for renewal of mineral development licence)**

Section 197(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 mineral development licence, if renewed; and
  - (ii) detailing the estimated human, technical and financial resources to be used to carry out activities under the mineral development licence during each year of the term of the mineral development licence, if renewed; and
  - (iii) detailing the applicant's financial and technical resources for carrying out the activities under the mineral development licence, if renewed.'

#### **47 Insertion of new s 197AA**

After section 197—

*insert—*

#### **'197AA Minister may request information**

- '(1) The Minister may give an applicant for renewal of a mineral development licence a notice requiring the applicant to give the Minister 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.'

#### **48 Amendment of s 197A (Decision on application)**

- (1) Section 197A(1)(e)—

*omit.*

- (2) Section 197A(4) and (5)—

*renumber* as section 197A(5) and (7) respectively.

- (3) Section 197A—

*insert—*

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- ‘(4) Without limiting subsection (3), the Minister may decide a condition of the renewed licence if the Minister considers the condition is in the public interest.
- ‘(6) Without limiting subsection (5)(b), the Minister may refuse the renewal if the Minister considers the renewal is not in the public interest.’

**49 Replacement of s 197C (Continuation of licence while application being dealt with)**

Section 197C—

*omit, insert—*

**‘197C Continuation of licence while application being dealt with**

- ‘(1) This section applies to an application for renewal of a mineral development licence if—
  - (a) the application is not withdrawn, refused or granted before the licence’s expiry day ends; and
  - (b) after the expiry day, the holder—
    - (i) continues to pay rental on the licence and other amounts required to be paid under this Act; and
    - (ii) otherwise complies with this Act and the licence conditions.
- ‘(2) If the application is a properly made application, the licence continues in force subject to the rights, entitlements and obligations in effect immediately before the end of the expiry day until the application is withdrawn, refused or granted.
- ‘(3) If the application is an outstanding request application, the licence continues in force subject to the rights, entitlements and obligations in effect immediately before the end of the expiry day until either of the following days, whichever happens first—
  - (a) the application is withdrawn;



(b) the period in which the information that must be given under section 197AA(2) ends.

‘(4) In this section—

***outstanding request application***, for renewal of a mineral development licence, means an application—

(a) that complies with section 197(2)(a) and (b), but does not comply with all or part of section 197(2)(c); and

(b) for which—

(i) the Minister has requested information under section 197AA; and

(ii) the period to give the information to the Minister under section 197AA(2) ends after the licence expiry day; and

(iii) the information has not been given to the Minister.

***properly made application***, for renewal of a licence, means an application that complies with all of section 197(2).’

## 50 **Amendment of s 198 (Assignment or mortgage of mineral development licence)**

(1) Section 198—

*insert—*

‘(5A) If the application is for an assignment, the Minister must not approve the assignment unless the Minister is satisfied the assignee has the human, technical and financial resources to comply with the conditions of the mineral development licence under section 194.’

(2) Section 198(7), from ‘complied with’—

*omit, insert—*

‘complied with if—

(a) the holder has made an application for approval of the assignment or mortgage in the approved form; and

(b) the application is accompanied by—

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- (i) for an assignment, a signed statement by the proposed assignee agreeing to the conditions of the mineral development licence; and
- (ii) the fee prescribed under a regulation; and
- (c) the Minister is satisfied the Minister would have approved the exercise of the power if the subsections had been complied with.’.

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

Section 208—

*insert—*

- ‘(3B) Without limiting the grounds on which the Minister may reject the application, the Minister may reject it if the Minister considers that approving it is not in the public interest.
- ‘(4A) Without limiting subsection (4), the Minister may decide a condition for the giving of the approval if the Minister considers the condition is in the public interest.’.

**52 Amendment of s 209 (Contravention by holder of mineral development licence)**

- (1) Section 209(2)(a), ‘year’—

*omit, insert—*

‘rental year’.

- (2) Section 209(2)(a), ‘1 April’—

*omit, insert—*

‘1 December’.

**53 Amendment of s 231 (Variation of access to mineral development licence land)**

- (1) Section 231(4) to (6)—

*renumber* as section 231(7) to (9).

(2) Section 231—

*insert—*

- ‘(4) Without limiting subsection (3), the Minister may reject the application if the Minister considers the variation is not in the public interest.
- ‘(5) If the Minister grants the application, the Minister may impose conditions on the variation.
- ‘(6) Without limiting subsection (5), the Minister may impose a condition on the variation if the Minister considers the condition is in the public interest.’.

**54 Amendment of s 231E (Minister may grant or reject application for mineral development licence (186))**

(1) Section 231E(3), (4), (5) and (6)—

*renumber* as section 231(4), (5), (6), and (8) respectively.

(2) Section 231E—

*insert—*

- ‘(3) Without limiting subsection (2), the Minister may reject the application if the Minister considers the mineral development licence is not in the public interest.
- ‘(7) Without limiting subsection (6), the Minister may decide a condition to which the licence is subject if the Minister considers the condition is in the public interest.’.

**55 Amendment of s 231G (Conditions of mineral development licence (194))**

(1) Section 231G(2), (3), (4), (5) and (6)—

*renumber* as section 231G(3), (5), (6), (7) and (8) respectively.

(2) Section 231G—

*insert—*

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- ‘(2) Without limiting subsection (1), the Minister may decide a condition of the licence if the Minister considers the condition is in the public interest.
- ‘(4) Without limiting subsection (3), the Minister may decide not to make a variation of the condition proposed by the holder if the Minister considers the variation is not in the public interest.’.
- (3) Section 231G(5) as renumbered, ‘subsection (2)’—  
*omit, insert—*  
‘subsection (3)’.
- (4) Section 231G(8) as renumbered, ‘subsections (1), (2) and (5)’—  
*omit, insert—*  
‘subsections (1) to (4) and (7)’.

## **56 Amendment of s 231H (Renewal of licence (197A))**

- (1) Section 231H(1)(e)—  
*omit.*
- (2) Section 231H(3), after ‘the licence’—  
*insert—*  
‘and to any other conditions decided by the Minister’.
- (3) Section 231H—  
*insert—*
- ‘(3A) Without limiting subsection (3), the Minister may decide a condition to which the licence is subject if the Minister considers the condition is in the public interest.
- ‘(4A) Without limiting subsection (1) or (5), the Minister may refuse the renewal if the Minister considers the renewal is not in the public interest.’.
- (4) Section 231H(3A) to (6)—  
*renumber* as section 231H(4) to (8).

**57 Amendment of s 234 (Governor in Council may grant mining lease)**

Section 234(1), ‘and cause to be issued’—

*omit.*

**58 Insertion of new s 245A**

After section 245—

*insert—*

**‘245A Mining registrar may request information**

‘(1) The mining registrar may give an applicant for a mining lease a notice requiring the applicant to give the mining registrar 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 mining registrar may refuse the application.’.

**59 Amendment of s 276 (General conditions of mining lease)**

Section 276—

*insert—*

‘(1A) Without limiting subsection (1), the Governor in Council may determine a condition of a mining lease if the Governor in Council considers the condition is in the public interest.’.

**60 Amendment of s 286AA (Mining registrar may request other information)**

Section 286AA, ‘other’—

*omit.*

**61 Amendment of s 286A (Decision on application)**

(1) Section 286A(5) and (6)—

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*renumber* as section 286A(6) and (8) respectively.

(2) Section 286A—

*insert*—

- ‘(5) Without limiting subsection (4), the Governor in Council may decide a condition of the renewed lease if the Governor in Council considers the condition is in the public interest.
- ‘(7) Without limiting subsection (6)(b), the Minister may refuse the renewal if the Minister considers the renewal is not in the public interest.’.

## **62 Amendment of s 290 (Rental payable on mining lease)**

(1) Section 290(1), ‘31 December’—

*omit, insert*—

‘31 August’.

(2) Section 290(2), ‘yearly rental’—

*omit, insert*—

‘rental payable for a rental year’.

(3) Section 290(2), ‘for the year’—

*omit, insert*—

‘for the rental year’.

(4) Section 290(3), ‘each year’—

*omit, insert*—

‘each rental year’.

(5) Section 290(3), ‘year’s’—

*omit, insert*—

‘rental year’s’.

(6) Section 290(3), ‘31 December of the previous year’—

*omit, insert*—

‘31 August of the previous rental year’.

- (7) Section 290(4), ‘year’s rental’—  
*omit, insert*—  
‘rental payable for a rental year’.
- (8) Section 290(4), from ‘amount prescribed’—  
*omit, insert*—  
‘amount prescribed under a regulation for that rental year’.
- (9) Section 290(5), after ‘If’—  
*insert*—  
‘, for a particular rental year,’.
- (10) Section 290(5)(a), ‘31 January of that year’—  
*omit, insert*—  
‘30 September of that rental year’.
- (11) Section 290(5)(b), ‘year’s rental’—  
*omit, insert*—  
‘rental payable for the rental year’.
- (12) Section 290(5)(b), ‘1 April of that year’—  
*omit, insert*—  
‘1 December of that rental year’.
- (13) Section 290(5)(b), from ‘prescribed in respect of’ to ‘falls’—  
*omit, insert*—  
‘prescribed under a regulation for that rental year’.
- (14) Section 290(6), ‘1 January’—  
*omit, insert*—  
‘1 September’.
- (15) Section 290(7), ‘year’—  
*omit, insert*—  
‘rental year’.

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- (16) Section 290(7), ‘31 December’—  
*omit, insert—*  
‘31 August’.

**63 Amendment of s 294 (Variation of conditions of mining lease)**

- (1) Section 294(3) to (5)—  
*renumber* as section 294(4) to (6).
- (2) Section 294—  
*insert—*
- ‘(3) Without limiting subsection (1), the Governor in Council may refuse to vary a condition of a mining lease if the Governor in Council considers the variation is not in the public interest.’.

**64 Amendment of s 298 (Mining other minerals or use for other purposes)**

- (1) Section 298(9), (10), (11) and (12)—  
*renumber* as section 298(10), (12), (13) and (14) respectively.
- (2) Section 298—  
*insert—*
- ‘(9) Without limiting subsection (8), the Minister may reject the application if the Minister considers the addition is not in the public interest.
- ‘(11) Without limiting subsection (12)(a), a condition may be imposed on the approval of the Minister if the Minister considers the condition is in the public interest.’.

**65 Amendment of s 300 (Assignment, mortgage or sublease of mining lease)**

- (1) Section 300—  
*insert—*



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‘(6A) If the application is for an assignment, the Minister must not approve the assignment unless the Minister is satisfied the assignee has the human, technical and financial resources to comply with the conditions of the mining lease under section 276.’.

(2) Section 300(9), from ‘if the Minister is satisfied’—

*omit, insert—*

‘if—

- (a) the holder has made an application for approval of the assignment, mortgage or sublease in the approved form; and
- (b) the application is accompanied by—
  - (i) the fee prescribed under a regulation; and
  - (ii) for an assignment, a signed statement by the proposed assignee agreeing to the conditions of the mining lease; and
- (c) the Minister is satisfied the Minister would have approved the exercise of the power if the subsections had been complied with.’.

**66 Amendment of s 308 (Contravention by holder of mining lease)**

(1) Section 308(2)(a), ‘year’—

*omit, insert—*

‘rental year’.

(2) Section 308(2)(a), ‘1 April’—

*omit, insert—*

‘1 December’.

**67 Amendment of s 317 (Variation of access to mining lease land)**

Section 317—

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*insert—*

- ‘(5A) Without limiting subsection (5), the Land Court may determine that consent to the proposed variation should not be given if the court considers the variation is not in the public interest.
- ‘(9A) Without limiting subsection (9)(a)(ii), the Land Court may impose terms and conditions to be complied with before consent is given if the court considers the condition is in the public interest.’.

**68 Amendment of s 318AAH (General conditions of mining lease (276))**

- (1) Section 318AAH(2) to (4)—

*renumber* as section 231G(3) to (5).

- (2) Section 318AAH—

*insert—*

- ‘(2) Without limiting subsection (1), the Governor in Council may decide a condition of the mining lease if the Governor in Council considers the condition is in the public interest.’.
- (3) Section 318AAH(5), as renumbered, ‘subsections (1) to (3)’—  
*omit, insert—*  
‘subsections (1) to (4)’.

**69 Amendment of s 318CN (Use that may be made under mining lease of incidental coal seam gas)**

- (1) Section 318CN(1)—

*insert—*

- ‘(c) give it to a petroleum lease holder if—
  - (i) the mining lease is over land that is in an area of a petroleum lease (the *overlapping land*); and

- (ii) the incidental coal seam gas has been mined in the overlapping land; and
- (iii) the mining lease holder has given the petroleum lease holder written notice (an *availability notice*) that the gas is available to the petroleum lease holder; and
- (iv) the petroleum lease holder has given the mining lease holder written notice (an *acceptance notice*) accepting the gas within 20 business days after being given the availability notice.’.

(2) Section 318CN—

*insert—*

‘(1A) An availability notice or acceptance notice may be given for incidental coal seam gas proposed to be mined under section 318CM(1).’.

(3) Section 318CN(2), after ‘for mining under the mining lease’—

*insert—*

‘or for giving it to a petroleum lease holder under subsection (1)(c).’.

## 70 **Amendment of section 318CO (Restriction on flaring or venting of incidental coal seam gas)**

(1) Section 318CO(5)—

*renumber* as section 318CO(7).

(2) Section 318CO—

*insert—*

‘(5) Subsection (6) applies, despite subsections (2) to (4), if—

- (a) a mining lease is over land in an area of a petroleum lease (the *overlapping land*); and
- (b) incidental coal seam gas is, under section 318CM(1), mined from the overlapping land.

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- ‘(6) Flaring or venting is authorised only if the mining lease holder has—
- (a) given the petroleum lease holder written notice that the gas is available to the petroleum lease holder; and
  - (b) the petroleum lease holder has either not responded or has refused to accept the gas within 20 business days after receiving the notice.’.

## 71 Insertion of new pt 7AAB

After section 318EL—

*insert—*

# ‘Part 7AAB Provisions for McFarlane oil shale deposit

## ‘Division 1 Preliminary

### ‘318ELAA Application of pt 7AAB

- ‘(1) Subject to subsection (3), this part applies to all of the following land from when this section commences to 17 August 2028 (the *moratorium period*)—
- (a) land in the area of mineral development licence 202;
  - (b) land in the area of exploration permits 3520 and 16668;
  - (c) land the subject of exploration permit application 16748;
  - (d) land prescribed under a regulation (*prescribed land*).
- ‘(2) A regulation may be made under subsection (1)(d) only if the land to which this section applies will, after the making of the regulation, be a contiguous parcel of land.
- ‘(3) This part applies to prescribed land only from the commencement of the regulation prescribing the oil shale mining tenement.

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**‘318ELAB What is an *oil shale mining tenement***

- ‘(1) An *oil shale mining tenement* is a mining tenement granted for oil shale.
- ‘(2) Subsection (1) applies whether or not the mining tenement is also granted for another mineral.

**‘318ELAC Relationship with other provisions of this Act**

- ‘(1) This part applies despite any other provision of this Act and the conditions or other provisions of an oil shale mining tenement.
- ‘(2) If a provision of this part conflicts with another provision of this Act, the provision of this part prevails to the extent of the inconsistency.

**‘Division 2 Moratorium provisions**

**‘318ELAD Prohibition on granting oil shale mining tenements**

- ‘(1) During the moratorium period an oil shale mining tenement can not be granted for the land.
- ‘(2) To remove any doubt, it is declared that subsection (1) does not apply for a renewal that takes place because of section 318ELAK.

**‘318ELAE Suspension of oil shale activities**

- ‘(1) This section applies to an activity relating to oil shale (an *oil shale activity*) that would, other than for this section, have been an authorised activity for an oil shale mining tenement for the land.
- ‘(2) Subject to section 318ELAF—
  - (a) during the moratorium period, any right to carry out the oil shale activity is suspended; and
  - (b) during the suspension—

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- (i) the oil shale activity is not an authorised activity for the mining tenement; and
- (ii) for section 402, the oil shale activity is taken not to be authorised under this Act or any other Act relating to mining.

### **‘318ELAF Access rights for particular activities**

‘(1) During the moratorium period, the holder of an oil shale mining tenement for the land may—

- (a) enter the area of the mining tenement to carry out rehabilitation or environmental management mentioned in section 391B; and
- (b) if the mining tenement is not a prospecting permit or exploration permit—enter the area to carry out low impact environmental monitoring; and

*Examples—*

the monitoring of air, ecology, fauna, hydrology, soil or water

- (c) enter the area to do all or any of the following—
  - (i) move, remove or maintain equipment, machinery or plant;
  - (ii) carry out improvement restoration for the mining tenement;
  - (iii) carry out care and maintenance of disturbed areas;
  - (iv) carry out low impact track construction or maintenance;
  - (v) put in place or maintain low impact infrastructure for a purpose mentioned in subparagraphs (i) to (iv).

‘(2) However, if the mining tenement is a prospecting permit or exploration permit, an activity mentioned in subsection (1)(c)(iv) or (v) may be carried out only if it is reasonably necessary because of rehabilitation or environmental management carried out under subsection (1)(a).

- 
- ‘(3) The holder’s rights and obligations under the rest of this Act continue to apply for an entry and the carrying out of an activity authorised under subsection (1).
- ‘(4) Without limiting subsection (3), a requirement under the rest of this Act that, other than for this part, would apply for an entry of a type authorised under subsection (1) applies for an entry authorised under subsection (1).
- ‘(5) In this section—
- low impact* means of low impact on the environment and of low impact for land disturbance.
- rest of this Act* means the provisions of this Act other than this part.

### **‘318ELAG Ministerial power to suspend rental obligation**

- ‘(1) This section applies if the Minister is satisfied that, because of section 318ELAE, the holder of an oil shale mining tenement for the land is not able to, or will not be able to, carry out any authorised activity for the mining tenement.
- ‘(2) The Minister may decide to suspend the holder’s rental obligation for all or any part of the current term of the mining tenement.
- ‘(3) However, the suspension can not take effect before 1 January 2009.
- ‘(4) During the suspension the holder’s rental obligation does not apply.
- ‘(5) In this section—
- holder’s rental obligation* means the holder’s obligation under this Act or a condition of the mining tenement to pay rent for the mining tenement.

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### **‘318ELAH Suspension or waiver of reporting obligations**

- ‘(1) During the moratorium period a reporting obligation of the holder of an oil shale mining tenement for the land is suspended to the extent it relates to oil shale activities.
- ‘(2) Subsection (3) applies if the Minister is satisfied authorised activities have not been, or will not be, carried out for the mining tenement during all or any part of the current term of the mining tenement.
- ‘(3) The Minister may, by written notice to the holder, waive the reporting obligation of the holder for all or any part of the current term of the mining tenement.
- ‘(4) In this section—

*reporting obligation* means an obligation under this Act or a condition of the mining tenement to submit reports to the Minister about authorised activities for the mining tenement.

### **‘318ELAI Suspension or waiver of performance requirements**

- ‘(1) During the moratorium period a performance requirement of the holder of an oil shale mining tenement for the land is suspended to the extent it relates to oil shale activities.
- ‘(2) The Minister may, by written notice to the holder, waive or reduce a performance requirement of the holder during all or any part of the current term of the mining tenement to take account of the effect of section 318ELAE.
- ‘(3) In this section—

*performance requirement* means a requirement under this Act or a condition of a mining tenement about performance.

### **‘318ELAJ Assignments**

- ‘(1) During the moratorium period the following may be assigned only if the conditions mentioned in subsection (2) have been complied with—
  - (a) an oil shale mining tenement for the land;



- 
- (b) an interest in an oil shale mining tenement for the land;
  - (c) an application for an oil shale mining tenement for the land.
- ‘(2) For subsection (1), the conditions are—
- (a) the Minister has given written consent to the assignment; and
  - (b) the assignment is made in the approved form and lodged with the mining registrar; and
  - (c) the lodgement is accompanied by the fee prescribed under a regulation.
- ‘(3) The Minister may, if asked in writing by the holder of, or the applicant for, the mining tenement and the proposed assignee, give written consent to the assignment.
- ‘(4) However, if there is an approved form for the making of the request, the request may be made only if it is in that form.

### **‘318ELAK Renewals**

- ‘(1) This section applies if, during the moratorium period, an oil shale mining tenement for the land reaches its expiry day.
- ‘(2) The mining tenement is taken to have been renewed.
- ‘(3) The term of the renewed mining tenement starts on the day after the expiry day and has the same duration as the mining tenement’s term that ended on the expiry day.
- ‘(4) The renewed mining tenement has the same conditions that the mining tenement had immediately before the expiry day.

### **‘318ELAL Rights and obligations under other Acts not affected**

‘To remove any doubt, it is declared that this division does not limit or otherwise affect or suspend rights or obligations of the holder of an oil shale mining tenement under—

- (a) the Environmental Protection Act; or

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- (b) a relevant environmental condition for the mining tenement; or
- (c) the Petroleum and Gas (Production and Safety) Act, chapter 3; or

*Editor's note—*

Petroleum and Gas (Production and Safety) Act, chapter 3 (Provisions for coal seam gas)

- (d) another Act relevant to mining tenements.’.

## 72 Insertion of new pt 10AA

After section 381—

*insert—*

### **‘Part 10AA Collingwood Park State guarantee**

#### **‘381A Definitions for pt 10AA**

‘In this part—

*affected land* means land used for any purpose in the suburb designated in the Gazetteer of Place Names under the *Place Names Act 1994* as Collingwood Park.

*Collingwood Park State guarantee* or *guarantee* see section 381B.

*registrar* means the registrar of titles under the *Land Title Act 1994*.

#### **‘381B What is the Collingwood Park State guarantee**

- ‘(1) The *Collingwood Park State guarantee* or *guarantee* is a guarantee given by the State for affected land—
  - (a) to pay for any works necessary to stabilise the affected land if subsidence damage to the land occurs; or

- 
- (b) to repair any subsidence damage to the affected land if, in the chief executive's opinion, it is cost-effective for the State to repair the damage; or
  - (c) to purchase the affected land at market value if—
    - (i) the land is affected by subsidence damage; and
    - (ii) in the chief executive's opinion, it is not cost-effective for the State to repair the damage.
- '(2) In this section—

*mining activity* means an activity for the purpose of extracting coal by underground mining.

*subsidence damage*, for affected land, means damage to the affected land, or any buildings or structures on the land that were in existence at the beginning of 25 April 2008, caused by or related to subsidence resulting from mining activity.

### **'381C Registering guarantee in freehold land register**

- '(1) An owner of affected land may, in writing, ask the chief executive to have a record of the guarantee for the land included on the freehold land register.
- '(2) If a request is made under subsection (1), the chief executive must, as soon as practicable, give the registrar written notice asking the registrar to keep a record of the guarantee for the land.
- '(3) On receiving the notice, the registrar must keep a record so that a search of the freehold land register will show the guarantee for the affected land.

### **'381D Removing guarantee from registrar's records**

- '(1) An owner of affected land may, in writing, ask the chief executive to have a record of the guarantee for the land removed from the freehold land register.
- '(2) If a request is made under subsection (1), the chief executive must give the registrar written notice asking the registrar to

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remove the record of the guarantee for the affected land from the registrar's records.

'(3) As soon as practicable after receiving the notice, the registrar must remove the record of the guarantee for the affected land from the registrar's records.

'(4) The guarantee for the affected land may not be removed other than under this section.

### **'381E No fee payable**

'No fee is payable to the registrar for keeping or removing, under this part, a record of the guarantee for affected land.'

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

Section 391—

*insert—*

'(3) A restriction or requirement under subsection (1) that applies to an area does not affect the granting or renewal of any of the following mining tenements for all or part of the area—

(a) a mining tenement applied for before the restriction took effect (the *prerequisite tenement*);

(b) a mining tenement of the same type as the prerequisite tenement applied for in the area of the prerequisite mining tenement;

(c) a higher level of mining tenement to the prerequisite tenement applied for in the area of the prerequisite mining tenement.

'(4) More than 1 mining tenement may be granted for the area of a prerequisite tenement under subsection (3).

'(5) However, a mining tenement mentioned in subsection (3) can not be granted for land outside the area of the prerequisite tenement.

'(6) In this section—

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*higher level*, of mining tenement to the prerequisite tenement, means—

- (a) if the prerequisite tenement is a prospecting permit—a mining claim or mining lease; or
- (b) if the prerequisite tenement is a mining claim—a mining lease; or
- (c) if the prerequisite tenement is an exploration permit—a mineral development licence or mining lease; or
- (d) if the prerequisite tenement is a mineral development licence—a mining lease.’.

**74 Amendment of s 404C (Information requirements for holders of mining tenements)**

Section 404C(1), ‘information about the tenement and activities carried on under the tenement’—

*omit, insert—*

‘information about the tenement, activities carried out under the tenement or production or sales information relating to the tenement’.

**77 Insertion of new pt 19, div 11**

Part 19—

*insert—*

**‘Division 11 Transitional provision for Mines and Energy Legislation Amendment Act 2008**

**‘Subdivision 1 Provisions for amendments to due dates and reminder dates**

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**‘768 Application of div 11**

‘This division applies to a mining tenement granted before 1 January 2009 if it is a mining claim, mineral development licence or mining lease.

**‘769 Transitional provision for rental**

- ‘(1) Subject to subsections (2) and (3), the unamended rental provision continues to apply to the mining tenement up to 31 August 2009.
- ‘(2) The amended rental provision applies to the mining tenement for any rental year starting on or after 1 September 2009.
- ‘(3) However, for applying subsection (4) and (5)(b) of the unamended rental provision, the period from 1 January 2009 to 31 August 2009 (the *nominal year*) is taken to be a whole rental year.
- ‘(4) The amount of the rental prescribed for the nominal year is taken to be two-thirds of the amount of the rental prescribed for 2009.
- ‘(5) In this section—

*amended rental provision* means the following as in force on the date of assent of the amending Act—

- (a) if the mining tenement is a mining claim—section 95;
- (b) if the mining tenement is a mineral development licence—section 193;
- (c) if the mining tenement is a mining lease—section 290.

*amending Act* means the *Mines and Energy Legislation Amendment Act 2008*.

*unamended rental provision* means the following as in force before the date of assent of the amending Act—

- (a) if the mining tenement is a mining claim—section 95;

- (b) if the mining tenement is a mineral development licence—section 193;
- (c) if the mining tenement is a mining lease—section 290.

### **‘770 Transitional provision for contravention provisions**

- ‘(1) For applying section 95(5)(a), 193(5)(a) or 290(5)(a) to the mining tenement before 2 April 2009, the reference in that provision to 30 September is taken to be a reference to 31 January.
- ‘(2) For applying section 106(2)(a), 209(2)(a) or 308(2)(a) to the mining tenement before 2 April 2009, the reference in that provision to 1 December is taken to be a reference to 1 April.

## **‘Subdivision 2 Provision for special agreement Acts**

### **‘771 Payment of rent for special agreement Act leases**

- ‘(1) From the commencement of this section—
  - (a) the designated rental provision applies for the payment of rent under any special agreement Act lease; and
  - (b) a provision of any of the following ceases to apply to the extent the provision conflicts with the designated rental provision—
    - (i) a special agreement Act;
    - (ii) an agreement mentioned in a special agreement Act;
    - (iii) a special agreement Act lease.
- ‘(2) The application of the designated rental provision is subject to subdivision 1.
- ‘(3) To remove any doubt, it is declared that the designated rental provision applies as mentioned in subsection (1)(a) despite the relevant special agreement Act and the repealed transitional schedule.

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‘(4) This section does not affect or otherwise limit the application of section 290A to a special agreement Act lease.

‘(5) In this section—

***designated rental provision***, for a special agreement Act lease, means—

- (a) if the lease has been renewed since 1 September 1990—section 290; or
- (b) if the lease has not been renewed since 1 September 1990—modified section 290.

***modified section 290*** means section 290 changed so that the references in section 290(4) and (5)(b) to the prescribed amount for a rental year are, for a special agreement Act lease, references to the rental payable for the period that corresponds to that year under the relevant—

- (a) special agreement Act; or
- (b) agreement mentioned in a special agreement Act; or
- (c) special agreement Act lease.

***repealed transitional schedule*** means the former schedule to this Act that was repealed by the *Offshore Minerals Act 1998*.

*Editor’s note—*

For access to the schedule, see reprint 4 of this Act.

***special agreement Act*** means an Act mentioned in the table to section 3(1) of the repealed transitional schedule.

***special agreement Act lease*** means a lease mentioned in section 3(1)(b) of the repealed transitional schedule.’.

## 78 Amendment of schedule (Dictionary)

Schedule—

*insert—*

‘***affected land***, for part 10AA, see section 381A.

***Collingwood Park State guarantee*** or ***guarantee***, for part 10AA, see section 381B.



*moratorium period*, for part 7AAB, see section 318ELAA (1).

*oil shale activity* see section 318ELAE(1).

*oil shale mining tenement* see section 318ELAB.

*registrar*, for part 10AA, see section 381A.

*rental year* means each 12 month period that starts on 1 September and ends on 31 August.’.

## Part 6 **Amendment of Mining and Quarrying Safety and Health Act 1999**

### 79 **Act amended in pt 6 and schedule**

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

### 80 **Amendment of s 259 (Notices about industry statistics or information)**

- (1) Section 259(3), penalty, ‘for subsection (3)’—  
*omit*.
- (2) Section 259—  
*insert*—
- ‘(4) The chief executive may—
  - (a) use the information to produce statistics and other data; and
  - (b) publish the statistics and other data produced under paragraph (a).’.

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## **Part 7**                      **Amendment of Petroleum Act 1923**

### **81 Act amended in pt 7 and schedule**

This part and the schedule amend the *Petroleum Act 1923*.

### **82 Amendment of s 2 (Definitions)**

(1) Section 2, definition *permitted dealing*—

*omit*.

(2) Section 2—

*insert*—

‘*dealing* see section 80E.’.

### **83 Amendment of s 7AA (Qualification of 1923 Act petroleum tenure holders)**

Section 7AA(b)—

*omit, insert*—

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

### **84 Omission of s 19 (Variation of authority to prospect)**

Section 19—

*omit*.

### **85 Amendment of s 75Q (Transfer of water observation bore or water supply bore to landowner)**

(1) Section 75Q(2)(b)—

*omit*.

- 
- (2) Section 75Q(2)(c) and (d)—  
*renumber* as section 75Q(2)(b) and (c).

**86 Amendment of s 76B (Requirement to lodge records and samples)**

- (1) Section 76B(2), ‘copy of the record and’—  
*omit*.
- (2) Section 76B(2) to (6)—  
*renumber* as section 76B(4) to (8).
- (3) Section 76B—  
*insert*—
- ‘(2) The copy of the record must—
- (a) be lodged electronically using the system for submission of reports made or approved by the chief executive; and
- (b) be in the digital format made or approved by the chief executive.
- ‘(3) The chief executive must ensure the system and a document detailing the digital format made or approved by the chief executive are available for inspection on the department’s website.’.
- (4) Section 76B(7)(b), as renumbered, ‘subsection (3)’—  
*omit, insert*—  
‘subsection (5)’.

**87 Amendment of s 80B (Keeping of register)**

- Section 80B(2)(b)(ii), ‘permitted dealing’—  
*omit, insert*—  
‘dealing approved under part 6N’.

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**88 Amendment of s 80E (What is a permitted dealing)**

- (1) Section 80E, heading and subsection (1), ‘permitted dealing’—  
*omit, insert—*  
**‘dealing’.**
- (2) Section 80E(1)(b), ‘share in a mortgage of’—  
*omit, insert—*  
‘share in’.
- (3) Section 80E(1)(c), ‘, or a share in a mortgage,’—  
*omit.*
- (4) Section 80E(1)(e), ‘, as provided for under the coordination arrangement’—  
*omit.*
- (5) Section 80E(2), from ‘However’ to ‘permitted dealing.’—  
*omit, insert—*  
‘However, a transfer that has the effect of transferring a divided part of the area of a 1923 Act petroleum tenure is not a dealing.’.
- (6) Section 80E(2), ‘is not a permitted dealing’—  
*omit.*

**89 Amendment of s 80J (Deciding application)**

- (1) Section 80J, ‘permitted dealing’—  
*omit, insert—*  
‘dealing’.
- (2) Section 80J(3), ‘must be granted’—  
*omit, insert—*  
‘is taken to have been granted’.
- (3) Section 80J(3)(a)(i), ‘share in a mortgage of’—

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*omit, insert—*

‘share in’.

- (4) Section 80J(3)(a)(ii), ‘, or a share in mortgage,’—

*omit.*

- (5) Section 80J(3)(a), ‘, as provided for under a coordination arrangement’—

*omit.*

- (6) Section 80J(3)(a)(iv), ‘, as provided for under the coordination arrangement’—

*omit.*

- (7) Section 80J(3)(b)—

*omit, insert—*

‘(b) all of the following apply—

- (i) subsection (2) does not prevent the granting of the approval;
- (ii) under section 80H, an indication of the approval has been given for the proposed dealing;
- (iii) if, under that section, an indication of likely conditions was given—the conditions are complied with within 6 months after the giving of the indication.’.

- (8) Section 80J(4), ‘may be refused’—

*omit, insert—*

‘is taken not to have been granted’.

## **90 Amendment of s 80K (Criteria for decision)**

- (1) Section 80K(1)(a), ‘must be granted’—

*omit, insert—*

‘is taken to have been granted’.

- (2) Section 80K(2)—

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---

*omit, insert—*

- ‘(2) The matters that must be considered in deciding whether to approve the dealing include—
- (a) the application and any additional information given for the application; and
  - (b) for a transfer—the capability criteria; and
  - (c) 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; and
  - (d) the public interest.’.

## **91 Insertion of new pt 12**

After section 184—

*insert—*

# **‘Part 12 Transitional provision for Mines and Energy Legislation Amendment Act 2008**

## **‘185 Provision for repeal of section 19**

- ‘(1) This section applies to an application for variation of an authority to prospect under former section 19 made but not decided before the repeal of that section.
- ‘(2) The application is taken to be an application for approval of an amendment to the work program for the authority, made under sections 25H and 25I.
- ‘(3) Sections 25G, 25J and 25K apply to the deciding of the application, with necessary changes.
- ‘(4) In this section—

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*former section 19* means section 19 as in force before the commencement of this section.’.

## **Part 8                      Amendment of Petroleum and Gas (Production and Safety) Act 2004**

### **92      Act amended in pt 8 and schedule**

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

### **93      Insertion of new s 30A**

Chapter 1, part 5—

*insert—*

#### **‘30A    Joint holders of a petroleum authority**

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

‘(2) If, under this Act—

(a) an application is made for, or for approval to transfer, a petroleum authority for more than 1 proposed holder or transferee; and

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

(c) the application is granted;

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

‘(3) In this section—

[s 94]

---

*petroleum authority* includes a share in a petroleum authority.’.

**94 Amendment of s 236 (Ministerial approval of proposed coordination arrangement)**

Section 236(1)(a)—

*insert—*

‘(iv) the spatial relationship between the relevant leases for the arrangement is appropriate.’.

**95 Amendment of s 288 (Transfer of water observation bore or water supply bore to landowner)**

Section 288(3)(b), (c) and (d)—

*omit, insert—*

‘(a) a notice in the approved form;

(b) the transfer fee prescribed under a regulation.’.

**96 Amendment of s 419A (Notice to chief inspector before construction starts)**

Section 419A—

*insert—*

‘(3) An applicant for a pipeline licence may give a notice under subsection (1).

‘(4) The day stated for construction to start may be stated as the day the applicant becomes the holder of the licence.’.

**97 Amendment of s 548 (Requirement to lodge records and samples)**

(1) Section 548(2), ‘copy of the record and’—

*omit.*

(2) Section 548(2) to (6)—



---

*renumber* as section 548(4) to (8).

(3) Section 548—

*insert*—

‘(2) The copy of the record must—

(a) be lodged electronically using the system for submission of reports made or approved by the chief executive; and

(b) be in the digital format made or approved by the chief executive.

‘(3) The chief executive must ensure the system and a document detailing the digital format made or approved by the chief executive are available for inspection on the department’s website.’

(4) Section 548(7)(b), as renumbered, subsection (3)—

*omit, insert*—

‘subsection (5)’.

## **98 Amendment of s 565 (Keeping of register)**

Section 565(2)(b)(ii), ‘permitted dealing’—

*omit, insert*—

‘dealing approved under part 10’.

## **99 Amendment of s 568 (What is a *permitted dealing*)**

(1) Section 568, heading and subsection (1), ‘permitted dealing’—

*omit, insert*—

***‘dealing’***.

(2) Section 568(1)(b), ‘share in a mortgage of’—

*omit, insert*—

‘share in’.

[s 100]

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- (3) Section 568(1)(c), ‘, or a share in a mortgage,’—  
*omit.*
- (4) Section 568(1)(e), ‘, as provided for under the coordination arrangement’—  
*omit.*
- (5) Section 568(2)—  
*omit, insert—*
- ‘(2) However, a *dealing* with a petroleum authority does not include a prohibited dealing mentioned in section 569(1).’.

#### **100 Amendment of s 573 (Deciding application)**

- (1) Section 573, ‘permitted dealing’—  
*omit, insert—*  
‘dealing’.
- (2) Section 573(3), ‘must be granted’—  
*omit, insert—*  
‘is taken to have been granted’.
- (3) Section 573(3)(a)(i), ‘share in a mortgage of’—  
*omit, insert—*  
‘share in’.
- (4) Section 573(3)(a)(ii), ‘, or a share in mortgage,’—  
*omit.*
- (5) Section 573(3)(a), ‘, as provided for under a coordination arrangement’—  
*omit.*
- (6) Section 573(3)(a)(iv), ‘, as provided for under the coordination arrangement’—  
*omit.*
- (7) Section 573(3)(b)—

*omit, insert—*

‘(b) all of the following apply—

- (i) subsection (2) does not prevent the granting of the approval;
- (ii) under section 571, an indication of the approval has been given for the proposed dealing;
- (iii) if, under that section, an indication of likely conditions was given—the conditions are complied with within 3 months after the giving of the indication.’.

(8) Section 573(4), ‘may be refused’—

*omit, insert—*

‘is taken not to have been granted’.

## **101 Amendment of s 574 (Criteria for decision)**

(1) Section 574(1)(a), ‘must be granted’—

*omit, insert—*

‘is taken to have been granted’.

(2) Section 574(2)—

*omit, insert—*

‘(2) The matters that must be considered in deciding whether to approve the dealing include—

- (a) the application and any additional information given for the application; and
- (b) for a transfer of a petroleum authority—the relevant criteria under chapter 2 or 4 to obtain the authority; and
- (c) if the petroleum authority is a petroleum tenure, whether, in relation to the tenure—
  - (i) any petroleum royalty is payable and unpaid by its holder; or

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---

- (ii) the holder has failed to comply with section 594, 595, 599 or 602; and
- (d) the public interest.’.

**102 Amendment of s 590 (Imposition of petroleum royalty on petroleum producers)**

Section 590(1), after ‘produces’—

*insert—*

‘or that the producer accepts from an overlapping mining lease holder, under the Mineral Resources Act, section 318CN’.

**103 Replacement of ch 9, pt 1, hdg (Safety requirements)**

Chapter 9, part 1, heading—

*omit, insert—*

**‘Part 1 Safety requirements and labelling’.**

**104 Insertion of new s 669A**

Chapter 9, part 1—

*insert—*

**‘669A Labelling**

- ‘(1) Without limiting sections 669 and 859, a regulation may provide for the certification or labelling of gas devices or gas fittings.
- ‘(2) A regulation under subsection (1), may also provide for all or any of the following for gas devices or gas fittings—
  - (a) labelling for certification;
  - (b) labelling for minimum energy performance standards;
  - (c) efficiency labelling;

- (d) approval or registration of labels;
- (e) selling or hiring;
- (f) offering, exposing or advertising for sale or hire.’.

**105 Amendment of s 726 (Gas devices (type A))**

- (1) Section 726(3), definition *worker*—

*relocate* to schedule 2.

- (2) Section 726(3), as amended—

*omit, insert*—

- ‘(3) A person must not direct a worker at a place to carry out gas work relating to a gas device (type A) in a way that contravenes a relevant safety requirement.

Maximum penalty—500 penalty units.

- ‘(4) A person does not commit an offence against subsection (1) if the gas work is only the connection or disconnection of a gas cylinder to an existing gas fitting or gas device.’.

**106 Amendment of s 727 (Gas devices (type B))**

Section 727—

*insert*—

- ‘(3) A person must not direct a worker at a place to carry out gas work relating to a gas device (type B) in a way that contravenes a relevant safety requirement.

Maximum penalty—500 penalty units.’.

**107 Amendment of s 733 (Certification of gas device or gas fitting)**

- (1) Section 733(1)—

*omit, insert*—

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- ‘(1) A person must not offer for sale, install or use a gas device (type A), gas device (type B) or gas fitting unless—
- (a) the offer for sale, installation or use has been approved by the chief inspector or a person or body approved by the chief inspector; and
  - (b) if a regulation prescribes a label for the gas device or gas fitting—the gas device or gas fitting complies with any relevant labelling requirements prescribed under the regulation.

Maximum penalty—200 penalty units.’

- (2) Section 733(3), definition *gas fitting*, ‘gas device (type A) or (type B)’—

*omit, insert—*

‘gas device (type A) or gas device (type B)’.

- (3) Section 733(3), definition *gas fitting*—

*relocate* to schedule 2.

- (4) Section 733(3), as amended—

*omit.*

## **108 Amendment of s 734 (Safety obligations of gas system installer)**

- (1) Section 734, heading—

*omit, insert—*

### **‘734 Requirements for gas system installation’.**

- (2) Section 734(2) and (3)—

*omit, insert—*

- ‘(3) If a person installs all or part of a gas system, the person must, before making the gas system operational—

- (a) give, to the person prescribed under a regulation, a certificate in the approved form about the installation and the gas system; and

- (b) if a regulation prescribes a compliance plate for the installation—the compliance plate is attached in the way prescribed under the regulation.

Maximum penalty—300 penalty units.

*Note—*

See also part 6, division 2 (Restrictions).’.

## 109 Insertion of new s 734A

Chapter 9—

*insert—*

### ‘734A Safety obligations of gas system installer

- ‘(1) This section applies if—
  - (a) a person installs all or part of, or carries out gas work relating to, a gas system; and
  - (b) the person has a safety concern relating to the gas system.
- ‘(2) For subsection (1), the person has a *safety concern* relating to the gas system if the person knows or suspects, or ought reasonably to know or suspect that—
  - (a) the gas system does not or may not comply with all relevant safety requirements; or
  - (b) an imminent risk of material harm to persons or property is likely if action is not taken to avoid, eliminate or minimise the risk.
- ‘(3) The person must give the owner, operator or proposed operator of the gas system notice of the noncompliance or risk, in the approved form.

Maximum penalty—300 penalty units.
- ‘(4) Subsections (5) and (6) apply if the safety concern relates to a risk mentioned in subsection (2)(b).
- ‘(5) The person must take appropriate measures to avoid, eliminate or minimise the risk.

[s 110]

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Maximum penalty—300 penalty units.

*Example of an appropriate measure—*

The risk is fuel gas leaking from a gas device that forms part of the gas system. An appropriate measure is to isolate fuel gas supply to the device.

‘(6) The person must, by telephone, immediately report details of the following to an inspector and the operator of the distribution system or LPG delivery network that supplies fuel gas to the gas system—

- (a) the risk;
- (b) the measures taken under subsection (5).

Maximum penalty—100 penalty units.

‘(7) In this section—

*operator*, of a distribution system or LPG delivery network, means the person responsible for the management and safe operation of the system or network.’.

## **110 Amendment of s 844 (Amending applications)**

(1) Section 844(3)—

*renumber* as section 844(4).

(2) Section 844—

*insert—*

‘(3) However, subsection (2)(b) does not apply if—

- (a) the tenderer is a corporation; and
- (b) the change is only a change of name of the tenderer; and
- (c) the tenderer’s Australian company number and Australian registered business name have not changed.’.

## **111 Amendment of s 877 (Exclusion from area of land in area of coal mining lease or oil shale mining lease)**

Section 877(1)(b), ‘coal or oil shale mining tenement’—



*omit, insert—*

‘coal or oil shale mining lease’.

**112 Insertion of new ch 15, pt 3, div 5, sdiv 3**

After section 901—

*insert—*

**‘Subdivision 3 Conversion provision inserted  
under Mines and Energy Legislation  
Amendment Act 2008 for PL 200**

**‘901A Application of sdivs 1 and 2**

- ‘(1) This section applies to the 1923 Act lease numbered 200.
- ‘(2) Subdivisions 1 and 2 apply to the lease as if the reference in the subdivisions to 31 December 2004 were a reference to the day this section commences.
- ‘(3) For applying any other provision of this part, the lease is taken to be a converted lease.’.

**113 Amendment of s 903 (Applications for CSG-related 1923 Act ATPs)**

Section 903(1)(b), ‘coal or oil shale mining tenement—’—

*omit, insert—*

‘coal or oil shale mining lease—’.

**114 Insertion of new ch 15, pt 8**

Chapter 15—

*insert—*

[s 115]

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## **‘Part 8**                      **Transitional provision for Mines and Energy Legislation Amendment Act 2008**

### **‘942**    **Provision for amendment of s 877**

‘Section 877 applies as if the amendment of that section under the *Petroleum and Other Legislation Amendment Act 2005*, section 105, schedule had never been made.’.

### **115**    **Amendment of sch 2 (Dictionary)**

- (1) Schedule 2, definition *permitted dealing*—  
*omit.*
- (2) Schedule 2—  
*insert—*  
***‘dealing*** see section 568.’.

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## Schedule                      Minor amendments

sections 3, 19, 79, 81 and 92

### Coal Mining Safety and Health Act 1999

**1            Section 255(5), ‘prosecution’—**

*omit, insert—*

‘proceeding’.

### Mineral Resources Act 1989

**1            Section 245(1)(o)(iii)(C), ‘each year’—**

*omit, insert—*

‘the term’.

**2            Section 318AO(2)(d), footnote—**

*omit, insert—*

‘Notes—

- 1 For the circumstances mentioned in subsection (2)(a) to (c), see division 3 (Obtaining coal or oil shale mining lease over land in area of authority to prospect (by or jointly with, or with the consent of, authority to prospect holder)).
- 2 For the circumstance mentioned in subsection (2)(d), see division 6 (Obtaining coal or oil shale mining lease over land in area of petroleum lease (by or jointly with petroleum lease holder), and section 318CC (Application of div 6).
- 3 See however section 318CE(2) (Requirement for separate application for other land).’.

- 3 Section 318CH(1), after ‘in the area’—**  
*insert—*  
‘of’.
- 4 Section 318DI(4), ‘that’, first mention—**  
*omit, insert—*  
‘than’.
- 5 Section 318DJ(2)(d), ‘section 318BQ;’—**  
*omit, insert—*  
‘sections 318BQ and 318BR;’.
- 6 Section 318EG(2)(b), ‘petroleum’—**  
*omit, insert—*  
‘mining’.
- 7 Section 318EI(1)(b), ‘petroleum’—**  
*omit, insert—*  
‘mining’.

## **Mining and Quarrying Safety and Health Act 1999**

- 1 Section 234(5), ‘prosecution’—**  
*omit, insert—*  
‘proceeding’.

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## Petroleum Act 1923

- 1 Sections 75AA(1), note, 78T, 79X(3)(c), 80G, 80H and 80I and part 6N, division 2, heading and schedule, entry for section 80J(1), ‘permitted dealing’—**

*omit, insert—*

‘dealing’.

- 2 Section 80I(2)(b)(i), ‘permitted dealings’—**

*omit, insert—*

‘dealings’.

- 3 Part 6N, division 1, heading—**

*omit, insert—*

**‘Division 1 Dealings’.**

## Petroleum and Gas (Production and Safety) Act 2004

- 1 Section 50, footnote—**

*omit, insert—*

*‘Note—*

For the requirements to lodge a proposed later work program, see sections 79 (Obligation to lodge proposed later work program), 100 (Minister may add excluded land), 104 (Requirements for making application) and 790 (Types of noncompliance action that may be taken).’.

- 2 Section 142, footnote—**

*omit, insert—*

*‘Note—*

For the requirements to lodge a proposed later development plan, see sections 159 (Obligation to lodge proposed later development plan), 170

Schedule

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(Minister may add excluded land), 372 (Requirements for making application) and 790 (Types of noncompliance action that may be taken).’.

**3 Sections 238, 511, 558A(1), note, 570, 571 and 572(1) and chapter 5, part 10, division 2, heading, and schedule 1, table 2, entry for section 573(1), ‘permitted dealing’—**

*omit, insert—*

‘dealing’.

**4 Section 339(a), after ‘area of the petroleum’—**

*insert—*

‘lease’.

**5 Section 476(3), ‘section 444’—**

*omit, insert—*

‘section 445A’.

**6 Chapter 5, part 10, division 1, heading—**

*omit, insert—*

**‘Division 1 Dealings’.**

**7 Section 570, heading, ‘permitted dealings’—**

*omit, insert—*

‘dealings’.

**8 Section 572(2)(b)(i), ‘permitted dealings’—**

*omit, insert—*

‘dealings’.

- 9 Chapter 15, part 3, division 8, heading, ‘1923 Act start day’—**  
*omit, insert—*  
**‘31 December 2004’.**
- 10 Schedule 2, definition *mineable oil shale deposit*—**  
*omit.*

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