Mining and Other Legislation Amendment Bill 2007

Explanatory Notes

General Outline

Short Title

The short title of the Bill is the Mining and Other Legislation Amendment Bill 2007.

Policy Objectives

The objectives of the Bill are to amend the following Acts:

- *Petroleum and Gas (Production and Safety) Act 2004*;
- *Petroleum Act 1923*;
- *Mineral Resources Act 1989*;
- *Geothermal Exploration Act 2004*;
- *Explosives Act 1999*;
- *Coal and Oil Shale Mine Workers' Superannuation Act 1989*;
- *Workplace Health and Safety Act 1995*;
- *Coal Mining Safety and Health Act 1999*; and
- *Mining and Quarrying Safety and Health Act 1999*.

The proposed amendments can be grouped as follows:

Streamlining mineral, and petroleum and gas legislation

The *Petroleum and Gas (Production and Safety) Act 2004*, the significant amendments to the *Petroleum Act 1923* brought about by the commencement of the *Petroleum and Other Legislation Amendment Act 2004*, and the provisions for coal seam gas within the *Mineral Resources Act 1989*, have been operational for more than 24 months. This has allowed

time for the careful scrutiny of this legislation by the Department and industry as to its operability and effectiveness.

An interim review was conducted in the first half of 2006. This review focused on identifying internal and external client experiences in relation to the administration and operation of the petroleum and gas legislation. A discussion paper was prepared detailing the issues raised during consultation and recommending strategies to address those matters.

Consequently, a number of operational and compliance provisions were identified as being imprecise, excessively onerous, difficult to comply with, or requiring better legislative support. To address these issues, changes including the following are proposed:

- Inconsistencies in lodgement timeframes for reporting will be removed and harsh penalties for late lodgement reduced;
- Duplications in reporting requirements removed including the abolition of annual reports on tenures (the information in annual reports is already provided by industry in other ways); and
- Streamlining one of the administrative processes for the grant of overlapping petroleum tenure and certain mining tenements.

With respect to safety there are a number of amendments which clarify the definition of operating plant, clarify the obligations of operators and executive safety managers, restrict the application of certain provisions, and remove unnecessary duplication of requirements.

Other minor amendments for streamlined administrative processes of the *Mineral Resources Act 1989*, the *Petroleum and Gas (Production and Safety) Act 2004* and the *Petroleum Act 1923* are proposed. They include:

- Providing mining and petroleum information to government Departments such as the Environment Protection Agency without fee, with privacy principles to apply to such information;
- A power for the chief executive to make public directions about necessary administrative processes. This is to ensure the processes that currently exist, or may be developed, have statutory support and are able to be published to provide transparency of administrative process;
- Greater flexibility in subleasing of petroleum leases and transferring such subleases; and

- Changes to how notification is made to local authorities, and the general public, of the probable route of a pipeline the subject of a pipeline licence.

Renewal of geothermal exploration permits

The key amendment to the *Geothermal Exploration Act 2004* is the provision for geothermal exploration permits to be renewed beyond their initial maximum term of five years.

Amendments for the *Explosives Act 1999.*

The amendments to the *Explosives Act 1999* will align the penalty for breach of the general duty of care, when handling explosives, with comparable offences in the *Dangerous Goods Safety Management Act 2001*. They will also clarify issues for a person including corporations, executive officers of corporations, partnerships and the selling of explosives.

Amendment to *Coal and Oil Shale Mine Workers' Superannuation Act 1989*

The amendment will increase the time for contributions to be made to this fund from the current period, which is up to 14 days after a mine worker is paid, to the proposed period, which is up to 21 days after the end of the month in which the mine worker's pay period ended.

Correcting anomaly with *Workplace Health and Safety Act 1995*

The key amendment corrects an inadvertent jurisdictional anomaly between the jurisdiction of the *Workplace Health and Safety Act 1995* and the *Petroleum and Gas (Production and Safety) Act 2004* with respect to activities on petroleum authorities, particularly those relating to construction of plant and pipeline construction.

The amendment will ensure that the Minister administering the *Workplace Health and Safety Act 1995* would be responsible for normal workplace issues during construction of an operating plant and, once operating, the Minister administering the *Petroleum and Gas (Production and Safety) Act 2004* would be responsible for safety issues at the plant. A similar amendment will apply with respect to drilling activities under the *Geothermal Exploration Act 2004*.

Amending *Coal Mining Safety and Health Act 1999* and *Mining and Quarrying Safety and Health Act 1999*

The amendments proposed affect five areas of each Act:

- Penalties for failure to meet obligations for safety and health will be increased to re-align with those in the *Workplace Health and Safety Act 1995* as was the intention of the original *Coal Mining Safety and Health Act 1999* and *Mining and Quarrying Safety and Health Act 1999*.

- Amendments are proposed in relation to the Safety and Health Advisory Councils established by each Act. The amendments abolish the requirement for the Minister to appoint an inspector as chairperson. Instead, the Chief Executive or his delegate will be chairperson of each council and will be able to provide guidance and direction to the meetings. The amendments also will allow for the appointment of substitute members to the councils who will be able to participate in meetings in the absence of the original appointed members. This will help ensure that there is always a quorum for the meetings.

- Provisions will be made for the appointment of different levels of inspectors by limiting their powers and functions in their letters of appointment. Training needs to be provided to all new inspectors, regardless of their qualifications on joining the inspectorate. The powers and functions to be given to any new inspectors at any time will depend upon their qualifications and competencies to exercise those powers. As their competency increases, so their powers and functions will be extended. This will enable the introduction of a career path into the inspectorate and aligns the appointments with similar requirements under the *Workplace Health and Safety Act 1995*, the *Explosives Act 1999* and the *Petroleum and Gas (Production and Safety) Act 2004*.

- Provisions will be made for the appointment of authorised officers, such as occupational hygienists and investigation officers, who will have powers under the Acts to operate independently of the inspectors. The authorised officers will not be inspectors and will not be able to issue directives to mines. Their appointment will improve the flexibility of the Mines Inspectorate in dealing with health issues and complex investigations.

- Provisions will be made to require mines to report all deaths at mines and not just those resulting from accidents. This will provide timely information of deaths to the inspector, who can then decide on what action to take to investigate if the death was work related.

Reasons for the Policy Objectives

Petroleum and Gas (Production and Safety) Act 2004 and the *Petroleum Act 1923*

In March 2006, the (then) Department of Natural Resources, Mines and Water conducted an evaluation of the *Petroleum and Gas (Production and Safety) Act 2004* and the *Petroleum Act 1923* in consultation with the Australian Petroleum Production and Exploration Association (APPEA).

Industry raised 32 specific issues in the course of evaluating both the *Petroleum and Gas (Production and Safety) Act 2004* and the *Petroleum Act 1923*. Of the 20 issues that have been categorised as being capable of being addressed in the short term, it is proposed to respond positively to 17 and these changes are included in the proposed amendments.

The remaining issues related to a reduction in the complexity of the legislation, the reintroduction of Ministerial discretion for the compulsory relinquishment requirement, and the clarification of the application of coal seam gas regime where an exploration permit for coal is granted over land the subject of petroleum lease application.

The industry was advised and understood that, because of their complexity and fundamental significance, that these issues would not be dealt with in this Bill.

Mineral Resources Act 1989

The amendments to the *Mineral Resources Act 1989* arise from issues identified during routine reviews of this legislation by the Department and from issues raised by stakeholders.

Also, provisions for coal seam gas contained in this Act complement the coal seam gas provisions within the *Petroleum and Gas (Production and Safety) Act 2004*. Consequently, any amendments that have been proposed for the coal seam gas provisions of the *Petroleum and Gas (Production and Safety) Act 2004* must be reflected in the coal seam gas provisions of the *Mineral Resources Act 1989*.

Geothermal Exploration Act 2004

The *Geothermal Exploration Act 2004* was the first independent legislation of its type in Australia. It provides an effective and efficient regulatory system for the exploration of geothermal resources.

To continue to provide this effective and efficient regulatory system, and to give the fledging geothermal industry more surety of title to explore for this resource within a geothermal exploration permit area, it is proposed that

the term of the permit may be renewed beyond the current maximum term of five years.

Coal Mining Safety and Health Act 1999, Mining and Quarrying Safety and Health Act 1999, Workplace Health and Safety Act 1995, and Explosives Act 1999

Amendments to the *Coal Mining Safety and Health Act 1999* and the *Mining and Quarrying Safety and Health Act 1999* are based on recommendations arising from the recent review of the Mines Inspectorate.

The amendments to the *Workplace Health and Safety Act 1995*, the *Explosives Act 1999*, arise from issues identified by stakeholders during routine reviews of these Acts by the Department.

How the Policy Objectives will be achieved

Mineral Resources Act 1989*, *Petroleum and Gas (Production and Safety) Act 2004* and the *Petroleum Act 1923

The Bill will authorise amendments to the mineral, and petroleum and gas legislation.

These amendments will ratify the policy objectives by streamlining the administrative processes, removing overly burdensome and repetitive requirements, and clarifying a number of statutory requirements.

Geothermal Exploration Act 2004

The *Geothermal Exploration Act 2004* will be amended to allow the term of a geothermal exploration permit to be renewed beyond its maximum five years.

Coal Mining Safety and Health Act 1999, Mining and Quarrying Safety and Health Act 1999, Workplace Health and Safety Act 1995, and Explosives Act 1999

The Bill will authorise amendments to this legislation.

Alternatives to the Bill

There are no non-legislative methods by which the objects of the Bill can be achieved.

Estimated administrative cost to the Government for implementation

There are no administrative costs to the Government in relation to the Bill.

Consistency with Fundamental Legislative Principles

The Bill was drafted with regard to fundamental legislative principles.

Amendments which were particularly examined in that regard were new section 123A being inserted into the *Explosives Act 1999*, amendments to sections 893 and 939 of the Petroleum and Gas (Production and Safety) Act 2004 (P&G Act), and an amendment to section 231C(1)(b) of the *Mineral Resources Act 1989*.

The amendment to insert section 123A into the *Explosives Act 1999*, in treating partnerships as if the partnership was a person, imposes an obligation or liability on all partners in the partnership. It may be considered that there is a breach of a fundamental legislative principle triggered by this clause. However, it is one which allows appropriate inquiries and offences by partnerships to be adequately addressed and is similar to the approach taken for corporations under the *Explosives Act 1999*.

The amendment to section 893(a) is necessary to make certain that chapter 15, division 5, subdivision 1 of the P&G Act applies to a particular petroleum lease (PL 219) that was granted under the *Petroleum Act 1923* but which should have been converted to a petroleum lease under the P&G Act.

Between the P&G Act start day and the date the Governor in Council made the regulations, PL 219 was granted pursuant to the *Petroleum Act 1923*. This lease should have been converted to a petroleum lease under the P&G Act, but as the P&G Act had already commenced, a regulation could no longer prescribe that a petroleum lease be a converted to a petroleum lease under the P&G Act.

Section 893 of the P&G Act needed to be amended to include PL 219 as a petroleum lease to which chapter 15, division 5, subdivision 1 of the P&G Act applies. This amendment does not infringe Fundamental Legislative Principles as the rights of the petroleum tenure holder are not adversely affected by the inclusion of PL 219 in section 839(a).

The Office of Parliamentary Counsel advised that the proposed amendment to section 893(b) to replace "2004 Act start day" with "31 December 2004" would have been of doubtful effect unless given retrospective operation. While recognising that the issue proposed required correction and to ensure

no rights that might exist would be affected, the Parliamentary Counsel has drafted an amendment to section 939 of the P&G Act to clarify the original intent of section 893(b). The amendments to sections 893 and 939 do not affect the rights of any person by their operation.

The proposed amendment to section 231C(1)(b) of the *Mineral Resources Act 1989* replaces the reference to "prescribed under a regulation" with "approved by the Minister". The breach of a fundamental legislative principle may arise as this amendment is changing, from subordinate legislation to an administrative decision, how the boundary of a mineral development licence for the Aurukun project is identified.

However, the reason for this amendment is that the requirements for describing the land applied for in a mineral development licence for the Aurukun project, will be contained in the contractual arrangement (the Aurukun agreement) with the State, for the development of the Aurukun Bauxite Resource.

Consultation

Community

Consultation occurred with the following bodies in relation to the proposed changes to the *Petroleum and Gas (Production and Safety) Act 2004* and the *Petroleum Act 1923*:

- Australian Petroleum Production and Exploration Association;
- two major industry players – Santos Limited and Origin Energy;
- the Australian Coal Seam Gas Council; and
- LPG Australia (LPGA) – Queensland Branch.

Consultation was conducted with the Construction, Forestry, Mining and Energy Union (CFMEU) and Auscoal regarding the amendment to the *Coal and Oil Shale Mine Workers' Superannuation Act 1989.*

Also, discussions on the details of the proposed amendments to the *Coal Mining Safety and Health Act 1999*, *Mining and Quarrying Safety and Health Act 1999* and *Workplace Health and Safety Act 1995*, were held with Queensland Resources Council representatives, the Construction, Forestry, Mining and Energy Union (CFMEU) and the Australian Workers Union at two meetings of each of the Coal Mining Safety and Health Advisory Council and the Mining Safety and Health Advisory Council.

Government

Representatives of the Department of the Premier and Cabinet, the Coordinator-General, Queensland Treasury, the Department of State Development, the Department of Natural Resources and Water, the Department of Local Government, Planning, Sport and Recreation, the Department of Employment and Industrial Relations, the Environmental Protection Agency and the Department of Justice and Attorney-General were consulted in relation to the Bill.

Results of consultation

Community

With respect to safety related matters most of the issues raised by the LPGA and the automotive LPG gas industry during consultation have been addressed.

An overwhelming majority of members of the CFMEU voted in support of the proposed amendment to the *Coal and Oil Shale Mine Workers' Superannuation Act 1989* which will provide greater flexibility in remitting contributions to the superannuation fund. The proposed amendment was also agreed to by Auscoal.

Consultation on the amendments to the *Coal Mining Safety and Health Act 1999*, *Mining and Quarrying Safety and Health Act 1999* and *Workplace Health and Safety Act 1995* was had with the CFMEU and Queensland Resources Council representatives on the Coal Mining Safety and Health Advisory Council. The input of these stakeholders has been taken into consideration in finalising the amendments to these Acts.

Government

All Department's consulted support the Bill.

Notes On Provisions

Part 1 Preliminary

Short title

Clause 1 is the citation for the short title of the Act - the *Mining and Other Legislation Amendment Act 2007*.

Commencement

Clause 2 provides that this Act commences on a day to be fixed by proclamation.

Part 2 Amendment of Coal and Oil Shale Mine Worker's Superannuation Act 1989

Act amended in pt 2

Clause 3 provides that Part 2 amends the *Coal and Oil Shale Workers' Superannuation Act 1989*.

The amendment will increase the time for contributions to be made to this fund from the current period, which is up to 14 days after a mine worker is paid, to the proposed period, which is up to 21 days after the end of the month in which the mine worker's pay period ended.

Amendment of s 4 (Contributions to superannuation fund)

Clause 4 provides that the remittance of contributions from the mine worker and the mine worker's employer be made on a monthly basis. Therefore, this clause provides that these contributions may be made to the superannuation fund up to 21 days after the end of the month in which the mine worker's pay period ends.

For example, if a mine worker is paid on the 1st, 11th or 31st of a month, contributions to the superannuation fund may be made up until the close of business on the 21st day of the next month. This would be irrespective of whether the mine worker is paid weekly, fortnightly or monthly.

Part 3 Amendment of Coal Mining Safety and Health Act 1999

Act amended in pt 3

Clause 5 provides that Part 3 and the schedule amends the *Coal Mining Safety and Health Act 1999*.

Amendment of s 34 (Discharge of obligations)

Clause 6 provides for the deletion of the existing penalties and replacement by new penalties for failure to discharge obligations which are in line with those in the *Workplace Health and Safety Act 1995*.

Amendment of s 78 (Membership of council)

Clause 7 provides for the amendment of section 78 to make the chief executive, or the chief executive's nominee, chairperson of the Advisory Council in place of the chief inspector of mines. This will provide for a chairperson who will be seen to be more independent than an inspector of mines.

Amendment of s 79 (Organisations to submit names to minister)

Clause 8 provides for the amendment of section 79(4) of the *Coal Mining Safety and Health Act 1999* so that panels of names submitted to the Minister must contain six names. This will provide the required number of nominations for the Minister to appoint substitute members in accordance with clause 11.

Amendment of s 80 (Appointment of members)

Clause 9 deletes reference to the inspector appointed chairperson of the council.

Amendment of s 81 (Duration of appointment)

Clause 10 provides for the deletion of the maximum period for which a person may be a member of the council. This will allow for a person to be a member for more than the 8 years previously stipulated and will allow the council to retain knowledge and experience in its membership. Also, the Minister may re-appoint a member of the council after the member's appointed term, of up to three years, has concluded.

Insertion of new s 83A

Clause 11 provides for the Minister to be able to appoint substitute members to the council who may act in the position of the original member

if the original member is unable to participate in council activities. This will help to ensure that there is always a quorum available for meetings of the council.

Amendment of pt 9 hdg (Inspectors and inspection officers and directives)

Clause 12 renames the heading of Part 9 of the *Coal Mining Safety and Health Act 1999* to allow for the inclusion of other officers besides inspectors in the heading of Part 9.

Insertion of new s 127A

Clause 13 provides for the ability of the chief executive to limit the functions or powers of an inspector or inspection officer by instrument of appointment.

This will allow the Mines Inspectorate to establish different grades of inspector positions so that career paths can be developed to allow officers to progress as they increase their competency. As their competency increases, so their powers and functions will be extended.

Renumbering of pt 9, divs 2-4

Clause 14 renumbers the divisions of part 9.

Insertion of new pt 9, div 2 and pt 9, div 3 hdg

Clause 15 introduces a new division 2 to part 9 to allow the appointment of authorised officers by the chief executive, to allow the chief executive to limit the functions and powers of the authorised officers and to state the functions of authorised officers. Authorised officers will not be inspectors of mines.

This will allow the appointment of officers such as ergonomists and occupational hygienists who will be given some of the powers of inspectors to allow them to act independently of inspectors when necessary. These officers will provide increased knowledge of general safety and health issues to the mines inspectorate and will be able to provide advice to industry.

Experienced investigation officers will also be appointed as authorised officers and their functions and powers will relate specifically to investigation of accidents and allegations of breaches of legislation. They will be able to investigate matters independently of inspectors where necessary.

This clause also provides a new division 3 heading.

Amendment of s 130 (Identity cards)

Clause 16 provides for the issue of identity cards to authorised officers.

Clauses 16 to 32 add the term "authorised officer" or "officer" to the sections of the Act which state the various functions, powers and obligations of inspectors and other officers. This will allow the chief executive to identify which powers and functions will be given to "authorised officers" or "officers".

Amendment of s 132 (Production or display of identity card)

Clause 17 provides for the requirement for authorised officers to display their identity cards when exercising their powers.

Replacement of pt 9, div 4 hdg, as renumbered (Powers of inspectors and inspection officers)

Clause 18 amends the heading of part 9, division 4 to include authorised officers.

Renumbering of pt 9, div 4, as renumbered, subdiv 1–7

Clause 19 renumbers part 9, division 4, subdivisions 1 to 7, as part 9, division 4, subdivisions 2 to 8.

Insertion of new pt 9, div 4, as renumbered, subdiv 1

Clause 20 inserts a definition, to apply to Division 4, of "officer", which means an inspector, an inspection officer or an authorised officer.

Amendment of s 134 (Consent to entry)

Clause 21 provides for requirements for an officer to obtain consent to enter a place.

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

Clause 22 provides an officer with the detailed powers after entering a place.

Amendment of s 142 (Site senior executive must help inspector or inspection officer)

Clause 23 requires site senior executives to provide an officer with assistance.

Amendment of s 143 (Seizing evidence at coal mine or other place)

Clause 24 broadens this provision so that an officer may seize evidence at a coal mine or other place.

Replacement of s 145 (Tampering with things subject to seizure)

Clause 25 provides that persons must not tamper with anything seized by an officer.

Amendment of s 150 (Access to things that have been seized)

Clause 26 requires an officer to provide access to things seized.

Amendment of s 151 (Inspector may stop and secure plant and equipment)

Clause 27 provides an officer with the power to stop plant or equipment which is likely to cause serious bodily injury.

Amendment of s 154 (Power to require production of documents)

Clause 28 provides an officer with the power to require documents to be produced.

Amendment of s 173 (Records must be kept)

Clause 29 requires that an officer must keep reports of inspections and must provide a copy to the operator and site senior executive.

Amendment of s 179 (False and misleading statements)

Clause 30 broadens the provision so that a person must not state anything to an inspector, inspection officer, authorised officer or industry safety and health representative, that is false or misleading in a material particular.

Amendment of s 180 (False or misleading documents)

Clause 31 provides for penalties for providing false documents to authorised officers.

Amendment of s 181 (Obstructing inspectors, inspection officers or industry safety and health representatives)

Clause 32 provides for penalties for obstructing authorised officers.

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

Clause 33 provides for a requirement for a coal mine to report all deaths at coal mines to the inspector of mines and other officers, not just deaths caused by accidents. This will give the inspector of mines the opportunity to investigate the death to consider if it was work related. If the death is determined to be work related, then a comprehensive nature and cause investigation will be carried out by the inspector.

Amendment of s 243 (Who may appeal)

Clause 34 provides for the change of numbering in the section 243(b) from "division 3" to "division 5".

Amendment of s 250 (Proof of appointments and authority unnecessary)

Clause 35 provides that the proof of appointment or authority of an authorised officer is not necessary.

Clauses 35 to 39 add the term "authorised officer" to the list of officers mentioned in the relevant sections of the Act.

Amendment of s 251 (Proof of signatures unnecessary)

Clause 36 provides that a signature purporting to be the signature of an authorised officer is evidence that it is the signature.

Amendment of s 252 (Evidentiary aids)

Clause 37 provides for the inclusion of the signature of an authorised officer in the definition of "certificate".

Amendment of s 268 (Person not to encourage refusal to answer questions)

Clause 38 provides for penalties for encouraging persons not to answer questions from an authorised officer.

Amendment of s 269 (Impersonating inspector or inspection officers and others)

Clause 39 provides for penalties for pretending to be an authorised officer.

Amendment of s 270 (Protection for officers)

Clause 40 provides for the inclusion of "authorised officer" or "industry safety and health representative" in the definition of "officer".

Amendment of s 276 (Protection from liability)

Clause 41 broadens the definition of "official".

Amendment of sch 2 (Subject matter for regulations)

Clause 42 renumbers the listed schedule, parts and items.

Amendment of sch 3 (Dictionary)

Clause 43 inserts the definitions of "authorised officer" "officer" and "substitute member" to the dictionary.

Part 4 Amendment of Explosives Act 1999

Act amended in pt 4

Clause 44 provides that Part 4 amends the *Explosives Act 1999*.

Insertion of new s 4A

Clause 45 clarifies the full extent of the Act to include coastal waters.

Amendment of s 15 (Inquiries about person's appropriateness)

Clause 46 provides for clarification of person when appropriateness inquiries are being undertaken for both individuals and corporations. The matters to be decided from the perspective of a corporation include the appropriateness of executive officers and offences by corporations to be considered.

Amendment of s 32 (General duty of care)

Clause 47 provides for the revision of the maximum penalties under the general duty of care provisions to be consistent with the maximum penalties under the *Dangerous Goods Safety Management Act 2001*. The *Explosives Act 1999*, similar to the *Dangerous Goods Safety Management Act 2001*, regulates industries which have a low frequency of events of high consequence. The minimum penalty has increased from 400 to 500 penalty units.

Replacement of s 43 (Selling explosives in public places prohibited)

Clause 48 provides for clarification of selling in public places. The commercial aspect of selling of explosives in a public place is not prohibited if the explosives are not physically there.

Insertion of new s 123A

Clause 49 provides for partnerships to be recognised. Many small businesses such as gun shops and farms are family partnerships. Only one person who is either an individual or a company could be authorised (licensed). The change will also permit partnerships to be licensed rather than only one of the partners.

In recognising partnerships, an obligation or liability is imposed on all partners in the partnership. It may be considered that there is a breach of a fundamental legislative principle triggered by this clause. However it is one which allows appropriate inquiries and offences by partnerships to be

adequately addressed and is similar to the approach taken for corporations under the *Explosives Act 1999*.

Amendment of pt 10 (Transitional provisions)

Clause 50 provides that the transitional provisions of part 10 of the *Explosives Act 1999* apply for Act No. 15 of 1999.

Insertion of new pt 11

Clause 51 provides that an application for an authority or the renewal of an authority, made before the commencement of inserted section 144 and yet to have been decided by the chief inspector, are to be decided by the chief inspector as if the application had been made after the commencement.

Amendment of sch 2 (Dictionary)

Clause 52 provides for the clarification of the intended definition of "sell". The definition will include supply in another way such as by gift or exchange. The intention is to better provide for the principle of "sell" by identifying the stages of transfer of ownership of explosives and also the intention to offer to change the ownership of explosives. This is distinct from "possession".

Part 5 Amendment of Geothermal Exploration Act 2004

Act amended in pt 5

Clause 53 provides that Part 5 amends the *Geothermal Exploration Act 2004*.

Amendment of s 26 (Deciding whether to grant permit)

Clause 54 omits the definition of "eligible person", as clause 63 inserts this definition in the Schedule Dictionary to the *Geothermal Exploration Act 2004*.

Amendment of s 29 (Power to impose tenure conditions)

Clause 55 provides that the Minister may impose conditions on a geothermal exploration permit. Further, "tenure conditions" is defined in "Schedule Dictionary" of the *Geothermal Exploration Act 2004* as section 29 of the *Geothermal Exploration Act 2004*.

Replacement of ch 4, pt 3, hdg (Security)

Clause 56 omits Chapter 4, part 3 "Security" and inserts "Part 2A – Renewal of term of permit" and "Part 3 – General provisions about security".

This clause provides that a geothermal exploration permit holder may renew the term of a permit (called a "renewal application"). However, the holder may only apply to renew the term of the permit, if there is no rent or interest on rent outstanding, and providing there is still security held for the permit. The application for the renewal of the term of the geothermal exploration permit must be made within the timeframes detailed in this clause. Any renewal application can not be made after the expiry date of the current term of the permit.

- The renewal application must be:
- made on the approved form;
- accompanied by the fee prescribed under a regulation;
- address the suitability criteria detailed in section 28 of the *Geothermal Exploration Act 2004*;
- include a proposed later work program for activities to be carried out during the renewed term of the permit.

The proposed later work program must comply with the requirements for an initial work program detailed in section 22 of the *Geothermal Exploration Act 2004*.

If a renewal application is lodged prior to the end of the term of the permit, and it is not decided before this date, the permit is taken to continue in force until one of the matters, detailed in this clause at 52C, occurs.

The general provisions that the Minister must be satisfied of, or have regard to, when the Minister is deciding whether to grant the renewal application are detailed. Further, the Minister may, as a condition of granting the renewal application, require the applicant to obtain any relevant licence, approval or authority, under another Act.

If the Minister decides to grant the renewal application, the Minister may impose conditions on the permit for the renewed term. Also, if the Minister decides to grant the renewal application, the Minister must decide the area of the permit for its renewed term, though this cannot be greater than the area of the permit at the date the current term expires.

Also, the maximum term the renewal application may be granted is 3 years, which will commence immediately after the expiry date of the current term.

If the Minister decides to grant the renewal application, the extension cannot be made until the holder of the permit has:

- paid the annual rent for the first year of the renewed term;
- agreed to any conditions the Minister may have imposed on the permit for the renewed term; and
- agreed to the term of the renewal.

Also, the extension cannot be made unless:

- security is still in force for the permit, or any additional security required for the permit has been submitted; and
- the Minister and the applicant have agreed about the specific objectives for the renewed term of the permit; and
- any relevant licence, approval or authority, under another Act, as required by the Minister, has been obtained.

If the Minister decides to refuse the renewal application, an information notice must be given to the applicant for the renewal application.

As the applicant for the renewal application may appeal the decision to refuse the renewal application, the refusal does not take effect until the end of the appeal period for this type of decision.

This clause also provides for provisions about security for geothermal exploration permits.

Any security held for a geothermal exploration permit, prior to any extension of the permit, continues in force if the extension to the term of the permit is made. The mere fact of the extension to the term of the permit does not discharge or release any obligations under any security for the permit.

Further, the Minister may require at any time, an increase in security held for a geothermal exploration permit. However, to increase the security, the Minister must comply with the requirements for giving a notice, or an information notice, as detailed in this clause.

Amendment of s 55 (Replenishment of security)

Clause 57 provides that if any or all of the security held for a geothermal exploration permit is used, the security must be replenished to the prescribed amount.

Amendment of s 55A (Replacement of security)

Clause 58 provides that if any or all of the security held for a geothermal exploration permit is used, and the security was in the form of a bond, guarantee, indemnity or financial arrangement with an external security provider, the security must be replenished to the prescribed amount.

Amendment of s 106 (Direction to give statement of financial and technical resources)

Clause 59 broadens section 106(1) so that this section also applies if the chief executive reasonably believes a change in circumstances relating to a geothermal exploration permit holder may affect the holder's financial or technical ability to carry out a later work program.

Amendment of s 124 (Access to register)

Clause 60 provides that section 124 is subject to section 124A, inserted by clause 61. Also, this clause provides for how, when and where the chief executive is to keep the geothermal register, and provides that a person may obtain a copy of all or part of a notice, a document or information held in the geothermal register.

Insertion of new ss 124A and 124B

Clause 61 provides that the chief executive may supply other government Departments with a copy of all or part of a notice, a document or information held in the geothermal register, without requiring a fee. However, the government Departments cannot use this information provided by the chief executive for commercial purposes. Further, the government Departments cannot include this information on a data base without the chief executive's approval.

This clause also provides that the chief executive may enter into an agreement to allow a person access to any required statistical data at a cost that is part of the terms of the agreement. By entering into an agreement, the chief executive is able to supply a person data derived from information or instruments kept on the geothermal register at a cost determined in the agreement. The agreement must also include certain provisions as detailed.

Also, for privacy reasons, the chief executive must exclude any geothermal exploration permit particulars and personal information that may allow a

person to identify a person or a geothermal exploration permit to whom or which the instrument or information relates.

This clause may be perceived as being administrative in character, with the regulation of affairs between Departments of the State being a matter of administrative, rather then legal, concern.

However, the geothermal register, as with the petroleum register and the register maintained under the *Mineral Resources Act 1989*, is a public register. As such, the information contained therein must not be open to manipulation or modification in such a manner as to become incorrect or to breach privacy principles. Further, unauthorised use of information obtained from the geothermal register also needs to be prevented. This clause will give certainty to the parameters for use of this important information.

Insertion of new s 138A

Clause 62 gives statutory recognition to any direction, manual, guideline or other similar publications which may be made, published or maintained by the Minister. These publications will, among other things:

- provide information and guidance for departmental staff;
- assist a person preparing a document required under the *Geothermal Exploration Act 2004*, such as:
    - an application,
    - other supporting information related to later work programs and the like; and
    - dealings, such as a transfer of any interest in a geothermal exploration permit; or
    - assist a person to otherwise provide information to the Minister or chief executive for a purpose under the *Geothermal Exploration Act 2004*.

Timeframes within which a person must provide information to the Department must be detailed in the direction about the giving of information. The minimum timeframe for a person to provide information will be 20 business days; however a longer period to provide information may also be stated, depending on the nature of the information required by the Minister.

The making, publishing and maintenance of directions under this clause is to provide clear guidance about any information required to be provided with, or in support of, an application, or for the continuing administration

of any geothermal exploration permit, granted under the *Geothermal Exploration Act 2004*.

The policy underlying the making, publication and maintenance of directions is to clearly place the onus of responsibility on applicants or holders to be aware of the information required to be given to the Minister or chief executive relating to applications (or in other circumstances required by the *Geothermal Exploration Act 2004*) and to ensure the information provided is correct.

The guidance provided by the directions is intended to minimise non-compliance with the completion of applications and required accompanying information, as well as any other information required to be provided from time to time under the *Geothermal Exploration Act 2004*. The assistance to persons lodging the information through the directions will facilitate smoother processing and administration of the legislation and minimise applications failing where they are incorrect or where insufficient information is provided.

A non-exhaustive list of examples is included with the clause. The examples simply demonstrate instances where information might be required .

For example, an initial work program might be required with an application. A direction could be made and published by the Minister, containing details about the information requirements in the initial work program, how this information is to be provided with the application, and the most appropriate form the information may take or how it may be provided.

All directions, and a record of directions made, will be kept by the chief executive and be readily available to the public. A record will also be kept of the dates the directions were published and if any directions are superseded, when they were superseded.

Amendment of schedule (Dictionary)

Clause 63 provides for amendments to Schedule (Dictionary) of the *Geothermal Exploration Act 2004*.

Part 6 Amendment of Mineral Resources Act 1989

Act amended in pt 6

Clause 64 provides that Part 6 amends the *Mineral Resources Act 1989*.

Omission of s 6D (Notes in text)

Clause 65 provides that section 6D of the *Mineral Resources Act 1989* is now unnecessary because this provision is detailed in the *Acts Interpretation Act 1954*, which applies to all Acts.

Amendment of s 133 (Application for exploration permit)

Clause 66 omits section 133(4) as a consequence of clause 95, which now defines "financial resources" in the Schedule Dictionary to the *Mineral Resources Act 1989*.

Amendment of s 183 (Application for mineral development licence)

Clause 67 provides that an application for a mineral development licence must include details about the level of human, technical and financial resources proposed to be committed (on a yearly basis) to the authorised activities on the mineral development licence. Requiring these details will bring the mineral development licence application requirements in line with the mining lease application requirements in clause 69 and with the exploration permit application requirements at section 133 of the *Mineral Resources Act 1989*.

Amendment of s 231C (Application for mineral development licence (183))

Clause 68 provides that the application for the grant of a mineral development licence must identify the boundaries of the mineral development licence in the way approved by the Minister.

It may be considered that there is a breach of a fundamental legislative principle triggered by this clause, as how the boundary of a mineral development licence for the Aurukun project is identified, has been changed from subordinate legislation to an administrative decision.

The reason for this amendment is that the requirements for describing the land applied for in a mineral development licence for the Aurukun project, will be contained in the contractual arrangement (the Aurukun agreement) with the State, for the development of the Aurukun Bauxite Resource.

Amendment of s 245 (Application for grant of mining lease)

Clause 69 provides that an application for a mining lease must include details about the level of human, technical and financial resources proposed to be committed (on a yearly basis) to the authorised activities on the mining lease. These details will bring the mining lease application requirements in line with the mineral development licence application requirements in clause 67 and with the exploration permit application requirements at section 133 of the *Mineral Resources Act 1989*.

Replacement of s 286B (Chief executive must give copy of application to EPA administering authority)

Clause 70 provides that a copy of an application to renew a mining lease must be given to the *Environmental Protection Act 1994* administering authority within five days of the application being made. Also, if the Governor in Council grants the renewal of a mining lease, a copy of the renewed lease must be given to the *Environmental Protection Act 1994* administering authority within five days of the renewal being granted.

Amendment of pt 7AA, div 2, sdiv 3, hdg (Provisions for splitting application in particular circumstances)

Clause 71 amends the heading of part 7AA, division 2, subdivision 3.

Amendment of s 318AQ (Requirement to split application if it relates to petroleum lease and authority to prospect not held by same person)

Clause 72 provides for separate coal or oil shale mining lease applications to be made in certain circumstances. This clause removes the requirement for a single coal or oil shale mining lease application to be treated as if it were two separate applications. This clause requires that separate coal or oil shale mining lease applications must be submitted for land within the applications that is also in the area of an authority to prospect and for the land that is also in the area of a petroleum lease, where the authority to prospect and the petroleum lease are not held by the same person.

This is irrespective of the fact that the authority to prospect and the petroleum lease may abut each other, and that if there were none of these petroleum tenure within the area of the proposed coal or oil shale mining lease application, a single coal or oil shale mining lease application could have been lodged.

Amendment of s 318AR (Power to split application if it includes other land)

Clause 73 provides for separate coal or oil shale mining lease applications to be made in certain circumstances. This clause removes the Ministerial discretion to decide whether a single coal or oil shale mining lease application may be treated as if it were two separate applications.

This clause requires that separate coal or oil shale mining lease applications must be submitted for land within the applications that is also in the area of an authority to prospect or a petroleum lease, and for other land that is not within the area of an authority to prospect or a petroleum lease.

This is irrespective of the fact that the authority to prospect or a petroleum lease and the other land that is not within the area of an authority to prospect or a petroleum lease, may abut each other, and that if there were no petroleum tenure within the area of the proposed coal or oil shale mining lease application, a single coal or oil shale mining lease application could have been lodged.

Omission of s 318AS (Power to split application at applicant's request)

Clause 74 omits section 318AS.

The consequence of amendments provided for in clauses 71 to 74, inclusive, is that where previous to these amendments, a single coal or oil shale mining lease application could have been applied for over the area of an authority to prospect, petroleum lease, and other land not within the area of a petroleum tenure, and split, three separate coal or oil shale mining lease applications are now required to be submitted; one for each of these areas.

Amendment of s 318AT (Applicant's obligations)

Clause 75 provides correct cross referencing.

Amendment of s 318BQ (Requirement to split application if it relates to petroleum lease and authority to prospect not held by same person)

Clause 76 provides for separate coal or oil shale mining lease applications to be made in certain circumstances. This clause removes the requirement for a single coal or oil shale mining lease application to be treated as if it were two separate applications. This clause requires that separate coal or oil shale mining lease applications must be submitted for land within the applications that is also in the area of an authority to prospect and for the land that is also in the area of petroleum lease.

This is irrespective of the fact that the authority to prospect and the petroleum lease may abut each other, and that if there were none of these petroleum tenure within the area of the proposed coal or oil shale mining lease application, a single coal or oil shale mining lease application could have been lodged.

Amendment of s 318 BR (Power to split application if it includes other land)

Clause 77 provides for separate coal or oil shale mining lease applications to be made in certain circumstances. This clause removes the Ministerial discretion to decide whether a single coal or oil shale mining lease application may be treated as if it were two separate applications.

This clause requires that separate coal or oil shale mining lease applications must be submitted for land within the applications that is also in the area of an authority to prospect or petroleum lease, and for other land that is not within the area of an authority to prospect or petroleum lease.

This is irrespective of the fact that the authority to prospect or petroleum lease and the other land that is not within the area of an authority to prospect or petroleum lease may abut each other, and that if there were none of these petroleum tenure within the area of the proposed coal or oil shale mining lease application, a single coal or oil shale mining lease application could have been lodged.

Omission of s 318BS (Power to split application at applicant's request)

Clause 78 omits section 318BS.

The consequence of amendments provided for in clauses 76 to 78, inclusive, is that where previous to these amendments, a single coal or oil shale mining lease application could have been applied for over the area of an authority to prospect, petroleum lease, and other land not within the area of a petroleum tenure, and split, three separate coal or oil shale mining lease applications are now required to be submitted; one for each of these areas.

Replacement of ss 318BY and 318BZ

Clause 79 provides for separate coal or oil shale mining lease applications to be made in certain circumstances. This clause removes the Ministerial discretion to decide whether a single coal or oil shale mining lease application may be treated as if it were two separate applications.

This clause requires that separate coal or oil shale mining lease applications must be submitted for land within the applications that is also

in the area of a petroleum lease, and for other land that is within the area of an authority to prospect.

This is irrespective of the fact that the petroleum lease and the authority to prospect, may abut each other, and that if there was no authority to prospect within the area of the proposed coal or oil shale mining lease, a single coal or oil shale application could have been lodged.

This clause also omits section 318BZ.

The consequence of amendments provided for in this clause, is that where previous to these amendments, a single coal or oil shale mining lease application could have been applied for over the area of a petroleum lease and other land within the area of an authority to prospect, and split, two separate coal or oil shale mining lease applications are now required to be submitted; one for each of these areas.

Amendment of s 318CB (Restriction on issuing certificate of public notice and additional requirements for grant)

Clause 80 allows the certificate of public notice to be issued where the consent of the petroleum lease holder has been obtained. This will ensure that the mining lease application process is not delayed in the situation where the overlapping tenure holders are in agreement but have yet to formalise their coordination arrangement.

Replacement of ss 318CE and 318CF

Clause 81 provides for separate coal or oil shale mining lease applications to be made in certain circumstances. This clause removes the Ministerial discretion to decide whether a single coal or oil shale mining lease application may be treated as if it were two separate applications.

This clause requires that separate coal or oil shale mining lease applications must be submitted for land within the applications that is also in the area of a petroleum lease, and for other land that is within the area of an authority to prospect.

This is irrespective of the fact that the petroleum lease and the authority to prospect, may abut each other, and that if there was no authority to prospect within the area of the proposed coal or oil shale mining lease, a single coal or oil shale application could have been lodged.

This clause also omits section 318CF.

The consequence of amendments provided for in this clause, is that where previous to these amendments, a single coal or oil shale mining lease application could have been applied for over the area of a petroleum lease

and other land within the area of an authority to prospect, and split, two separate coal or oil shale mining lease applications are now required to be submitted; one for each of these areas.

Amendment of s 318CU (Obligation to measure and record coal seam gas mined)

Clause 82 broadens the obligation to measure and report all coal seam gas mined (not just incidental coal seam gas) and so now applies to coal seam gas mined under a mineral hydrocarbon mining lease.

Amendment of s 318CV (Obligation to lodge annual reports)

Clause 83 clarifies the definition of "anniversary day" by referring to the commencement date of the term of the mining lease. This is because there are two discrete dates for mining leases, namely the date the lease is granted or the date the term commences. Section 284 of the *Mineral Resources Act 1989*, provides that the commencement date for a mining lease is the first day of the month following its grant by the Governor in Council.

Amendment of s 318DJ (Applied provisions for renewal application)

Clause 84 excludes section 318BQ from chapter 3, division 3 under the definition of "adopted provisions", paragraph (d). Section 318BQ of the *Mineral Resources Act 1989*, as amended by clause 76, provides for two separate coal or oil shale mining lease applications in certain circumstances, which is irrelevant to the renewal of a single coal or oil shale mining lease.

This clause also excludes section 318BY from chapter 3, division 5 under the definition of "adopted provisions", paragraph (e). Section 318BY of the *Mineral Resources Act 1989*, as amended by clause 79, provides for two separate coal or oil shale mining lease applications in certain circumstances, which is irrelevant to the renewal of a single coal or oil shale mining lease.

Amendment of s 318EB (Obligation to lodge proposed later development plan)

Clause 85 extends the period a later development plan, for a coal or oil shale mining lease, may be submitted. This clause also extends the period the holder of a coal or oil shale mining lease has to lodge a later development plan after being given a notice requiring the later development plan's lodgement. This clause also moderates the relevant fee for when a later development plan is not lodged pursuant to section 318EB(6) and is lodged after the end of the current development plan period.

Amendment of s 319 (Effect on development)

Clause 86 provides that, for development authorised under the *Mineral Resources Act 1989*, the *Integrated Planning Act 1997* and the *Building Act 1975* apply in certain circumstances.

Amendment of s 387 (Registers to be maintained)

Clause 87 provides that the registers to be kept by the mining registrar and the chief executive may be kept in the form decided by the chief executive. This may include keeping the register in an electronic form.

Insertion of new ss 387A–387C

Clause 88 requires the chief executive or the mining registrar to keep the register open for public inspection during certain listed times and lists the places the register may be inspected.

This clause also provides that extracts from the register including, among other things, details such as who is the principal holder of particular mining tenements and the addresses for service of notices of principal holders of mining tenements, may be searched for and obtained upon payment of the prescribed fee.

Also, if a person asks for a copy of all of a notice, document or information held in the register, or a copy of part of a notice, document or information held in the register, the copy must be given to the person upon the payment of the prescribed fee.

Note that certain particulars that the mining registrar must include in the register may not be released to a person due to privacy reasons.

This clause also provides that the chief executive may supply other government Departments with a copy of all or part of a notice, a document or information held in the register, without requiring a fee. However, the government Departments cannot use this information provided by the chief executive for commercial purposes. Further, the government Departments cannot include this information on a database without the chief executive's approval.

This clause also provides that the chief executive may enter into an agreement to allow a person access to any required statistical data at a cost that is part of the terms of the agreement. By entering into an agreement, the chief executive is able to supply a person data derived from information or instruments kept on the register at a cost determined in the agreement. The agreement must also include certain provisions as detailed.

Also, for privacy reasons, the chief executive must exclude any mining tenement particulars and personal information that may allow a person to identify a person or a mining tenement to whom or which the instrument or information relates.

This clause may be perceived as being administrative in character, with the regulation of affairs between Departments of the State being a matter of administrative, rather then legal, concern.

However, the register maintained under the *Mineral Resources Act 1989*, as with the geothermal and petroleum register, is a public register. As such, the information contained therein must not be open to manipulation or modification in such a manner as to become incorrect or to breach privacy principles. Further, unauthorised use of information obtained from the register, maintained under the *Mineral Resources Act 1989*, also needs to be prevented. This clause will give certainty to the parameters for use of this important information.

Amendment of s 391B (Right of access for authorised activities includes access for rehabilitation and environmental management)

Clause 89 broadens this right to include the *Mineral Resources Act 1989*, not just Part 11 within the *Mineral Resources Act 1989*.

Insertion of new s 404E

Clause 90 provides that it is an offence to undertake mining activity, that obstructs the use of a road, unless such activity has been expressly authorised under a mining tenement.

Further, a person cannot perform a mining activity that undermines a road in a way that endangers any person using, or likely to use, the road.

This clause also provides the definition of "mining activity" as being "activity for the purpose of mining". A non-exhaustive list of examples of "activity for the purpose of mining" is also detailed.

Insertion of new s 416B

Clause 91 gives statutory recognition to any direction, manual, guideline or other similar publications which may be made, published or maintained by the Minister. These publications will, among other things:

- provide information and guidance for departmental staff;
- assist a person preparing a document required under the *Mineral Resources Act 1989*, such as:
    - an application,

- other supporting information related to programs of work and the like; and
- dealings, such as the transfer of any interests in certain mining tenements; or

- assist a person to otherwise provide information to the Minister or chief executive for a purpose under the *Mineral Resources Act 1989*.

Timeframes within which a person must provide information to the Department must be detailed in the direction about the giving of information. The minimum timeframe for a person to provide information will be 20 business days; however a longer period to provide information may also be stated, depending on the nature of the information required by the Minister.

The making, publishing and maintenance of directions under this clause is to provide clear guidance about any information required to be provided with, or in support of, an application, or for the continuing administration of any mining tenement, granted under the *Mineral Resources Act 1989*.

The policy underlying the making, publication and maintenance of directions is to clearly place the onus of responsibility on applicants and holders to be aware of the information required to be given to the Minister or chief executive relating to applications (or in other circumstances required by the *Mineral Resources Act 1989*) and to ensure the information provided is correct.

The guidance provided by the directions is intended to minimise non-compliance with the completion of applications and required accompanying information, as well as any other information required to be provided from time to time under the *Mineral Resources Act 1989*. The assistance to persons lodging the information through the directions will facilitate smoother processing and administration of the legislation and minimise applications failing where they are incorrect or where insufficient information is provided.

A non-exhaustive list of examples is included with the clause. The examples simply demonstrate instances where information might be required .

For example, a program of work might be required with an application. A direction could be made and published by the Minister, containing details about the information requirements in the program of work, how this

information is to be provided with the application, and the most appropriate form the information may take or how it may be provided.

All directions, and a record of directions made, will be kept by the chief executive and be readily available to the public. A record will also be kept of the dates the directions were published and if any directions are superseded, when they were superseded.

Amendment of s 672 (Fixing of date for combined hearing)

Clause 92 provides that the Land and Resources Tribunal is to fix a hearing date for a combined hearing (defined in section 671(1) of the *Mineral Resources Act 1989*), and for other matters as detailed within this section.

Amendment of s 747 (Continuation of particular rights relating to coal seam gas under mineral hydrocarbon mining leases)

Clause 93 broadens what chapters of the *Petroleum and Gas (Production and Safety) Act 2004*, and what sections of the *Mineral Resources Act 1989* a mineral hydrocarbon mining lease is subject to, when mining or carrying out a use detailed in section 747(1)(b) of the *Mineral Resources Act 1989*.

This clause is also a consequence of clause 82, as mineral hydrocarbon mining lease holders are now to be subject to the same royalty and measurement provisions as other coal or oil shale mining lease holders.

Insertion of new pt 19, div 9

Clause 94 provides that section 133 applies as if the amendment of section 133 at clause 66, under the *Mining and Other Legislation Amendment Act 2007* had not been enacted.

However, this section only applies to applications for exploration permits, that were undecided at the date of the commencement of the *Mining and Other Legislation Amendment Act 2007*, and to which any Native Title provisions apply to the deciding of these applications.

Amendment of schedule (Dictionary)

Clause 95 provides for amendments to the Schedule Dictionary of the *Mineral Resources Act 1989*, to include the definition of "financial resources".

Part 7 Amendment of Mining And Quarrying Safety and Health Act 1999

Act amended in pt 7

Clause 96 provides that Part 7 and the schedule amend the *Mining and Quarrying Safety and Health Act 1999*.

Amendment of s 31 (Discharge of obligations)

Clause 97 provides for the deletion of the existing penalties and replacement by new penalties for failure to discharge obligations which are in line with those in the *Workplace Health and Safety Act 1995*.

Amendment of s 69 (Membership of council)

Clause 98 provides for the amendment of section 69 of the *Mining and Quarrying Safety and Health Act 1999* to make the chief executive, or the chief executive's nominee, chairperson of the Advisory Council in place of the chief inspector of mines. This will provide for a chairperson who will be seen to be more independent than an inspector of mines.

Amendment of s 70 (Organisations to submit names to Minister)

Clause 99 provides for the amendment of section 79(4) of the *Mining and Quarrying Safety and Health Act 1999* so that panels of names submitted to the minister must contain six names. This will provide the required number of nominations for the Minister to appoint substitute members in accordance with clause 102.

Amendment of s 71 (Appointment of members)

Clause 100 deletes reference to the inspector being appointed to be chair person of the council.

Amendment of s 72 (Duration of appointment)

Clause 101 provides for the deletion of the maximum period for which a person may be a member of the council. This will allow for a person to be a member for more than the 8 years previously stipulated and will allow the council to retain knowledge and experience in its membership. Also, the Minister may re-appoint a member of the council after the member's appointed term, of up to three years, has concluded.

Insertion of new s 74A

Clause 102 provides for the Minister to be able to appoint substitute members to the council who may act in the position of the original member if the original member is unable to participate in council activities. This will help to ensure that there is always a quorum for meetings of the council.

Amendment of s 92 (Functions of site safety and health representatives)

Clause 103 allows a site safety and health representative to participate in inspections and investigations conducted by inspection officers and authorised officers.

Amendment of pt 9 hdg (Inspectors and inspection officers and directives)

Clause 104 renames the heading of Part 9 of the *Mining and Quarrying Safety and Health Act 1999* to allow for the inclusion of other officers besides inspectors and inspection officers in the heading of Part 9.

Insertion of new s 124A

Clause 105 provides for the ability of the chief executive to limit the functions or powers of an inspector or inspection officer by instrument of appointment.

This will allow the mines inspectorate to establish different grades of inspector positions so that career paths can be developed to allow officers to progress as they increase their competency. As their competency increases, so their powers and functions will be extended.

Renumbering of pt 9 divs 2 – 4

Clause 106 renumbers the divisions of part 9 of the *Mining and Quarrying Safety and Health Act 1999*.

Insertion of new pt 9, div 2 and pt 9, div 3 hdg

Clause 107 introduces a new division 2 to part 9 of the *Mining and Quarrying Safety and Health Act 1999*, to allow the appointment of authorised officers by the chief executive, to allow the chief executive to limit the functions and powers of the authorised officers and to state the functions of authorised officers. Authorised officers will not be inspectors of mines.

This will allow the appointment of officers such as ergonomists, and occupational hygienists who will be given some of the powers of inspectors

to allow them to act independently of inspectors when necessary. These officers will provide increased knowledge of general safety and health issues to the mines inspectorate and will provide advice to industry.

Experienced investigation officers will also be appointed as authorised officers and their functions and powers will relate specifically to investigation of accidents and allegations of breaches of legislation. They will be able to investigate matters independently of inspectors where necessary.

This clause also provides a new division 3 heading.

Amendment of s 127 (Identity cards)

Clause 108 provides for the issue of identity cards to authorised officers.

Clauses 108 to 124 effectively add the term "authorised officer" to the sections of the Act which state the various functions, powers and obligations of inspectors and other officers. This will allow the chief executive to identify which powers and functions will be given to authorised officers.

Amendment of s 129 (Production or display of identity card)

Clause 109 provides for the requirement for authorised officers to display their identity cards when exercising their powers.

Replacement of pt 9, div 4 hdg, as renumbered (Powers of inspectors and inspection officers)

Clause 110 broadens part 9, division 4 of the *Mining and Quarrying Safety and Health Act 1999*, to include authorised officers.

Renumbering of pt 9, div 4, as renumbered, subdiv 1–7

Clause 111 renumbers part 9, division 4, subdivisions 1 to 7, as part 9, division 4, subdivisions 2 to 8.

Insertion of new pt 9, div 4, as renumbered, subdiv 1

Clause 112 inserts a definition, to apply to Division 4, of "officer", which means an inspector, an inspection officer or an authorised officer.

Amendment of s 131 (Consent to entry)

Clause 113 provides for requirements for an officer to obtain consent to enter a place.

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

Clause 114 provides an officer with certain powers after entering a place.

Amendment of s 139 (Site senior executive must help inspector or inspection officer)

Clause 115 requires site senior executives to provide an officer with assistance.

Replacement of s 142 (Tampering with things subject to seizure)

Clause 116 provides that persons must not tamper with anything seized by an officer.

Amendment of s 147 (Access to things that have been seized)

Clause 117 requires an authorised officer to provide access to things seized.

Amendment of s 148 (Inspector may stop and secure plant and equipment)

Clause 118 provides an officer with the power to stop plant or equipment which is likely to cause serious bodily injury.

Amendment of s 151 (Power to require production of documents)

Clause 119 provides an officer with the power to require documents to be produced.

Amendment of s 170 (Records must be kept)

Clause 120 requires that an authorised officer must keep reports of inspections and must provide a copy to the operator and site senior executive.

Amendment of s 176 (False and misleading statements)

Clause 121 broadens the provision so that a person must not state anything to an inspector, inspection officer, authorised officer or district worker's representative, that is false or misleading in a material particular.

Amendment of s 177 (False or misleading documents)

Clause 122 provides for penalties for providing false documents to authorised officers.

Amendment of s 178 (Obstructing inspectors, inspection officers or district worker's representatives)

Clause 123 provides for penalties for obstructing authorised officers.

Amendment of s 195 (Notice of accidents, incidents or diseases).

Clause 124 provides for all deaths on mine sites to be reported to the inspector of mines and other officers, not just deaths caused by accidents. This will give the inspector of mines the opportunity to investigate the death to consider if it is work related. If the death is determined to be work related, then a comprehensive nature and cause investigation will be carried out by the inspector.

Amendment of s 223 (Who may appeal)

Clause 125 provides for the change of numbering in the section 223(b) from "division 3" to "division 5".

Amendment of s 229 (Proof of appointments and authority unnecessary)

Clause 126 provides that the proof of appointment or authority of an authorised officer is not necessary.

Clauses 126 to 130 effectively add the term "authorised officer" to the list of officers mentioned in the relevant sections of the Act.

Amendment of s 230 (Proof of signatures unnecessary)

Clause 127 provides that a signature purporting to be the signature of an authorised officer is evidence that it is the signature.

Amendment of s 231 (Evidentiary aids)

Clause 128 provides for the inclusion of the signature of an authorised officer in the definition of "certificate".

Amendment of s 247 (Person not to encourage refusal to answer questions)

Clause 129 provides for penalties for encouraging persons not to answer questions from an authorised officer.

Amendment of s 248 (Impersonating inspector or inspection officers and others)

Clause 130 provides for penalties for pretending to be an authorised officer.

Amendment of s 249 (Protection for officers)

Clause 131 provides for the inclusion of "authorised officer" in the definition of "officer".

Amendment of s 256 (Protection from liability)

Clause 132 provides for the inclusion of "authorised officer" and "substitute member taking part in a council meeting under section 74A" in the definition of "official".

Amendment of s 262 (Regulation – making power)

Clause 133 allows regulations to be made about the qualifications and experience of authorised officers.

Amendment of sch 2 (Dictionary)

Clause 134 includes the definitions of "authorised officer", "officer", and "substitute member" to the dictionary.

Part 8 Amendment of Petroleum Act 1923

Act amended in pt 8 and schedule

Clause 135 provides that Part 8 and the schedule amend the *Petroleum Act 1923*.

Omission of s 7B (Notes in text)

Clause 136 provides that section 7B of the *Petroleum Act 1923* is now unnecessary because this provision is detailed in the *Acts Interpretation Act 1954*, which applies to all Acts.

Amendment of s 25L (Conditions for renewal application)

Clause 137 amends when an application for a renewal of an authority to prospect cannot be made. This clause provides that a renewal application may now be made if any part of the area of the authority to prospect, the subject of the renewal, overlaps a petroleum lease granted under chapter 3, part 2, division 2 or chapter 3, part 3, division 3 of the *Petroleum and Gas (Production and Safety) Act 2004*.

A mining lease holder may also be the holder of a petroleum lease which covers the same area as the mining lease. This allows the holder of the mining lease to use incidental coal seam gas for a purpose, other than mining, under this petroleum lease. This area covered by the coincidental mining lease and petroleum lease may also include an area within an

authority to prospect which is not held by the mining lease/petroleum lease holder.

This clause allows the authority to prospect holder to renew over the area over the coincidental mining lease/petroleum lease until the mining lease and petroleum lease end. The authority to prospect holder may then apply for a petroleum lease over what was the coincidental area.

Amendment of s 40 (Lease to holder of authority to prospect)

Clause 138 provides that the applicant for a petroleum lease may only apply for a petroleum lease in writing that also contains the signature of the applicant.

Amendment of s 45 (Entitlement to renewal of lease)

Clause 139 provides that the Governor in Council is to grant the renewal of a petroleum lease. Also, this clause provides that an application for a renewal must be accompanied by a statement about how the holder of the lease is going to consult with private and public landowners, about generally where and generally when authorised activities for the lease are going to occur.

Amendment of s 48 (Commencement of drilling)

Clause 140 amends section 48(2), as a consequence of clause 143.

Amendment of s 53B (Plan period)

Clause 141 provides that, if the remaining term or renewed term of a petroleum lease is five years or more, the plan period cannot be more than five years. The plan period will commence from the date of grant of the petroleum lease, or from the date of grant of the renewal of the petroleum lease.

Omission of s 54 (Signing of applications)

Clause 142 omits this provision.

Amendment, relocation and renumbering of s 57 (Ascertainment of value)

Clause 143 provides that the Minister and a petroleum producer may ascertain the value at wellhead of the petroleum produced, for section 48(2) of the *Petroleum Act 1923*, as amended by clause 140. This clause also provides that this section is renumbered.

Amendment of s 74K (Obligation to lodge proposed later work program)

Clause 144 extends the period a later work program, for an authority to prospect, may be submitted. This clause also extends the period the holder of an authority to prospect has to lodge a later work program after being given a notice requiring the later work program's lodgement. This clause also moderates the relevant fee for when a later work program is not lodged pursuant to section 74K(4) and is lodged after the end of the current work program period.

Amendment of s 74Q (Obligation to lodge proposed later development plan)

Clause 145 extends the period a later development plan, for a petroleum lease, may be submitted. This clause also extends the period the holder of a petroleum lease has to lodge a later development plan after being given a notice requiring the later development plan's lodgement. This clause also moderates the relevant fee for when a later development plan is not lodged pursuant to section 74Q(4) and is lodged after the end of the current development plan period.

Insertion of new s 75AA

Clause 146 requires any change of name of a holder to be notified to the chief executive on the approved form. For example, if there is a change to the name of a company (say from a "Limited" to a "Pty Ltd" company) that is the holder of a petroleum tenure, and there has been no change to the company's ACN or ARBN number [given to a company by the Australian Securities and Investments Commission upon its registration under the *Corporations Act 2001* (Cwlth)], the chief executive must be notified so that the petroleum register can be properly maintained.

Amendment of s 75IM (Lodging report)

Clause 147 extends the period of time, that each petroleum tenure holder is required to lodge an underground water impact report, to 40 days after the end of the first year of testing for petroleum production in the area of the tenure.

Amendment of s 75IW (Obligation to lodge monitoring reports)

Clause 148 provides that the holder of a petroleum tenure must lodge a separate monitoring report on, or before, the required day as defined.

Amendment of s 75IX (Obligation to lodge review reports)

Clause 149 provides that the holder of a petroleum tenure must lodge a separate review report at the office detailed.

Amendment of s 75U (Obligation to decommission)

Clause 150 provides an obligation to a responsible person to decommission a petroleum well, water observation bore or water supply bore, except in certain detailed circumstances. These circumstances include where a transfer of the well or bore has been effected under part 6D, division 3 of the *Petroleum Act 1923*.

Amendment of s 75Y (Notice about discovery and commercial viability)

Clause 151 lessens the relevant period, from 45 business days to 40 business days, for when a notice about a petroleum discovery, and the commercial viability of extracting the petroleum from its reservoir, are required to be submitted. Also, this clause provides that an extension to this relevant period may be made by the chief executive, providing the request for the extension is received within 40 business days after the petroleum discovery.

This clause also clarifies that the start date for the 40 business day period, to submit the notice about commercial viability, commences after the conclusion of the period approved by the Minister for production testing.

Omission of s 76F (Obligation to lodge annual reports)

Clause 152 removes the requirement for the holder of an authority to prospect or petroleum lease to lodge an annual report about activities conducted on these petroleum tenure. This is because much of the information that was collected in these reports was a duplication of information that was submitted in other reports required under the *Petroleum Act 1923*, and was therefore superfluous to requirements.

Amendment of s 78J (Security not affected by change in holder)

Clause 153 omits section 78J(3). This is because where a person with a holding in a tenure (the transferor) transfers the holding to another person (the transferee), it is considered untenable that a financier supporting the instrument of security of the transferor should be forced to financially indemnify the transferee.

Amendment of s 80C (Access to register)

Clause 154 provides that section 80C is subject to section 80CA, inserted by clause 155. This clause also provides that, on payment of the prescribed fee, any person search and take extracts from the petroleum register.

Insertion of new ss 80CA and 80CB

Clause 155 provides that the chief executive may supply other government Departments with a copy of all or part of a notice, a document or information held in the petroleum register, without requiring a fee. However, the government Departments cannot use this information provided by the chief executive for commercial purposes. Further, the government Departments cannot include this information on a data base without the chief executive's approval.

This clause also provides that the chief executive may enter into an agreement to allow a person access to any required statistical data at a cost that is part of the terms of the agreement. By entering into an agreement, the chief executive is able to supply a person data derived from information or instruments kept on the petroleum register at a cost determined in the agreement. The agreement must also include certain provisions as detailed.

Also, for privacy reasons, the chief executive must exclude any petroleum tenure particulars and personal information that may allow a person to identify a person or a petroleum tenure to whom or which the instrument or information relates.

This clause may be perceived as being administrative in character, with the regulation of affairs between Departments of the State being a matter of administrative, rather then legal, concern.

However, the petroleum register, as with the geothermal register and the register maintained under the *Mineral Resources Act 1989*, is a public register. As such, the information contained therein must not be open to manipulation or modification in such a manner as to become incorrect or to breach privacy principles. Further, unauthorised use of information obtained from the petroleum register also needs to be prevented. This clause will give certainty to the parameters for use of this important information.

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

Clause 156 provides that a sublease, or a share in a sublease, of a petroleum lease is a permitted dealing. Further, this clause omits the definition of what a transfer includes.

This clause also provides that the transfer of a "divided part" of a petroleum tenure is a prohibited dealing.

Examples of the transfer of a "divided part" of a petroleum tenure, that are a prohibited dealing, are also detailed. These examples, that are prohibited dealings, may be further explained as follows:

(Company) Pty Ltd has a 100% holding in a petroleum lease, and this company wishes to transfer one hectare of this lease to an eligible person; and

(Company) Pty Ltd holds 100% of a petroleum lease and this company wishes to transfer that area of the petroleum lease, below a geological stratum, to an eligible person.

However, the effect of the above may be able to be achieved by way of a sublease, which, under section 80E(1)(d) of the *Petroleum Act 1923*, is a permitted dealing.

Omission of s 80F (Dealings other than permitted dealings of no effect)

Clause 157 omits section 80F. This section has been omitted because it may have been applied to strictly commercial dealings not identified as permitted dealings (such as farm-in agreements). There was never any intention for strictly commercial dealings, not identified as permitted dealings, to have no effect. It was only ever the intention for permitted dealings, as identified, to be approved by the Minister under the *Petroleum Act 1923*. The Minister is not required to approve any strictly commercial dealings that are not identified as permitted dealings.

Amendment of s 80I (Applying for approval)

Clause 158 provides that the application for the approval of a dealing, that is the transfer of a share in a petroleum tenure, must also be accompanied by a written consent to the transfer by each person who holds that interest or share of the tenure.

Replacement of s 142 (All statements to be verified)

Clause 159 provides for the omission of section 142, which required all applications, statements, representations, information and reports to be verified upon oath or by statutory declaration unless otherwise specified by the Minister.

This clause also gives statutory recognition to any direction, manual, guideline or other similar publications which may be made, published or maintained by the Minister. These publications will, among other things:

- provide information and guidance for departmental staff;

- assist a person preparing a document required under the *Petroleum Act 1923*, such as:
  - an application,
  - other supporting information related to later development plans and the like; and
  - dealings, such as the transfer of any interests in a petroleum tenure; or
- assist a person to otherwise provide information to the Minister or chief executive for a purpose under the *Petroleum Act 1923*.

Timeframes within which a person must provide information to the Department must be detailed in the direction about the giving of information. The minimum timeframe for a person to provide information will be 20 business days; however a longer period to provide information may also be stated, depending on the nature of the information required by the Minister.

The making, publishing and maintenance of directions under this clause is to provide clear guidance about any information required to be provided with, or in support of, an application, or for the continuing administration of any petroleum tenure, granted under the *Petroleum Act 1923*.

The policy underlying the making, publication and maintenance of directions is to clearly place the onus of responsibility on applicants and holders to be aware of the information required to be given to the Minister or chief executive relating to applications (or in other circumstances required by the *Petroleum Act 1923*) and to ensure the information provided is correct.

The guidance provided by the directions is intended to minimise non-compliance with the completion of applications and required accompanying information, as well as any other information required to be provided from time to time under the *Petroleum Act 1923*. The assistance to persons lodging the information through the directions will facilitate smoother processing and administration of the legislation and minimise applications failing where they are incorrect or where insufficient information is provided.

A non-exhaustive list of examples is included with the clause. The examples simply demonstrate instances where information might be required .

For example, a later work program might be required with an application. A direction could be made and published by the Minister, containing details about the information requirements in the later work program, how this information is to be provided with the application, and the most appropriate form the information may take or how it may be provided.

All directions, and a record of directions made, will be kept by the chief executive and be readily available to the public. A record will also be kept of the dates the directions were published and if any directions are superseded, when they were superseded.

Part 9 Amendment of Petroleum and Gas (Production and Safety) Act 2004

Act amended in pt 9 and schedule

Clause 160 provides that Part 8 and the schedule amend the *Petroleum and Gas (Production and Safety) Act 2004*.

Amendment of s 15 (When petroleum is *produced*)

Clause 161 amends section 15 as a consequence of the amendment to the definition of "petroleum producer" detailed in the Schedule. The amendment of section 15, and the definition of "petroleum producer" detailed in the Schedule, will provide that "mineral hydrocarbon mining lease", coal mining lease and oil shale mining lease holders pay royalty when required, and become subject to the measurement requirements detailed in section 801 of the *Petroleum and Gas (Production and Safety) Act 2004* or section 318CU of the *Mineral Resources Act 1989*, with respect to all coal seam gas produced on the mining lease.

Omission of ch 1, pt 3, div 3 (Other matters relating to interpretation)

Clause 162 provides that Chapter 1, part 3, division 3 is now unnecessary because this provision is detailed in the *Acts Interpretation Act 1954*, which applies to all Acts.

Amendment of s 32 (Exploration and testing)

Clause 163 broadens the authorised activities the holder of an authority to prospect may carry out on the authority.

Amendment of s 59 (Restrictions on amending work program)

Clause 164 provides that the period for an initial work program, approved for an authority to prospect, may be extended. However, the Minister may only amend the initial work program, to extend its period, if the Minister is satisfied the reason for the extension is beyond the control of the holder of the authority. An example of a circumstance beyond the control of the authority holder is where a drill rig is shut down, during the drilling of a well, for safety reasons.

The reason for the extension of the period for the initial work program is not to be related to holder's financial or technical resources, or ability to manage petroleum exploration, as these are a reflection of the manner in which the holder undertakes their business. The failure to secure the timely access to the necessary equipment and technical resources is also an indication of the ability of the holder to manage petroleum exploration. The results of petroleum exploration are not considered to be a valid reason for extending the period of an initial work program as it is an inherent risk associated with exploration. However, the holder of an authority to prospect is not to be disadvantaged by an event beyond the holder's control which could not have been prevented by a reasonable person in their position.

Amendment of s 60 (Applying for approval to amend)

Clause 165 exempts an application to amend a work program from having to be made at least 20 business days before the relevant period ends, providing the Minister is satisfied the reason for the amendment is beyond the control of the holder of the authority.

Amendment of s 79 (Obligation to lodge proposed later work program)

Clause 166 extends the period a later work program, for an authority to prospect, may be submitted. This clause also extends the period the holder of an authority to prospect has to lodge a later work program after being given a notice requiring the later work program's lodgement. This clause also moderates the relevant fee for when a later work program is not lodged pursuant to section 79(4) and is lodged after the end of the current work program period.

Amendment of s 159 (Obligation to lodge proposed later development plan)

Clause 167 extends the period a later development plan, for a petroleum lease, may be submitted. This clause also extends the period the holder of a petroleum lease has to lodge a later development plan after being given a

notice requiring the later development plan's lodgement. This clause also moderates the relevant fee for when a later development plan is not lodged pursuant to section 159(4) and is lodged after the end of the current development plan period.

Amendment of s 234 (Arrangement to coordinate petroleum activities)

Clause 168 provides that an arrangement to coordinate petroleum activities may be inconsistent with the conditions imposed under section 44(d) of the *Petroleum Act 1923* (mandatory conditions for leases and any conditions decided by the Governor in Council), providing each holder of a relevant mining or petroleum lease, the subject of the arrangement, agrees.

Amendment of s 256 (Lodging report)

Clause 169 extends the period of time, that each petroleum tenure holder is required to lodge an underground water impact report, to 40 days after the end of the first year of testing for petroleum production in the area of the tenure.

Amendment of s 266 (Obligation to lodge monitoring reports)

Clause 170 provides that the holder of a petroleum tenure must lodge a separate monitoring report on, or before, the required day as defined.

Amendment of s 267 (Obligation to lodge review reports)

Clause 171 provides that the holder of a petroleum tenure must lodge a separate review report at the office detailed.

Amendment of s 292 (Obligation to decommission)

Clause 172 provides an obligation to a responsible person to decommission a petroleum well, water observation bore or water supply bore, except in certain detailed circumstances. These circumstances include where a transfer of the well or bore has been effected under chapter 2, part 10, division 3 of the *Petroleum and Gas (Production and Safety) Act 2004*.

Amendment of ch 3, pt 2, div 1, sdiv 3, hdg (Provisions for splitting application in particular circumstances)

Clause 173 amends the heading of chapter 3, part 2, division 1, subdivision 3.

Amendment of s 307 (Requirement to split application if it relates to coal or oil shale mining tenements not held by the same person)

Clause 174 provides for separate ATP-related petroleum lease applications to be made in certain circumstances. This clause removes the requirement for a single ATP-related petroleum lease application to be treated as if it

were two separate applications. This clause requires that separate ATP-related petroleum lease applications must be submitted for land within the applications that is also in the area of a coal or oil shale exploration tenement and for the land that is also in the area of a coal or oil shale mining lease, where the exploration tenement and the mining lease are not held by the same person.

This is irrespective of the fact that the coal or oil shale exploration tenement and the coal or oil shale mining lease may abut each other, and that if there were none of these mining tenements within the area of the proposed ATP-related petroleum lease application, a single petroleum lease application could have been lodged.

Amendment of s 308 (Power to split application if it includes other land)

Clause 175 provides for separate ATP-related petroleum lease applications to be made in certain circumstances. This clause removes the Ministerial discretion to decide whether a single ATP-related petroleum lease application may be treated as if it were two separate applications.

This clause requires that separate ATP-related petroleum lease applications must be submitted for land within the applications that is also in the area of a coal or oil shale mining tenement, and for other land that is not within the area of a coal or oil shale mining tenement.

This is irrespective of the fact that the coal or oil shale mining tenement and the other land that is not within the area of a mining tenement, may abut each other, and that if there were none of these mining tenements within the area of the proposed ATP-related petroleum lease application, a single petroleum lease application could have been lodged.

Omission of s 309 (Power to split application at applicant's request)

Clause 176 omits section 309.

The consequence of amendments provided for in clauses 173 to 176, inclusive, is that where previous to these amendments, a single ATP-related petroleum lease application could have been applied for over the area of a coal or oil shale exploration tenement, coal or oil shale mining lease, and other land not within the area of a coal or oil shale mining tenement, and split, three separate ATP-related petroleum lease applications are now required to be submitted; one for each of these areas.

Amendment of s 335 (Requirement to split application if it relates to coal or oil shale mining tenements not held by the same person)

Clause 177 provides for separate ATP-related petroleum lease applications to be made in certain circumstances. This clause removes the requirement for a single ATP-related petroleum lease application to be treated as if it were two separate applications. This clause requires that separate ATP-related petroleum lease applications must be submitted for land within the applications that is also in the area of a coal or oil shale exploration tenement and for the land that is also in the area of a coal or oil shale mining lease, where the exploration tenement and the mining lease are not held by the same person.

This is irrespective of the fact that the coal or oil shale exploration tenement and the coal or oil shale mining lease may abut each other, and that if there were none of these mining tenements within the area of the proposed ATP-related petroleum lease application, a single petroleum lease application could have been lodged.

Amendment of s 336 (Power to split application if it includes other land)

Clause 178 provides for separate ATP-related petroleum lease applications to be made in certain circumstances. This clause removes the Ministerial discretion to decide whether a single ATP-related petroleum lease application may be treated as if it were two separate applications.

This clause requires that separate ATP-related petroleum lease applications must be submitted for land within the applications that is also in the area of a coal or oil shale mining tenement, and for other land that is not within the area of a coal or oil shale mining tenement.

This is irrespective of the fact that the coal or oil shale mining tenement and the other land that is not within the area of a mining tenement, may abut each other, and that if there were none of these mining tenements within the area of the proposed ATP-related petroleum lease application, a single petroleum lease application could have been lodged.

Omission of s 337 (Power to split application at applicant's request)

Clause 179 omits section 337.

The consequence of amendments provided for in clauses 177 to 179, inclusive, is that where previous to these amendments, a single ATP-related petroleum lease application could have been applied for over the area of a coal or oil shale exploration tenement, coal or oil shale mining lease, and other land not within the area of a coal or oil shale mining tenement, and

split, three separate ATP-related petroleum lease applications are now required to be submitted; one for each of these areas.

Replacement of s 346 (Power to split application if it includes other land)

Clause 180 provides for separate ATP-related petroleum lease applications to be made in certain circumstances. This clause removes the Ministerial discretion to decide whether a single ATP-related petroleum lease application may be treated as if it were two separate applications.

This clause requires that separate ATP-related petroleum lease applications must be submitted for land within the applications that is also in the area of a coal or oil shale mining lease, and for other land that is not within the area of a coal or oil shale mining lease.

This is irrespective of the fact that the coal or oil shale mining lease and the other land that is not within the area of a mining lease, may abut each other, and that if there was no mining lease within the area of the proposed ATP-related petroleum lease application, a single petroleum lease application could have been lodged.

Omission of s 347 (Power to split application at applicant's request)

Clause 181 omits section 347.

The consequence of amendments provided for in clauses 180 and 181, is that where previous to these amendments, a single ATP-related petroleum lease application could have been applied for over the area of a coal or oil shale mining lease and other land not within the area of a coal or oil shale mining lease, and split, two separate ATP-related petroleum lease applications are now required to be submitted; one for each of these areas.

Replacement of s 354 (Power to split application if it includes other land)

Clause 182 provides for separate ATP-related petroleum lease applications to be made in certain circumstances. This clause removes the Ministerial discretion to decide whether a single ATP-related petroleum lease application may be treated as if it were two separate applications.

This clause requires that separate ATP-related petroleum lease applications must be submitted for land within the applications that is also in the area of a coal or oil shale mining lease, and for other land that is not within the area of a coal or oil shale mining lease.

This is irrespective of the fact that the coal or oil shale mining lease and the other land that is not within the area of a mining lease, may abut each other,

and that if there was no mining lease within the area of the proposed ATP-related petroleum lease application, a single petroleum lease application could have been lodged.

Omission of s 355 (Power to split application at applicant's request)

Clause 183 omits section 355.

The consequence of amendments provided for in clauses 182 and 183, is that where previous to these amendments, a single ATP-related petroleum lease application could have been applied for over the area of a coal or oil shale mining lease and other land not within the area of a coal or oil shale mining lease, and split, two separate ATP-related petroleum lease applications are now required to be submitted; one for each of these areas.

Amendment of s 386 (Requirements for consultation with particular coal or oil shale mining tenement holders)

Clause 184 allows the requirements of this section to be coordinated by the petroleum tenure holder with respect to operating plant on the tenure.

Amendment of s 389 (Exemption from additional content requirements)

Clause 185 ensures that the exemption may apply to single tenure, part of a tenure, or multiple tenure.

Amendment, relocation and renumbering of s 408 (Notice of proposed application to relevant local government)

Clause 186 requires a copy of the application for a pipeline licence, to be given to each local government in which the pipeline is proposed to be constructed, within 10 business days after the application has been lodged pursuant to section 409. If this requirement is not met, the application is then taken to have lapsed. However, this does not preclude the applicant from making another application for a pipeline licence.

Amendment of s 409 (Requirements for making application)

Clause 187 omits section 409(f), as a consequence of clause 186.

Replacement of s 411 (Public notice requirement)

Clause 188 provides for a public notice, to be published in a newspaper as detailed, for each proposed pipeline licence. This affords anyone the opportunity to view the area of the proposed licence and lodge submissions to the address detailed in the notice, within the period stated in the notice. The application for the pipeline licence cannot be granted unless the notice has complied with the requirements as stated, until the chief executive has

been given evidence of the publication of the notice, and the Minister has considered any submissions resulting from the public notice.

Further, this clause provides that the cost of the public notice must be borne by the applicant for the proposed pipeline licence.

Amendment of s 419 (Obligation to construct pipeline)

Clause 189 provides that section 419(1) is now subject to section 401, and section 419A as inserted by clause 190.

Insertion of new s 419A

Clause 190 requires a pipeline licence holder to notify the chief inspector of the intention to commence construction of a pipeline. This clause along with the amendment at clause 213 will ensure that the chief inspector has early notice of new operating plant to ensure these can be appropriately regulated.

Amendment of s 420 (Notice of completion of pipeline)

Clause 191 provides that a notice of completion of a pipeline, must be accompanied by a diagram, that can enable a person to easily locate a constructed or completed pipeline, including what depth the pipeline was buried. This clause also provides that the notice of completion, for each pipeline the subject of an area pipeline licence, must be lodged within 40 business days from the date of its completion.

Amendment, relocation and renumbering of s 444 (Notice of proposed application to relevant local government)

Clause 192 requires a copy of the application for a petroleum facility licence, to be given to each local government in which the petroleum facility is proposed to be constructed, within 10 business days after the application has been lodged pursuant to section 445. If this requirement is not met, the application is then taken to have lapsed. However, this does not preclude the applicant from making another application for a petroleum facility licence.

Amendment of s 445 (Requirements for making application)

Clause 193 omits section 445(f), as a consequence of clause 192.

Amendment of s 458 (Process for taking land)

Clause 194 omits section 458(2), as section 10 of the *Acquisition of Lands Act 1967* was omitted by the *Transport and Other Legislation Amendment Act 2005* on 27 January 2006.

Amendment of s 493 (Security not affected by change in authority holder)

Clause 195 omits section 493(3). This is because where a person with a holding in a tenure (the transferor) transfers the holding to another person (the transferee), it is considered untenable that a financier supporting the instrument of security of the transferor should be forced to financially indemnify the transferee.

Amendment of s 539 (General provision about ownership while tenure or licence is in force for pipeline)

Clause 196 omits section 539(3)(c) as a consequence of clause 204.

Amendment of s 544 (Notice by petroleum tenure holder about discovery and commercial viability)

Clause 197 lessens the relevant period, from 45 business days to 40 business days, for when a notice about a petroleum discovery, and the commercial viability of extracting the petroleum from its reservoir, are required to be submitted. Also, this clause provides that an extension to this relevant period may be made by the chief executive, providing the request for the extension is received within 40 business days after the petroleum discovery.

This clause also clarifies that the start date for the 40 business day period, to submit the notice about commercial viability, commences after the conclusion of the period provided for under sections 73 and 152 of the *Petroleum and Gas (Production and Safety) Act 2004*, or further period approved by the Minister, under these sections, for production testing.

Insertion of new s 546A

Clause 198 provides that a person who held a data acquisition authority or a survey licence must, within six months of the end of the data acquisition authority or a survey licence, lodge a report about these authorities. This report must contain the matters prescribed under a regulation.

This clause is inserted as a partial consequence of clause 200.

Replacement of ch 5, pt 7, div 2, hdg (Reporting provisions for all petroleum authorities)

Clause 199 amends the heading of chapter 5, part 7, division 2.

Replacement of s 552 (Obligation to lodge annual reports)

Clause 200 removes the requirement for holders of an authority to prospect, petroleum lease, data acquisition authority, water monitoring

authority or survey licence to lodge an annual report about activities conducted on these petroleum authorities. This is because much of the information that was collected in these reports was a duplication of information that was submitted in other reports required under the *Petroleum and Gas (Production and Safety) Act 2004*, and was therefore superfluous to requirements.

However, annual reports for pipeline licences and petroleum facility licences are still required. Consequently, this clause also provides for the holder of a pipeline licence or petroleum facility licence to lodge an annual report, containing information as prescribed under a regulation. These annual reports are to be lodged within two months after the anniversary date of a pipeline licence or petroleum facility licence.

Insertion of new s 558A

Clause 201 requires any change of name of a holder to be notified to the chief executive on the approved form. For example, if there is a change to the name of a company (say from a "Limited" to a "Pty Ltd" company) that is the holder of a petroleum authority, and there has been no change to the company's ACN or ARBN number [given to a company by the Australian Securities and Investments Commission upon its registration under the *Corporations Act 2001* (Cwlth)], the chief executive must be notified so that the petroleum register can be properly maintained.

Amendment of s 566 (Access to register)

Clause 202 provides that extracts from the register including, among other things, details such as who is the principal holder of particular petroleum authorities and the addresses for service of notices of principal holders of a petroleum authorities, may be searched for and obtained upon payment of the prescribed fee.

This clause also provides that section 566 is subject to section 566A, inserted by clause 203.

Insertion of new ss 566A and 566B

Clause 203 provides that the chief executive may supply other government Departments with a copy of all or part of a notice, a document or information held in the petroleum register, without requiring a fee. However, the government Departments cannot use this information provided by the chief executive for commercial purposes. Further, the government Departments cannot include this information on a data base without the chief executive's approval.

This clause also provides that the chief executive may enter into an agreement to allow a person access to any required statistical data at a cost that is part of the terms of the agreement. By entering into an agreement, the chief executive is able to supply a person data derived from information or instruments kept on the petroleum register at a cost determined in the agreement. The agreement must also include certain provisions as detailed.

Also, for privacy reasons, the chief executive must exclude any petroleum authority particulars and personal information that may allow a person to identify a person or a petroleum authority to whom or which the instrument or information relates.

This clause may be perceived as being administrative in character, with the regulation of affairs between Departments of the State being a matter of administrative, rather then legal, concern.

However, the petroleum register, as with the geothermal register and the register maintained under the *Mineral Resources Act 1989*, is a public register. As such, the information contained therein must not be open to manipulation or modification in such a manner as to become incorrect or to breach privacy principles. Further, unauthorised use of information obtained from the petroleum register also needs to be prevented. This clause will give certainty to the parameters for use of this important information.

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

Clause 204 omits the transfer of a pipeline, the subject of a pipeline licence, from being a permitted dealing. This clause also provides that a sublease, or a share in a sublease, of a petroleum lease is a permitted dealing. Further, this clause omits the definition of what a transfer includes.

Amendment of s 569 (Prohibited dealings)

Clause 205 provides that the transfer of a "divided part" of a petroleum authority is a prohibited dealing.

Examples of the transfer of a "divided part" of a petroleum authority, that are a prohibited dealing, are also detailed. These examples, that are prohibited dealings, may be further explained as follows:

- (Company) Pty Ltd has a 100% holding in a petroleum lease, and this company wishes to transfer one hectare of this lease to an eligible person; and

- (Company) Pty Ltd holds 100% of a petroleum lease and this company wishes to transfer that area of the petroleum lease, below a geological stratum, to an eligible person.

However, the effect of the above may be able to be achieved by way of a sublease, which, under section 568(1)(e) of the *Petroleum and Gas (Production and Safety) Act 2004* is a permitted dealing.

Amendment of s 570 (Conditions for permitted dealings)

Clause 206 amends the heading, due to this clause also omitting section 570(1) of the *Petroleum and Gas (Production and Safety) Act 2004*. Section 570(1) is omitted as a consequence of part of clause 204.

Amendment of s 572 (Applying for approval)

Clause 207 omits the holder of a relevant "pipeline", who is a party to a permitted dealing, from applying for the approval of the dealing. As a petroleum authority includes a pipeline licence, the holder of a relevant pipeline licence, who is a party to a permitted dealing, may apply for the approval of the dealing.

This clause also provides that the application for the approval of a dealing, that is the transfer of a share in a petroleum authority, must also be accompanied by a written consent to the transfer by each person who holds that interest or share of the authority.

Amendment of s 628 (Odour requirement)

Clause 208 amends section 628(1)(b) for clarity. The risk analysis is to be carried out by a suitably qualified person.

Amendment of s 651 (Content requirements for annual measurement reports)

Clause 209 broadens section 651(e) to include the *Petroleum and Gas (Production and Safety) Act 2004*, as well as the measurement scheme. This clause now relates more properly with section 651(c).

Amendment of s670 (What is an *operating plant*)

Clause 210 clarifies the definition of "operating plant" which identifies those facilities and operations which need safety management plans. Facilities which explore for or produce petroleum, including work over rigs and other machinery used in petroleum well operations, have been specifically included. This clause also limits pipelines to those under petroleum authorities and distribution pipelines under, or proposed to be under, a distribution authority. It also clarifies the requirement that a petroleum tenure and in particular cases a mineral hydrocarbon mining

lease, are themselves an "operating plant" with respect to any operating plant on the tenure or lease regardless if the plant is actually operating.

Amendment of 671 (Limitation for facility or pipeline included in coal mining operation)

Clause 211 makes a consequential amendment arising from other changes.

Amendment of s 673 (Who is the *operator* of an operating plant)

Clause 212 addresses the definition of the word "operator". The term "person in charge" has been replaced by the more definitive "responsible for the management and safe operation of the operating plant" to ensure that it is clear that the "operator" is a senior person in the company with the specified role and responsibility for managing safe operations rather than the person directly "operating" or physically controlling the plant. The specific definition of an operator for a petroleum tenure has been removed, allowing the modified generic definition to apply, ensuring a more appropriate person is the operator. This will mean that the operator is the senior officer responsible for managing the safety of activities on the tenure, rather than the principal tenure holder who may have no direct involvement in the operation of the tenure.

Insertion of new s 673A

Clause 213 requires that, for the first time an operating plant is commissioned or operated in Queensland, the operator must give notice that the plant is about to commence. This is required to prevent site activities commencing without being assessed for safety and follows from a particularly dangerous drilling rig working for some time in this State without the regulators knowledge.

Amendment of s 674 (Requirement to have safety management plan)

Clause 214 ensures that the requirement to make a safety management plan includes where relevant, additional requirements with respect to coal seams.

Amendment of s 675 (Content requirements for safety management plans)

Clause 215 adds further requirements for safety management plans for identifying the operator of the plant, managing change and requiring standard maintenance procedures.

Insertion of new s 675A

Clause 216 provides for small and less complex operating plant, operated by small businesses such as small sized cylinder distribution businesses, to

follow a generic safety management plan framework (which will be prepared by industry and prescribed under regulation). This will relieve them of the burden of complying with the complete safety management plan content requirements under section 675 of the *Petroleum and Gas (Production and Safety) Act 2004*, while not compromising safety.

Amendment of s 679 (Notice by chief inspector)

Clause 217 extends the power of the chief inspector to require revision of a safety management plan if the current plan is deemed insufficient to address the risks on the plant. The clause also provides an offence provision for not complying with a validation notice if no submission is made, in the line with existing provision for a revision notice.

Amendment of s 687 (Who is the executive safety manager of an operating plant)

Clause 218 removes the specific definition of an executive safety manager for a petroleum tenure, allowing the modified generic definition to apply, given that the "principal tenure holder" is not defined. It will ensure that the executive safety manager is the senior managing officer of the "operating" company responsible for managing the safety of activities on the tenure, rather than the principal tenure holder who may have no direct involvement in the operation of the tenure.

Replacement of s 688 (Executive safety manager's general obligations)

Clause 219 removes the rather specific obligations of the executive safety manager and replaces these with higher level requirements. These include a requirement to appoint the "operator" and to ensure that this person completes a safety management plan with employee consultation. The executive safety manager is also required to approve the plan and ensure the plan is implemented, so that the risks associated with plan are effectively managed. Ensuring the plan is implemented could include providing adequate resources, provision for monitoring the plan, getting feedback on plan effectiveness and requiring corrective actions to be identified and undertaken.

Amendment of s 691 (Obligation to give information to coal or oil shale exploration tenement holder)

Clause 220 corrects a typographical error.

Amendment of s 698 (Owner must ensure operator is competent)

Clause 221 clarifies the intent of section 698 of the *Petroleum and Gas (Production and Safety) Act 2004* to mean the person actually working the

plant, rather than the defined position of "operator" in the *Petroleum and Gas (Production and Safety) Act 2004*, which is the person in charge of the entire operation.

Amendment of s 705 (Application of sdiv 1)

Clause 222 includes oil shale in both sub-sections.

Amendment of s 706 (Requirement to report prescribed incident)

Clause 223 clarifies the obligations to report a safety related incident. The reporting scope has been clarified so that it clearly only relates to operating plant and petroleum and gas related incidents at a business. The obligation to report a prescribed incident now lies with operator of an operating plant and elsewhere with the person carrying out business. It is up to these persons to ensure that the required report is made. The intention is that such persons put in place robust systems to ensure that reporting is carried out as required.

Amendment of s 724 (Types of gas device)

Clause 224 clarifies that the term "gas" covers fuel gases and that devices using gas in manufacturing processes, such as those used in the treatment of metals or for foaming purposes, are included.

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

Clause 225 addresses the issue of one person instructing another to undertake illegal gas work. As this has occurred in a number of cases and there needs to be an offence provision to discipline the "employer" as well as the employee if this occurs. The clause has been drafted generally with the intention to include employers, project managers, contractors and sub contractors so that anyone at a workplace cannot direct any worker to undertake gas work if the worker is not licensed to do so.

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

Clause 226 addresses two separate issues. The first covers a situation of "double dipping" where an operating plant was required to have a safety management plan and also a gas work authorisation for gas work. The need for a gas work authorisation has been eliminated where the work is conducted by a competent person under a safety management plan. The second covers installation of supply pipework to a "Type B" appliance which is within the capabilities of a gas work licence holder. This may now also be undertaken by an appropriate gas work licence holder.

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

Clause 227 removes the requirement for a manufacturer's certification which has been found to be unnecessary and unworkable.

Amendment of s 780 (Power to give compliance direction)

Clause 228 clarifies that a person who received a compliance direction must notify when they have undertaken the steps outlined in the direction.

Amendment of s 783 (Power to give dangerous situation direction)

Clause 229 clarifies that a person who received a dangerous situation direction must notify when they have undertaken the steps outlined in the direction.

Amendment of s 794 (Immediate suspension)

Clause 230 provides that immediate suspension of a licence is an option that is only used if there is a clear danger to the community in allowing the person to undertake gas work. Because of the extensive review and appeals process needed to permanently cancel a licence, if this option was to be used, it was possible, prior to this amendment, for a suspended person to recommence work while this action was in process, allowing for further dangerous work to be carried out. This amendment closes that loophole by providing for an immediate suspension to continue until the non-compliance action has finally been completed.

Amendment of s 801 (Petroleum producer's measurement obligations)

Clause 231 provides a requirement that petroleum (both liquids and gases) be measured but allows for small losses that may occur, which are basically not measurable. Examples include where gas is used in instrumentation and when gas is used in the blowdown of a plant for safety reasons. These are now excluded from the measurement requirements. For consistency the wording of this amendment reflects that in section 591 of the *Petroleum and Gas (Production and Safety) Act 2004*. This ensures that petroleum used as part of production or processing on a tenure is a product subject to this section.

Amendment of s 815 (Fuel gas suppliers must not use other supplier's containers)

Clause 232 omits the "sunset" provision that allowed for a period of time for section 851 of the *Petroleum and Gas (Production and Safety) Act 2004* to be established. However, there have been a number of cases where persons have illegally and dangerously filled gas cylinders and action has

been taken against them. Consequently, it is clear that the requirement is valid and the sunset provision is being repealed.

Insertion of new s 858A

Clause 233 gives statutory recognition to any direction, manual, guideline or other similar publications which may be made, published or maintained by the Minister. These publications will, among other things:

- provide information and guidance for departmental staff;
- assist a person preparing a document required under the *Petroleum and Gas (Production and Safety) Act 2004*, such as:
  - an application,
  - other supporting information related to development plans and the like; and
  - dealings, such as the transfer of any interests in a petroleum authority; or
- assist a person to otherwise provide information to the Minister or chief executive for a purpose under the *Petroleum and Gas (Production and Safety) Act 2004*.

Timeframes within which a person must provide information to the Department must be detailed in the direction about the giving of information. The minimum timeframe for a person to provide information will be 20 business days; however a longer period to provide information may also be stated, depending on the nature of the information required by the Minister.

The making, publishing and maintenance of directions under this clause is to provide clear guidance about any information required to be provided with, or in support of, an application, or for the continuing administration of any petroleum authority, granted under the Act.

The policy underlying the making, publication and maintenance of directions is to clearly place the onus of responsibility on applicants and holders to be aware of the information required to be given to the Minister or chief executive relating to applications (or in other circumstances required by the *Petroleum and Gas (Production and Safety) Act 2004*) and to ensure the information provided is correct.

The guidance provided by the directions is intended to minimise non-compliance with the completion of applications and required accompanying information, as well as any other information required to be provided from time to time under the *Petroleum and Gas (Production and*

Safety) Act 2004. The assistance to persons lodging the information through the directions will facilitate smoother processing and administration of the legislation and minimise applications failing where they are incorrect or where insufficient information is provided.

A non-exhaustive list of examples is included with the clause. The examples simply demonstrate instances where information might be required .

For example, a later work program might be required with an application. A direction could be made and published by the Minister, containing details about the information requirements in the later work program, how this information is to be provided with the application, and the most appropriate form the information may take or how it may be provided.

All directions, and a record of directions made, will be kept by the chief executive and be readily available to the public. A record will also be kept of the dates the directions were published and if any directions are superseded, when they were superseded.

Amendment of s 893 (Application of sdiv 1)

Clause 234 provides that the petroleum lease numbered 219, granted pursuant to the *Petroleum Act 1923*, becomes a converted lease, as defined in section 894(a) of the *Petroleum and Gas (Production and Safety) Act 2004*.

Amendment of s 910 (Renewal application provisions apply for making and deciding grant application)

Clause 235 provides that sections 161(2) and (3) and section 163 need not operate when making and deciding an application from the holder of a petroleum lease granted under the *Petroleum Act 1923*, who applies for a replacement petroleum lease under this division of the *Petroleum and Gas (Production and Safety) Act 2004*.

Insertion of new ch 15, pt 6

Clause 236 provides chapter 15, part 2, division 5, subdivision 1 applies as if the amendment of section 893 under the *Mining and Other Legislation Amendment Act 2007* had commenced on 31 December 2004.

This is because between the date of assent of the *Petroleum and Gas (Production and Safety) Act 2004* (12 October 2004), and the date the Governor in Council made the Regulations (16 December 2004), a petroleum lease (numbered 219) was granted (on 16 December 2004). Consequently, this lease could not be included within section 893(a) of the

Petroleum and Gas (Production and Safety) Act 2004 as assented to, nor to its Regulation as made.

As the *Petroleum and Gas (Production and Safety) Act 2004* has now commenced, section 893(b) , in which a Regulation could have been made to identify petroleum leases to which chapter 15, part 3, division 5 applies, is now redundant.

Consequently, section 893 of the *Petroleum and Gas (Production and Safety) Act 2004* is amended at clause 234 to include petroleum lease number 219 as a petroleum lease to which chapter 15, part 3, division 5, subdivision 1 applies.

Although this petroleum lease was granted pursuant to the *Petroleum Act 1923* this lease should have been converted to a petroleum lease under the *Petroleum and Gas (Production and Safety) Act 2004* on its commencement day of 31 December 2004, similar to how the petroleum leases detailed in section 893 of the *Petroleum and Gas (Production and Safety) Act 2004* were converted.

It may be considered that there is a breach of a fundamental legislative principle triggered by this clause, as this is a retrospective provision.

However, this provision only affects the holder of petroleum lease numbered 219, and does not affect this holders rights adversely. Moreover, the holder of petroleum lease numbered 219 may have more rights as a petroleum lease holder under the *Petroleum and Gas (Production and Safety) Act 2004*, than as a holder of a lease granted pursuant to the *Petroleum Act 1923*.

Amendment of sch 2 (Dictionary)

Clause 237 provides for amendments to Schedule 2 (Dictionary) of the *Petroleum and Gas (Production and Safety) Act 2004*.

These include a number of new definitions necessary for the safety amendments such as key definitions of operating plant types for "bulk fuel gas storage facility" and "LPG delivery network". An LPG delivery network only includes the distribution of gas by a company or its agents up to the first consumer or to a distributor (that is, someone who then on-sells it). If the gas is sold by a distributor to its own consumers or to a sub-distributor then that activity forms part of a separate LPG delivery network. For the definition of "gas system" another example has been added to clarify that a gas system includes a gas device and pipe work added to an existing system. This should make it clear that the requirements, under section 734(3) of the *Petroleum and Gas (Production and Safety) Act 2004*,

for an installer to certify an installation of gas system includes where the installation is the addition of another appliance to an existing system.

Part 10 Amendment of Workplace Health and Safety Act 1995

Act amended in pt 10

Clause 238 provides that Part 10 amends the *Workplace Health and Safety Act 1995*.

Amendment of s3 (Application of Act)

Clause 239 changes the exemption of the application of *Workplace Health and Safety Act 1995*. The scope of the *Petroleum and Gas (Production and Safety) Act 2004*, in respect to safety issues on petroleum authorities, has been restricted to facilities or activities that fall under the definition of "operating plant". This means that construction and workplace health and safety matters, arising during construction of plant, will now fall under the *Workplace Health and Safety Act 1995* as the plant is not "operating plant" until the commissioning and operation of the plant. This corrects an unintended change made when the *Petroleum and Gas (Production and Safety) Act 2004* commenced.

Insertion of new s 3B

Clause 240 inserts a new section to ensure that while the *Workplace Health and Safety Act 1995* may apply during construction of plant, key standards called up in the *Petroleum and Gas (Production and Safety) Act 2004*, that relate to the long term integrity and safety of the plant, will prevail.

Part 11 Other minor amendments

Acts amended in schedule

Clause 241 provides a schedule, containing minor and consequential amendments that are to be made to the Acts mentioned in the schedule.