# Mines and Energy Legislation Amendment Bill 2008

## Explanatory Notes

### Short Title of the Bill

The short title of the Bill is the *Mines and Energy Legislation Amendment Bill 2008*.

### Objectives of the Bill

The objective of the Bill is to amend the following Acts:

- *Coal Mining Safety and Health Act 1999*;
- *Electricity Act 1994*;
- *Energy Ombudsman Act 2006*;
- *Mineral Resources Act 1989*;
- *Mining and Quarrying Safety and Health Act 1999*;
- *Petroleum Act 1923*; and
- *Petroleum and Gas (Production and Safety) Act 2004*.

The Bill:

- prohibits the exploration and development of the McFarlane oil shale deposit for 20 years to protect that region's high environmental values and provides a legislative framework to implement the Queensland Government's oil shale policy;
- legislatively enshrines the Queensland Government's guaranteed assistance package for Collingwood Park landowners whose properties have been affected by subsidence damage and creates a legislative mechanism for the noting of that guaranteed assistance package in the freehold land register maintained under the *Land Title Act 1994*;

- amends the due date for rental payments for mining claims, mining leases and mineral development licences from 31 December to 31 August;
- provides regulation powers to meet national gas safety certification and labelling requirements;
- amends the regulatory framework applying to street lighting customers in the contestable retail market for electricity;
- clarifies the status of mining leases granted under the Special Agreement Acts and change the rental due date for these mining leases; and
- clarifies and improves administration and operation provisions of the mining, petroleum and electricity regulatory frameworks.

## Policy rationale

*Oil shale*

Queensland contains 94 per cent of Australia's known shale oil resources. A number of companies have investigated the development of shale oil in Queensland. Major potential environmental (including health and safety) concerns relate to development of shale oil. In shale oil deposit areas, there are also significant potential conflicts between current or potential high value land uses incompatible with developing the underlying shale oil resources. The amendments support the Queensland Government's stated policy of adopting a cautious approach to permitting oil shale development and processing.

*Collingwood Park*

Amendments to the *Mineral Resources Act 1989* will allow the Queensland Government's package of assistance for houses in Collingwood Park damaged by mine subsidence to be noted in the freehold land register under the *Land Title Act 1994* (LTA). This legislative guarantee (the "Collingwood Park guarantee") is a reflection of the Government's commitment to a package of support for property owners in Collingwood Park affected by mine subsidence.

*Due date for rental payments*

Amendments to introduce a common date for payment of all mining tenures other than exploration permits will improve administrative efficiencies for both industry and Government. These amendments move the payment dates outside the Christmas and New Year holiday period when the Department of Mines and Energy (the Department) and many mining businesses are closed or operating with a reduced staff complement.

*Regulation powers to meet national gas safety certification and labelling requirements*

Amendments to provide regulation powers to support the adoption of a nationally agreed 'gas mark' attached to approved gas appliances will ensure that appliances available to Queensland consumers meet certified safety standards.

Amendments to provide for the placement of energy efficiency labels on approved gas appliances which fall under the proposed national energy efficiency labelling scheme reflect a national regulatory agenda for consistency and best practice for certification of gas appliances in Australia.

*Street lighting*

Proposed amendments to the *Electricity Act 1994* ensure that street lighting customers (Department of Main Roads and local authorities) are subject to the same regulatory framework as other large consumers of electricity.

*Special Agreement Acts*

When it commenced on 1 September 1990, the *Mineral Resources Act 1989* included transitional provisions relating to certain "Special Agreement Acts" (*Alcan Queensland Pty. Limited Agreement Act 1965, Aurukun Associates Agreement Act 1975, Central Queensland Coal Associates Agreement Act 1968, Commonwealth Aluminium Corporation Pty. Limited Agreement Act 1957, Mount Isa Mines Limited Agreement Act 1985, Queensland Cement & Lime Company Limited Agreement Act 1977, Queensland Nickel Agreement Act 1970* and *Thiess Peabody Mitsui Coal Pty. Ltd. Agreements Act 1962*. The amendments clarify the application of these transitional provisions.

*Administrative and operational provisions of the mining, petroleum and electricity regulatory frameworks*

The Bill authorises administrative and operational amendments to mining, petroleum and electricity frameworks. These amendments support the policy objectives of these frameworks by streamlining administrative processes, removing overly burdensome and repetitive requirements, and clarifying a number of statutory requirements.

## How objectives are achieved

*Oil shale*

The oil shale amendments support the Premier's announcement on 24 August 2008 of a 20 year moratorium on the exploration for and mining of oil shale, the processing of oil shale or preparatory activities for mining of oil shale at the McFarlane oil shale deposit. This will be achieved through the introduction of a 20 year statutory moratorium for the McFarlane oil shale deposit.

The *Mineral Resources Act 1989* is also being amended to introduce a power to reject applications for the grant, renewal or variation of mining tenements in the public interest and to introduce a power to impose conditions on the grant, renewal or variation of mining tenements in the public interest, where those powers do not already exist under the *Mineral Resources Act 1989*, These amendments will give the Minister the broad discretion required to implement the Queensland Government's stated oil shale policy when the Minister considers it is in the public interest to do so.

*Collingwood Park*

Amendments to the *Mineral Resources Act 1989* will enshrine the broad principles of the Collingwood Park guarantee and will use a notification in the land register under the LTA to provide a mechanism for public notification that the guarantee applies to a particular property in the event it is damaged by subsidence. The notification on title is at the option of the land owner.

*Due date for rental payments*

Changes to rental period dates for mining leases, mining claims and mineral development licences will be phased in by issuing eight month pro rata rental invoices in late 2008 for the period from 1 January 2009 to 31 August 2009.

*Regulation powers to meet national gas safety certification and labelling requirements*

The amendments include a head of power to allow for the future use of a nationally agreed compliance label to be attached as part of the certification of an approved gas appliance.

*Street lighting*

The Bill expands upon the provisions which establish the regulatory framework for large customers to ensure that these provisions include street lighting customers.

*Special Agreement Acts*

The amendments clarify the intent of the transitional provisions relating to mining leases granted pursuant to those Special Agreement Acts. The amendments also clarify the status of any renewals or approvals to mining leases made under any Special Agreement Act after the date of commencement of the transitional arrangements under the *Mineral Resources Act 1989* (1 September 1990). The amendments provide that any such renewals or approvals made under any Special Agreement Act are taken to have been made under the *Mineral Resources Act 1989*.

*Administrative and operational provisions of the mining, petroleum and electricity regulatory frameworks*

The Bill clarifies and improves administration and operational provisions of the mining, petroleum and electricity frameworks by streamlining administrative processes, removing onerous and repetitive requirements, and clarifying certain requirements under the legislation.

## Alternative method of achieving policy objectives

There is no alternative method of achieving the policy objectives as all require amendment of existing legislation.

## Estimated cost for Government implementation

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

## Consistency with Fundamental Legislative Principles

*Oil shale*

The amendments about oil shale are generally consistent with fundamental legislative principles set out in section 4 of the *Legislative Standards Act 1992*. One departure from these principles relates to the proposed moratorium for the McFarlane oil shale deposit in that it affects the rights of nominated tenure holders. The amendment is necessary to implement the overriding public interest to provide certainty with regard to the impacts of these activities on the environment. The 20 year moratorium is considered essential in protecting that region's high environmental values.

It fulfils the Queensland Government's commitment to properly assessing the appropriateness and desirability of exploring for and mining the McFarlane oil shale resources before these resources are further developed. The proposed amendments will still allow limited, low impact activities for the purposes of rehabilitation and environmental management, environmental monitoring and improvement restoration.

The regulation making provision of proposed section 318ELAA may be considered to depart from the fundamental legislative principle of sufficient regard for the institution of Parliament in that it allows an extension of the area subject to moratorium by regulation. The regulation making power is however constrained by requiring any additional area to be contiguous to the area defined in the provision. This is consistent with the Government's policy for development of oil shale resources in this region.

*Collingwood Park*

The amendments about Collingwood Park are generally consistent with fundamental legislative principles. A potential departure from these principles could be the inclusion of the notification of the Collingwood Park guarantee on a land title. It could be considered that the amendments may affect existing land rights of owners, however, the notification on land title is an option only and will only occur if the property owner requests it.

The amendments legislatively support an overall assistance package. The overriding public interest is to provide certainty for Collingwood Park residents that the assistance package will endure beyond the life of the current Government.

*Special Agreement Acts*

The amendments are generally consistent with fundamental legislative principles set out in section 4 of the *Legislative Standards Act 1992*.

The *Mineral Resources Act 1989*, when it commenced in 1 September 1990, included transitional provisions relating to the "Special Agreement Acts" (*Alcan Queensland Pty. Limited Agreement Act 1965*, *Aurukun Associates Agreement Act 1975*, *Central Queensland Coal Associates Agreement Act 1968*, *Commonwealth Aluminium Corporation Pty. Limited Agreement Act 1957*, *Mount Isa Mines Limited Agreement Act 1985*, *Queensland Cement & Lime Company Limited Agreement Act 1977*, *Queensland Nickel Agreement Act 1970* and *Thiess Peabody Mitsui Coal Pty. Ltd. Agreements Act 1962*).

The transitional arrangements operated to bring existing tenure grants made under the Special Agreement Acts, as well as future renewals of tenure, under the *Mineral Resources Act 1989*.

The transitional provisions were repealed by the *Offshore Minerals Act 1998*. This repeal, which was never intended to affect their operation, resulted in some confusion about whether the *Mineral Resources Act 1989* or a particular Special Agreement Act applied to the renewal of a lease, or an approval for a lease, originally granted under the Special Agreement Act.

Among other things, the proposed amendments will retrospectively revive the original transitional provisions that were repealed in 1998 and clarify the intention of the transitional provisions for mining leases originally granted under the Special Agreement Acts. While this particular amendment will operate retrospectively, no rights are affected by the amendment. This retrospective application is necessary to achieve the required clarification.

*Administrative and operational provisions of the mining, petroleum and electricity regulatory frameworks*

The administrative and operational amendments are generally consistent with fundamental legislative principles set out in section 4 of the *Legislative Standards Act 1992*.

Amendments to section 548 of the *Petroleum and Gas (Production and Safety) Act 2004* and section 76B of the *Petroleum Act 1923* provide for how, and in what format, records (reports) about authorised activities conducted on petroleum tenure or authorities are to be submitted to the

Department. The inclusion of these amendments in this Bill, rather than in subordinate legislation, is necessary as the proposed system to be used to submit records is not currently present in primary or subordinate legislation.

It may be considered that that the proposed amendments to these sections would not have sufficient regard for the institution of Parliament. However, it should be noted that the system to be used to submit specific records, as detailed in these amendments, is arguably legislative, and is not currently in primary or subordinate legislation. These file formats are standard throughout the petroleum industry, and are substantially those agreed to by the Government Geoscience Information Committee (GGIC) and adopted by all States and Territories, after consultation with the petroleum industry.

The amendments to section 877 of the *Petroleum and Gas (Production and Safety) Act 2004* and its transitional provision affect an authority to prospect (ATP) converted on 31 December 2004 (the commencement date of the *Petroleum and Gas (Production and Safety) Act 2004* ) from an ATP administered under the *Petroleum Act 1923* to an ATP administered under the *Petroleum and Gas (Production and Safety) Act 2004* .

Currently, section 877 of the *Petroleum and Gas (Production and Safety) Act 2004* provides that that land that was in a coal or oil shale mining tenement (that is, a coal or oil shale exploration permit or coal or oil shale mining lease) and also in any notional sub-block of an ATP administered under the *Petroleum Act 1923* at the time of its conversion, does not form part of the converted ATP and is taken to be excluded land for the ATP.

The amendments to section 877 of the *Petroleum and Gas (Production and Safety) Act 2004* and its transitional provision now provide that land that was in a coal or oil shale mining lease, and also in any notional sub-block of an ATP administered under the *Petroleum Act 1923* at the time of its conversion, does not form part of the converted ATP and is taken to be excluded land for the ATP.

The proposed amendments have a retrospective effect. However, no fundamental legislative principle is breached, as these amendments are beneficial to the holder of an ATP administered under the *Petroleum Act 1923* that was converted to an ATP administered under the *Petroleum and Gas (Production and Safety) Act 2004* on 31 December 2004, and these amendments do not adversely affect the rights of any person by their operation.

The amendment to insert chapter 15, part 3, division 5, subdivision 3 in the *Petroleum and Gas (Production and Safety) Act 2004* applies as if the amendment inserting section 901A under the *Mines and Energy Legislation Amendment Act 2008* had commenced on 31 December 2004. This amendment also provides that the petroleum lease numbered 200 is a converted lease that is to be administered under the provisions of the *Petroleum and Gas (Production and Safety) Act 2004*.

Although this petroleum lease was granted pursuant to the *Petroleum Act 1923*, it should have been converted to a petroleum lease under the *Petroleum and Gas (Production and Safety) Act 2004* on the commencement of that Act on 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 retrospective provision. However, this provision only affects the holder of the petroleum lease numbered 200, and does not affect this holder's rights adversely. Moreover, the holder of the petroleum lease numbered 200 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*.

## Consultation

*Oil shale*

Consultation has been undertaken with industry stakeholders in the development of the proposed oil shale amendments. The key company affected by the moratorium has contributed to the development of legislative provisions since the whole-of-Government policy position was announced in relation to the development of oil shale in Queensland. The Queensland Resources Council has been advised of the proposed changes with ongoing discussions to clarify the proposed amendments.

*Collingwood Park*

The *Mineral Resources Act 1989* amendments to provide for a Collingwood Park guarantee through notification on title have been advised to residents at public meetings in Collingwood Park.

*Due date for rental payments*

The amendments to change the due date for payment of rental for mining tenures other than exploration permits to 31 August were announced

publicly in the 2008-09 State Budget. These amendments also formed part of a presentation to key industry stakeholders in mid-June 2008.

*Regulation powers to meet national gas safety certification and labelling requirements*

Consultation occurred through a Gas Technical Regulators Committee forum. Consultation with appliances organisations, gas suppliers and gas fitters was undertaken via the LPGA Queensland Executive Committee, Australian Gas Association and Queensland Gas Association. Comments were also sought from other State regulators.

*Street lighting*

The Energy Competition Committee (ECC) undertook extensive consultation with industry, consumer and government stakeholders on full retail competition including street lighting. The ECC issued a consultation paper on 28 February 2006 which proposed the introduction of contestability for street lighting customers and that these customers would not be permitted to revert to regulated tariffs. Following this consultation process this policy was restated in the ECC's *Full Retail Competition Final Policy Decisions* of 26 July 2006.

All councils and the Local Government Association of Queensland had an opportunity to provide submissions to the Consultation Paper *Introduction of Street Lighting Contestability* which was released on 22 January 2008.

A number of meetings and briefing sessions were held with interested councils (not all attended) at which issues around contestability, retail pricing deregulation and the rebalancing of ENERGEX's network charges were discussed.

*Special Agreement Acts*

The proposed amendments relating to Special Agreement Acts reinforce the transitional provisions that were present in the *Mineral Resources Act 1989*. The Queensland Resources Council and companies with mining leases that were originally granted under the Special Agreement Acts were informed of the proposed amendments.

*Administrative and operational provisions of the mining, petroleum and electricity regulatory frameworks*

Consultation was conducted with the Australian Petroleum Production and Exploration Association and key petroleum industry representatives

following the identification by departmental business reviews of proposed administrative improvements.

Proposed amendments to allow the holder of a coal or oil shale mining lease to offer, then give incidental coal seam gas to the holder of an overlapping petroleum tenure were developed as a result of consultation with the Australian Coal Seam Gas Council.

The other amendments do not represent significant policy changes but rather seek to improve and streamline the administrative processes and Queensland Resources Council has been informed of the proposed changes.

# Notes on Provisions

## Part 1 Preliminary

### Short title

Clause 1 states that the short title of the Act may be cited as the *Mines and Energy Legislation Amendment Act 2008*.

### Commencement

Clause 2 provides for the commencement of certain provisions.

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

### Act amended in pt 2 and schedule

Clause 3 provides that part 2 and the schedule amend the *Coal Mining Safety and Health Act 1999*.

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

Clause 4 inserts new subsection 279(4). It provides that the chief executive may use information to produce statistics and other data. It also provides that these statistics and other data may be published.

# Part 3 Amendment of Electricity Act 1994

## Act amended in pt 3

Clause 5 provides that part 3 amends the *Electricity Act 1994*.

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

Clause 6 amends section 23 to define street lighting customers as customers for premises which are street lights where the customer is the State (Department of Main Roads) or a local government.

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

Clause 7 amends section 40DF to provide that street lighting customers have the same provisions for negotiated connection contracts as large customers, in particular, that the contract terms must be fair and reasonable.

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

Clause 8 amends section 48D to provide that the financially responsible retailer for a premises has no obligation to offer customer retail services to a street lighting customer unless the street lighting customer has taken up occupation of a premises immediately after an applicant who was a non-market customer. This has the effect of preventing street lighting customers from reverting to the notified prices once they have moved onto a negotiated retail contract, consistent with the arrangements for all large electricity customers.

### Amendment of s 49 (Retail contract types)

Clause 9 amends section 49 to provide that where there is no negotiated contract in place a street lighting customer is subject to a standard large customer retail contract.

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

Clause 10 amends section 51, which deems the customer to have entered into a retail contract with the financially responsible retail entity for the premises for the provision of customer retail services to the premises where there is no negotiated contract in place. The amendment ensures that, if the customer is a street lighting customer for the premises, the contract is a standard large customer contract.

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

Clause 11 amends section 53 to require retailers to give street lighting customers a copy of their standard large customer retail contracts and advise street lighting customers if there are any amendments to standard large customer retail contracts.

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

Clause 12 amends section 54 to ensure that the terms or amended terms of a retail entity's standard large customer retail contract also apply to street lighting customers.

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

Clause 13 amends section 135AA to reflect the fact that gas-fired electricity certificate liabilities applicable under the Queensland Gas Scheme are no longer fixed at 13 per cent (but are specified in section 135ELA).

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

Clause 14 amends section 214 to allow street lighting customers to apply to the Queensland Competition Authority for a review of a decision regarding

connection services or retail service applications, like other large customers.

### Amendment of sch 1 (Appeals against administrative decisions)

Clause 15 amends schedule 1 to provide that the District Court has the jurisdiction to review a decision regarding connection services or retail service applications for a street lighting customer.

### Amendment of sch 5 (Dictionary)

Clause 16 inserts a definition of street lighting customer into the Act.

## Part 4 Amendment of Energy Ombudsman Act 2006

### Act amended in pt 4

Clause 17 provides that part 4 amends the *Energy Ombudsman Act 2006*.

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

Clause 18 amends the definition of small customer for the purposes of the Energy Ombudsman Act to exclude street lighting customers. The intention is to ensure that street lighting customers cannot refer disputes with their electricity retailer to the Ombudsman, consistent with the arrangements for large electricity customers.

## Part 5 Amendment of Mineral Resources Act 1989

### Act amended in pt 5 and schedule

Clause 19 provides that part 5 and the schedule amend the *Mineral Resources Act 1989*.

## Insertion of new s 10AA

Clause 20 inserts a new section to clarify joint ownership of mining tenements. While the presumption of joint ownership of mining tenure arises from the *Property Law Act 1974* (section 33), there is some confusion from persons applying for mining tenements as to its application under the *Mineral Resources Act 1989*.

To clarify this issue and in line with existing property interest provisions in the *Land Title Act 1994* (section 56) and the *Land Act 1994* (section 145), this section is inserted to remove any doubt as to how joint ownership will be dealt with in the register. A person who is eligible to hold a mining tenement under the *Mineral Resources Act 1989* may hold it as a joint tenant or as a tenant in common. However, if an application for a mining tenement or a dealing with a mining tenement, e.g. an assignment or a mortgage, is lodged and does not show whether co-owners are to hold as tenants in common or as joint tenants, the co-owners will be recorded as tenants in common. Where the application shows applicants as tenants in common and no shares, the register will show their shares as being equal.

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

Clause 21 inserts new subsection 24(4) to give a mining registrar the power to refuse to grant a prospecting permit if the registrar considers it is not in the public interest.

## Amendment of s 25 (Conditions of prospecting permit)

Clause 22 inserts new subsection 25(3A) to give a mining registrar the power to impose a condition on a prospecting permit if the registrar considers it is in the public interest.

## Amendment of s 36 (Cancellation of prospecting permit)

Clause 23 inserts new subsection 36(2) to give a mining registrar the power to cancel a prospecting permit if the registrar considers the cancellation is in the public interest.

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

Clause 24 inserts new subsection 74(3) to give a mining registrar the power to refuse to grant a mining claim if the registrar considers the grant is not in the public interest.

## Amendment of s 78 (Land Court's determination on hearing)

Clause 25 amends section 78(2)(d) by replacing the phrase "public right and interest" with the phrase, "public interest" which is used throughout the rest of the Act.

## Amendment of s 81 (Conditions of mining claim)

Clause 26 inserts new subsection 81(1AA) to give a mining registrar the power to impose a condition on a mining claim if the registrar considers it is in the public interest.

## Amendment of s 82 (Variation of conditions of mining claim)

Clause 27 inserts new subsection 82(3) to give a mining registrar the power to refuse to vary a condition of a mining claim if the mining registrar considers it is not in the public interest.

## Amendment of s 93 (Renewal of mining claim)

Clause 28 inserts new subsection 93(4) to give a mining registrar the power to refuse the renewal of a mining claim if the mining registrar considers it is not in the public interest.

Clause 28 inserts new subsection 93(5) to give the mining registrar the power to determine a condition of a renewed mining claim if the mining registrar considers the condition is in the public interest.

## Amendment of s 95 (Rental payable on mining claim)

Clause 29 amends section 95, by changing the due date for payment of annual rental from 31 December to 31 August. It also changes the statutory date for notification of outstanding rental from 31 January to 30 September and the subsequent date for payment from 1 April to 1 December.

## Amendment of s 106 (Contravention by holder of mining claim)

Clause 30 amends section 106 by changing the date, from 1 April to 1 December, when cancellation of a mining claim may occur following a failure to pay rental.

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

Clause 31 amends section 133A to omit the word 'other'. Removal of the word 'other' allows for the Minister to request any information required to assess the application, even where prescribed under another section.

## Amendment of s 137 (Grant of exploration permit)

Clause 32 inserts new subsection 137(1A) to give the Minister the power to refuse to grant an exploration permit if the Minister considers the grant is not in the public interest.

Clause 32 inserts new subsection 137(3) to prohibit the Minister from granting an exploration permit unless the applicant has paid the first year's rent and the Minister has approved the proposed program of work. At the moment, the non-payment of rent by a permit holder may result in cancellation action being taken. Once a permit has been cancelled, the land is then held up during a two month moratorium. This imposes an unnecessary administrative burden on the department and also prevents others from being able to take up the opportunity to explore that land.

Clause 32 inserts new subsection 137(3B) to give the Minister the power to refuse to approve a program of work if the Minister considers it is not in the public interest.

Clause 32 inserts new subsection 137(5A)(b) which requires the Minister the power to reject unsuccessful applications for exploration permits where all or any part of the land is already subject to an exploration permit for the same mineral. An application for an exploration permit may be applied for over available land. More than one application in respect of an area of land for the same purpose and mineral may be lodged on the same day (referred to as 'same day applications'). The priority of these applications is determined using a merit process. Where the priority application is granted and no land remains for any other application, the remaining applications are determined to be unsuccessful.

Similarly, an application for an exploration permit may be lodged over an area of land for the same purpose and mineral and over an existing

exploration permit application (referred to 'secondary applications') but on a different day. The secondary application is lodged to cover the possibility that the first application is unsuccessful. Where the first application is successful, the secondary application is determined to be unsuccessful.

## Amendment of s 138 (Rental payable on exploration permit)

Clause 33 amends section 138 to provide that rent for the first rental period is payable before the granting of the permit.

The requirement to pay rent prior to the grant is to avoid the administrative burden to the State where, after grant, rent monies have not been paid, even on further demand. Cancellation action must then be instituted. The holder ties up ground until the cancellation process is completed at no financial cost to that person. Once cancellation action is completed, the Act imposes a further two month moratorium before the land can be released for further applications.

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

Clause 34 deletes current subsection 141(2) because it has been rendered obsolete by section 141C and deletes current subsection 141(3) as this obligation is being transferred to section 141C by this Bill.

Clause 34 inserts new subsection 141(2) to give the Minister the power to determine a condition of an exploration permit if the Minister considers it is in the public interest.

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

Clause 35 inserts new subsection 141C(4) to give the Minister the power to refuse to approve a variation of an exploration permit if the Minister considers the variation is not in the public interest.

Clause 35 inserts new subsection 141C(6) to impose a requirement on the chief executive to give the administering authority under the *Environmental Protection Act 1994* as the administering authority written notice of any variation approved by the Minister within 5 business days. This obligation has been transferred from section 141(3).

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

Clause 36 amends section 147AA to omit the word 'other'. Removal of the word 'other' allows for the Minister to request any information required assess the application, even where prescribed under another section.

## Amendment of s 147A (Decision on application)

Clause 37 inserts new subsection 147A(4) to give the Minister the power to decide a condition of an exploration permit, when the renewal of the exploration permit is being decided, if the Minister considers it is in the public interest.

Clause 37 inserts new subsection 147A(6) to give the Minister the power to refuse the renewal of an exploration permit if the Minister considers the renewal is not in the public interest.

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

Clause 38 replaces section 147C to provide a mechanism to deal with deficient applications for renewal of an exploration permit. This amendment addresses the administrative burden that arises when an application is deficient or there is non-compliance with a request for additional information. The current process requires the undertaking of a show cause action under the provisions of section 147A or 160 of the *Mineral Resources Act 1989* to deal with the issue.

The effect of the amendment is that where an application is not properly made and the holder has been afforded natural justice through a request to provide further information under section 147AA, the exploration permit expires; or where information has been requested post the expiry date, the exploration permit lapses on the date the information was required.

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

Clause 39 amends section 151 to provide that an application for assignment of an exploration permit is to be made in the approved form.

This clause also provides that the Minister cannot approve the assignment unless the assignee provides information that the assignee has the appropriate human, technical and financial resources to comply with the

conditions set under section 141. This requirement is consistent with making an application for an exploration permit, or an application for renewal of an exploration permit.

This amendment also provides that the proposed assignee must commit to the existing terms and conditions of the exploration permit. This is to ensure that the assignee is aware of the assignee's requirement/entitlements under the permit, this ensuring compliance by the assignee.

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

Clause 40 separates the "decision making" power - 'acceptable to the Minister' - from the requirements for making an application for a mineral development licence. Those "decision making" powers are now contained in section 186.

## Insertion of new s 183A

Clause 41 inserts a new section 183A which gives the Minister the power to request information required to assess an application for a mineral development licence.

Where the information contained in an application is inadequate to allow appropriate consideration and for a determination to be made, this amendment gives discretion to the Minister to request further information. The information is to be provided within a reasonable timeframe as determined by the Minister. Where the applicant fails to provide the information required or does not provide the information within the allocated timeframe, the application may be rejected.

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

Clause 42 inserts new subsection 186(2) to give the Minister the power to refuse to grant a mineral development licence if the Minister considers the grant is not in the public interest.

Clause 42 also amends section 186 to allow the Minister to grant a mineral development licence if the applicant is an eligible person, the requirements of the legislation in relation to the application have been satisfied, the Minister considers the application is made *bona fide* for the purposes of the

legislation, and the applicant complies with any requirement as to the lodgement of rent and a security deposit as determined by the Minister.

In determining whether to grant an application, the Minister must determine the appropriateness of the proposed programs of work in relation to the area applied for. The statements submitted with the application must be approved before the Minister decides to grant the application for a mineral development licence.

The Minister may grant the application for a mineral development licence with or without conditions.

Where there is more than one application in an area of land and one of the applications has been granted, any remaining applications over the subject land will be rejected. Where only part of the area of an application is within the subject land, the Minister will only reject that part.

This clause also provides that the Minister has the discretion to retain all or part of an application fee if the application for a mineral development licence is rejected.

Further, this clause provides that the chief executive must give the administering authority under the *Environmental Protection Act 1994* written notice of any grant approved by the Minister, or of any refusal of an application, within 5 business days.

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

Clause 43 amends section 193 to provide that rent for the first rental period is payable before the granting of the licence. The requirement to pay prior to the grant is to avoid the administrative issue where such monies are not paid and cancellation action is required. The holder ties up ground until the cancellation process is completed.

Clause 43 also amends section 193 to change the due date for payment of annual rental from 31 December to 31 August. It changes the statutory date for notification of outstanding rental from 31 January to 30 September and the subsequent date for payment from 1 April to 1 December.

## Amendment of s 194 (Conditions of mineral development licence)

Clause 44 amends section 194(1)(f) to clarify the timeframes for certain reports required on a mineral development licence. In addition to the prescribed reporting requirements, the Minister has the discretion to request any further reports or request any materials obtained.

Clause 44 also deletes current subsection 194(2) because it has been rendered obsolete by section 194AC and deletes current subsection 194(3) as this obligation is being transferred to section 194AC by this Bill.

Clause 44 inserts new subsection 194(2) to give the Minister the power to determine a condition of a mineral development licence if the Minister considers it is in the public interest.

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

Clause 45 inserts new subsection 194AC(4) to give the Minister the power to refuse to make a variation of a mineral development licence if the Minister considers the variation is not in the public interest.

Clause 45 also inserts new subsection 194AC(6) to make it a requirement for the chief executive to give the EPA administering authority written notice of any variation made by the Minister within 5 business days. This requirement has been transferred from section 194(3).

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

Clause 46 amends section 197 to provide a mechanism to deal with deficient applications for renewal of a mineral development licence.

## Insertion of new s 197AA

Clause 47 inserts a new section 197AA after section 197. The new section will provide the Minister with the power to request information required to assess an application for renewal of a mineral development licence.

Where the information contained in an application is inadequate to allow appropriate consideration and for a determination to be made, this amendment gives discretion to the Minister to request further information. The information is to be provided within a reasonable timeframe as

determined by the Minister. Where the applicant fails to provide the information required or does not provide the information within the allocated timeframe, the application may be rejected.

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

Clause 48 inserts new subsection 197A(4) to give the Minister the power to decide a condition of a renewed mineral development licence if the Minister considers the condition is in the public interest.

Clause 48 inserts new subsection 197A(6) to give the Minister the power to refuse the renewal of a mineral development licence if the Minister considers the renewal is not in the public interest.

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

Clause 49 replaces section 197C to provide a mechanism to deal with deficient applications for renewal of a mineral development licence.

This amendment is to address the administrative burden that arises where an application is deficient or there is non-compliance with a request for additional information. The current process requires the undertaking of a show cause action under the provisions of section 197A or 209 of the MRA to deal with the issue.

The effect of the amendment is that where an application is not properly made and the holder has been afforded natural justice through a request to provide further information under section 197AA, the mineral development licence expires; or where information has been requested post the expiry date, the mineral development licence lapses on the date the information was required.

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

Clause 50 amends section 198 to provide that an application for assignment of a mineral development licence is to be made in the approved form.

This clause also provides that the Minister cannot approve the assignment unless the assignee provides information that the assignee has the appropriate human, technical and financial resources to comply with the conditions set under section 194. This is a requirement is consistent with

making an application for a mineral development licence, or an application for renewal of a mineral development licence.

This amendment also ensures that the assignee commits to the existing terms and conditions of the mineral development licence. This is to ensure that the assignee is aware of the assignee's obligations under the licence to ensure compliance by the assignee.

## Amendment of s 208 (Adding other minerals to licence)

Clause 51 inserts new subsection 208(3B) to give the Minister the power to reject an application for approval to add other minerals to the licence if the Minister considers approving it is not in the public interest.

Clause 51 inserts new subsection 208(4A) to give the Minister the power to decide a condition when giving approval to add other minerals to the licence if the Minister considers the condition is in the public interest.

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

Clause 52 amends section 209 by changing the date, from 1 April to 1 December, when cancellation of a mineral development licence may occur following a failure to pay rental.

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

Clause 53 inserts new subsection 231(4) to give the Minister the power to reject an application for a variation of the land used to access a mineral development licence and if the Minister considers the variation is not in the public interest.

Clause 53 inserts new subsection 231(5) to give the Minister the power to impose conditions when varying access to mineral development licence land.

Clause 53 inserts new subsection 231(6) to give the Minister the power to impose a condition if the Minister considers the condition is in the public interest.

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

Clause 54 inserts new subsection 231E(3) to give the Minister the power to reject an application for a mineral development licence if the Minister considers it is not in the public interest.

Clause 54 inserts new subsection 231E(7) to give the Minister the power to decide a condition to which a mineral development licence is subject if the Minister considers the condition is in the public interest.

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

Clause 55 inserts new subsection 231G(2) to give the Minister the power to decide a condition of a mineral development licence if the Minister considers the condition is in the public interest.

Clause 55 inserts new subsection 231G(4) to give the Minister the power to decide not to vary a condition proposed by the holder of a mineral development licence if the Minister considers the variation is not in the public interest.

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

Clause 56 amends subsection 231H(3) to give the Minister the power to impose conditions on the renewed mineral development license.

Clause 56 inserts new subsection 231H(3A) to give the Minister the power to impose a condition on the renewed mineral development license if the Minister considers the condition is in the public interest.

Clause 56 inserts new subsection 231H(4A) to give the Minister the power to refuse the renewal of a mineral development licence if the Minister considers the renewal is not in the public interest.

Clause 56 then renumbers subsections 231H(3A) to (6) as subsections 231H(4) to (8).

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

Clause 57 omits the words "and cause to be issued" in subsection (1). The amendment recognises that the physical issuing of the instrument of lease

is an administrative arrangement. The words in section 234 "and cause (a lease) to be issued" have been interpreted in some quarters that there is a physical issuing of the document by the Governor in Council. As a business arrangement a copy of the lease will be issued by the Minister to the lessee when requested by the lessee. The recommendation to the Governor in Council is that the lease be granted.

## Insertion of new s 245A

Clause 58 inserts a new section 245A which gives the mining registrar the power to request information required to assess an application for a mining lease.

Where the information contained in an application is inadequate to allow appropriate consideration and for a determination to be made, this amendment gives discretion to the mining registrar to request further information. The information is to be provided within a reasonable timeframe as determined by the mining registrar. Where the applicant fails to provide the information required or does not provide the information within the allocated timeframe, the application may be rejected.

## Amendment of s 276 (General conditions of mining lease)

Clause 59 inserts new subsection 276(1A) to give the Governor in Council the power to determine a condition of a mining lease if the Governor in Council considers the condition is in the public interest.

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

Clause 60 amends section 286AA to omit the word 'other'. Removal of the word 'other' allows for the Mining Registrar to request any information required to make a decision about the renewal application, even where prescribed under another section.

## Amendment of s 286A (Decision on application)

Clause 61 inserts new subsection 286A(5) to give the Governor in Council the power to decide a condition of a renewed mining lease if the Governor in Council considers the condition is in the public interest.

Clause 61 inserts new subsection 286A(7) to give the Minister the power to refuse the renewal of a mining lease if the Minister considers the renewal is not in the public interest.

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

Clause 62 amends section 290 by changing the due date for payment of annual rental from 31 December to 31 August. It also changes the statutory date for notification of outstanding rental from 31 January to 30 September and the subsequent date for payment from 1 April to 1 December.

### Amendment of s 294 (Variation of conditions of mining lease)

Clause 63 inserts new subsection 294(3) to give the Governor in Council the power to refuse to vary a condition of a mining lease if the Governor in Council considers the variation is not in the public interest.

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

Clause 64 renumbers subsections 298(9), (10), (11) and (12) as subsections 298(10), (12), (13) and (14) respectively.

Clause 64 inserts new subsection 298(9) to give the Minister the power to reject an application to vary a mining lease to add other minerals or another use if the Minister considers it is not in the public interest.

Clause 64 inserts new subsection 298(11) to give the Minister the power to impose a condition on the approval of the Minister if the Minister considers the condition is in the public interest.

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

Clause 65 amends section 300 to provide that an application for assignment of a mining lease is to be made in the approved form.

This clause also provides that the Minister cannot approve the assignment unless the assignee provides information that the assignee has the appropriate human, technical and financial resources to comply with the conditions set under section 276. This is a requirement consistent with making an application for a mining lease, or an application for renewal of a mining lease.

This amendment also ensures that the assignee commits to the existing terms and conditions of the mining lease. This is to ensure that the assignee is aware of the assignee's responsibilities under the lease to ensure compliance by the assignee.

### Amendment of s 308 (Contravention by holder of mining lease)

Clause 66 amends section 308 by changing the date, from 1 April to 1 December, when cancellation of a mining lease may occur following a failure to pay rental.

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

Clause 67 inserts new subsection 317(5A) to give the Land Court the power to determine that consent to a proposed variation of the access to mining lease land should not be given if the court considers the variation is not in the public interest.

Clause 67 inserts new subsection 317(9A) to give the Land Court the power to impose terms and conditions to be complied with before consent is given if the court considers the condition is in the public interest.

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

Clause 68 inserts new subsection 318AAH(2) to give the Governor in Council the power to decide a condition of a mining lease if the Governor in Council considers the condition is in the public interest.

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

Clause 69 provides that where a coal or oil shale mining lease is over land that is also in an area of a petroleum lease, the holder of the coal or oil shale mining lease may offer, then give, incidental coal seam gas (ICSG) to the holder of the petroleum lease.

This provides the opportunity for the optimisation of the use of coal seam gas by reducing the potential for ICSG to be flared or vented.

For example, where a coal or oil shale mining lease (ML) holder may be required to extract coal seam gas (CSG) from the area of the ML coincidental with the area of a petroleum lease, the coal or oil shale ML

holder may decide to bring forward its schedule for the commencement of mining operations and therefore require accelerated degassing of the coal seam [as provided for in section 318CM(1) of the *Mineral Resources Act 1989*]. The CSG produced by the coal or oil shale ML holder in such a case is called incidental coal seam gas (ICSG). The ICSG, extracted by the coal or oil shale ML holder in this case, may now be offered, then given, to the overlapping petroleum lease holder.

The amendment gives the ML holder another option of what to do with ICSG ensuring that flaring or venting is not carried out unless there is no other feasible way of using the ICSG beneficially. This will make sure that the ICSG is used for the maximum benefit of the State.

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

Clause 70 provides consequential amendments as a result of amendments to section 318CN (Use that may be made under mining lease of incidental coal seam gas).

This clause now provides another requirement that must be met, prior to authorisation being given under section 318CO of the *Mineral Resources Act 1989* for a coal or oil shale mining lease (ML) holder to flare or vent incidental coal seam gas (ICSG).

Where an ML is over land that is also in an area of a petroleum lease, the holder of the ML cannot be authorised under section 318CO of the *Mineral Resources Act 1989* to flare or vent ICSG, unless the ICSG has first been offered to the holder of the overlapping petroleum lease, and the holder has not accepted the offer of the ICSG, or has not responded to the offer of the ICSG within 20 business days after being notified in writing of the offer.

## Insertion of new pt 7AAB

Clause 71 inserts a new part 7AAB (Provisions for McFarlane oil shale deposit).

# Part 7AAB Provisions for McFarlane oil shale deposit

## Division 1 Preliminary

### 318ELAA Application of pt 7AAB

Clause 71 inserts new section 318ELAA, which provides that this part applies to land in the area of mineral development licence 202 and land in the area of any other oil shale mining tenement prescribed by regulation. Land may only be prescribed by regulation if it is contiguous to mineral development licence 202. The part applies from the date of assent, or (where land is prescribed by regulation) from the date the regulation commences, to 17 August 2028.

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

Clause 71 inserts new section 318ELAB, which provides a definition of "oil shale mining tenement", which applies even if the mining tenement is also granted for minerals other than oil shale.

### 318ELAC Relationship with other provisions of this Act

Clause 71 inserts new section 318ELAC, which provides that part 7AAB applies, despite other provisions of the *Mineral Resources Act 1989* and the conditions or other provisions of an oil shale mining tenement, and that part 7AAB prevails where there is any inconsistency with the rest of the Act.

## Division 2 Moratorium provisions

### 318ELAD Prohibition on granting oil shale mining tenements

Clause 71 inserts new section 318ELAD, which provides that an oil shale mining tenement can not be granted for the land during the moratorium period and that this prohibition does not apply to renewals of current oil shale mining tenements under new section 318ELAK.

### 318ELAE Suspension of oil shale activities

Clause 71 inserts new section 318ELAE, which provides that any right to carry out activities relating to oil shale that would ordinarily be authorised for an oil shale mining tenement for the land are suspended during the moratorium period. During this suspension, the oil shale activity is not authorized for the mining tenements and anyone carrying out oil shale activity commits an offence under section 402 of the *Mineral Resources Act 1989*.

### 318ELAF Access rights for particular activities

Clause 71 inserts new section 318ELAF, which authorizes the holder of an oil shale mining tenement to enter the land during the moratorium period, but only for limited, low impact purposes. This is to ensure the holder is able to meet the holder's rehabilitation and environmental management obligations under the *Environmental Protection Act 1994*, to meet the holder's obligations to carry out improvement restoration under the *Mineral Resources Act 1989* and, where the mining tenement is not a prospecting permit or exploration permit, to allow the holder to carry out low impact environmental monitoring during the moratorium period.

The holder of a prospecting permit or exploration permit will be able to carry out low impact track construction or maintenance and will be able to put in place or maintain low impact infrastructure only if it is reasonably necessary for them to do so to carry out rehabilitation or environmental management. The purpose of this limitation is to ensure that the holder of a prospecting permit or exploration permit will not get any greater rights of access under this part than they had before the commencement of this part.

When accessing the land during the moratorium period, the holder of the mining tenement will be subject to the same rights and obligations as would ordinarily apply in relation to land access. For example, the holder will have to comply with the landowner compensation provisions and the notice of entry provisions of the *Mineral Resources Act 1989* but, having given the appropriate notice, will be entitled to access the land without the landowner's consent.

### 318ELAG Ministerial power to suspend rental obligation

Clause 71 inserts new section 318ELAG, which gives the Minister the power to suspend rental obligations when satisfied the holder of an oil shale mining tenement is not able to or will not be able to carry out any oil

shale activity authorised under the holder's mining tenement during all or part of the moratorium period. That suspension may be for all or any part of the current term of the mining tenement, but cannot take effect before 1 January 2009.

### 318ELAH Suspension or waiver of reporting obligations

Clause 71 inserts new section 318ELAH, which provides that the reporting obligation of the holder of an oil shale mining tenement is suspended during the moratorium period to the extent it relates to oil shale activities. The Minister may waive a holder's reporting obligation for all or part of the current term of the mining tenement.

### 318ELAI Suspension or waiver of performance requirements

Clause 71 inserts a new section 318ELAI, which provides that the performance requirements of the holder of an oil shale mining tenement are suspended during the moratorium period to the extent they relate to oil shale activities. The Minister may waive or reduce a holder's performance requirements during the current term of the mining tenement.

### 318ELAJ Assignments

Clause 71 inserts a new section 318ELAJ, which provides for the assignment of oil shale mining tenements and interests in them and for the assignment of applications for oil shale mining tenements during the moratorium period. There is no other provision in the *Mineral Resources Act 1989* which allows the assignment of applications. As no oil shale mining tenements can be granted for the land until at least 18 August 2028, it would be unfair not to allow applicants for oil shale mining tenements to assign their applications if they wish to during the moratorium period.

### 318ELAK Renewals

Clause 71 inserts a new section 318ELAK, which provides for the automatic renewal of an oil shale mining tenement when it reaches its expiry day. The tenement is taken to have been renewed for the same term and on the same terms.

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

Clause 71 inserts a new section 318ELAL, which clarifies that the moratorium does not limit or otherwise affect or suspend the rights or obligations of the holder of a mining tenement under the *Environmental Protection Act 1994*, the holder's environmental authority, chapter 3 of the *Petroleum and Gas (Production and Safety) Act 2004* and other relevant Acts.

For example, if another party applied for a petroleum lease for coal seam gas over land also subject to an oil shale mining tenement, the rights and obligations of the oil shale mining tenement holder under chapter 3 of the *Petroleum and Gas (Production and Safety) Act 2004* would still apply, despite part 7AAB.

### Insertion of new pt 10AA

Clause 72 inserts a new part 10AA after section 381.

## Part 10AA Collingwood Park State guarantee

### 381A Definitions for pt 10AA

Clause 72 inserts a new section 381A to clearly define the suburb of Collingwood Park, the public record of the Gazetteer of Place Names under the *Place Names Act 1994* is used to identify the suburb. This is deliberately done as the Government's package of assistance under this part applies only to that suburb.

Mining activity has been also defined because the subsidence in Collingwood Park arose as a result of underground coal mining activity.

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

Clause 72 inserts a new section 381B for the broad principles of the Collingwood Park guarantee. Of particular importance is the definition of "subsidence damage" which limits damage particularly to buildings or structures in existence prior to the mine subsidence occurrence on 25 April

2008. This is to ensure buildings or structures constructed after that time are outside the ambit of the guarantee.

### 381C Registering guarantee in freehold land register

Clause 72 inserts a new section 381C, which relates to the notification of the guarantee in the freehold land register under the *Land Title Act 1994*.

The notification operates through section 29(1) of the *Land Title Act 1994* by providing a power for the Registrar of Titles (the Registrar) to record information against land in the freehold land register either permitted by that Act or another Act. To activate this "permitted by another Act" mechanism, the Chief Executive of the Department of Mines and Energy will have the power to request the Registrar to place a notification of the guarantee on the land title of any property in Collingwood Park. A request to the Registrar will only be made if the owner of a residential property requests the notification be made.

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

Clause 72 inserts a new section 381D, which relates to the notification of the guarantee in the freehold land register under the *Land Title Act 1994*. Once recorded, a notification can only be removed by the Registrar at the request of the Chief Executive responding to a request from the land owner.

### 381E No fee payable

Clause 72 inserts a new section 381E, which provides for a fee exemption simply to remove the need for the State to pay a fee to itself.

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

Clause 73 amends section 391. Restricted area notifications under the *Mineral Resources Act 1989* prevent or limit applications for tenure. The amendment is to ensure that where an application is lodged prior to the creation of the restricted area, the application and any application for a subsequent or higher tenement can be processed without the effect of the restricted area notification. Application for subsequent or higher tenement includes a conditional surrender of the mining tenement or consolidation of mining leases. For example the holder of the original granted tenement may apply for a subsequent or higher tenure i.e. exploration permit, mining claim, mineral development licence or mining lease without the restriction

applying provided that no ground additional to the original grant has been applied for.

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

Clause 74 amends section 404C to clarify the information that may be collected from a holder of a mining tenement.

### Insertion of new pt 19, div 1AA

Clause 75 inserts a new part 19, division 1AA.

## Division 1AA Transitional provisions for Act No. 10 of 1998

## Subdivision 1 Preliminary

### 722H Definitions for div 1AA

Clause 75 inserts new section 722H, which provides definitions which apply to part 19, division 1A.

### 722I Relationship with special agreement Acts and repealed transitional schedule

Clause 75 inserts new section 722I, which provides that if there is any conflict between these amendments and any provision of a Special Agreement Act or the repealed transitional schedule, these amendments prevail.

## Subdivision 2 Continuance of repealed transitional schedule

### 722J Schedule continues in effect

Clause 75 inserts new section 722J, which provides that despite its repeal, section 20A of the *Acts Interpretation Act 1954* applies and always applied to the repealed transitional schedule. This clarifies that the declaratory effect of the provisions of that schedule did not end when they were repealed by the *Offshore Minerals Act 1998*.

## Subdivision 3 Provisions for special agreement Act leases

### 722K Purpose of sdiv 3

Clause 75 inserts new section 722K, which provides that the purpose of subdivision 3 is to provide for how a Special Agreement Act lease may be renewed and how the *Mineral Resources Act 1989* applies to those renewed leases.

### 722L Future renewals only under this Act

Clause 75 inserts a new section 722L, which clarifies that a Special Agreement Act lease not renewed since the *Mineral Resources Act 1989* commenced may only be renewed under that Act, and not the Special Agreement Act.

### 722M Status on renewal

Clause 75 inserts a new section 722M, which clarifies that a Special Agreement Act lease renewed under the *Mineral Resources Act 1989* is subject only to that Act and any conditions imposed on renewal under that Act, and not the Special Agreement Act.

### 722N Leases renewed under special agreement Act

Clause 75 inserts a new section 722N, which clarifies that if a Special Agreement Act lease was renewed under the Special Agreement Act after

the *Mineral Resources Act 1989* commenced and before this section commences, that renewal is taken to be a renewal under the *Mineral Resources Act 1989* and anything done under that renewed lease is taken to have been done under that Act. This amendment is designed to ensure there is no confusion about the status of any lease purportedly renewed under a Special Agreement Act after the *Mineral Resources Act 1989* commenced.

### Amendment of s 741 (Unfinished special coal mining lease applications)

Clause 76 provides for minor consequential amendments to section 741.

### Insertion of new pt 19, div 11

Clause 77 inserts a new division 11 into part 19 of the *Mineral Resources Act 1989*.

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

## Subdivision 1 Provisions for amendments to due dates and reminder dates

### 768 Application of div 11

Clause 77 inserts a new section 768, which outlines that division 11 applies to a mining tenement granted before 1 January 2009 if it is a mining claim, mineral development licence or mining lease.

### 769 Transitional provision for rental

Clause 77 inserts a new section 769, which provides for transitional arrangements for mining claims, mineral development licences and mining leases granted prior to 1 January 2009. In this instance the rental period shall be 1 January 2009 to 31 August 2009 (nominal year, eight months)

and the rental payable is taken to be two-thirds of the amount payable for a full rental year (12 months).

### 770 Transitional provision for contravention provisions

Clause 77 inserts a new section 770, which provides transitional provisions for the contravention provisions relating to the non-payment of rental within the *Mineral Resources Act 1989*.

## Subdivision 2 Provision for special agreement Acts

### 771 Application of this Act to payment of rent for special agreement Act leases

Clause 77 inserts a new section 771 for transitional provisions for the relevant tenure holders who have contravened the requirement to pay their eight months pro rata rental on or by 31 December 2008 have been included. The statutory reminder date is 31 January 2009 and the subsequent date for payment is 1 April 2009.

# Amendment of schedule (Dictionary)

Clause 78 amends the schedule (Dictionary). The amendments include new definitions of "affected land" for part 10AA, "Collingwood Park State guarantee" (or "guarantee) for part 10AA, "moratorium period", "oil shale activity", "oil shale mining tenement", "registrar" and "rental year".

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

### Act amended in pt 6 and schedule

Clause 79 provides that part 6 and the schedule amend the *Mining and Quarrying Safety and Health Act 1999*.

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

Clause 80 amends section 259 to clarify that the chief executive may use and publish information collected under that section.

# Part 7 Amendment of Petroleum Act 1923

### Act amended in pt 7 and schedule

Clause 81 provides that part 7 amends the *Petroleum Act 1923*.

### Amendment of s 2 (Definitions)

Clause 82 provides that the definition of 'permitted dealing' is omitted, with the definition of 'dealing' inserted in its place. This will align the definition with the amendment to section 80E of the *Petroleum Act 1923*.

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

Clause 83 makes clear that a company must be a registered body under the *Corporations Act 2001* (Cwlth) to apply for and hold an authority to prospect or petroleum lease under the *Petroleum Act 1923*.

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

Clause 84 omits section 19 of the *Petroleum Act 1923* be omitted.

The introduction of the *Petroleum and Gas (Production and Safety) Act 2004* and the significant amendments to the *Petroleum Act 1923* brought about by the commencement of the *Petroleum and Other Legislation Amendment Act 2004* were intended to ensure that the provisions of each petroleum Act be reflected in the other.

Amendments to the *Petroleum Act 1923*, by the commencement of the *Petroleum and Other Legislation Amendment Act 2004*, were intended to prevent an authority to prospect (ATP) holder applying for a variation (available under section 19) to a condition, provision or stipulation. No such extensive variation provisions are included in the *Petroleum and Gas (Production and Safety) Act 2004*, and omitting section 19 from the *Petroleum Act 1923* aligns this Act with the *Petroleum and Gas (Production and Safety) Act 2004*.

The most requested variations made under section 19 of the *Petroleum Act 1923* have been to vary the work and expenditure conditions of an authority to prospect administered under the *Petroleum Act 1923*. However, the *Petroleum and Gas (Production and Safety) Act 2004* provides very specific circumstances as to when a work program (the equivalent of the work and expenditure conditions) may be amended. Similar provisions are already reflected in sections 25G to 25K (inclusive) of the *Petroleum Act 1923*.

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

Clause 85 amends section 75Q so that a holder of a petroleum tenure may transfer a water supply bore or water observation bore to a landholder, who is the owner of the land on which the bore is located, without the need for the landholder to have a licence under the *Water Act 2000*.

However, the transfer is only in the ownership of the bore. If the landowner is required under the *Water Act 2000* to have a licence to take water from the transferred bore, this must be obtained by the landowner prior to the taking of the water from the transferred bore.

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

Clause 86 amends section 76B to provide for how, and in what format, records (reports) about authorised activities conducted on petroleum tenure or authorities are to be submitted to the Department.

The system (which at the time of writing is called the "Queensland Digital Exploration Reports System", or QDEX) allows for the required records to be submitted by a petroleum explorer or producer electronically and via the Department's internet website. As the information contained in the records is of a technical geological nature, a document that is available through the QDEX system provides for what electronic file format the various technical information is to be provided in.

These file formats are standard throughout the petroleum industry, and are substantially those agreed to by the Government Geoscience Information Committee (GGIC) and adopted by all States and Territories, after consultation with the petroleum industry.

## Amendment of s 80B (Keeping of register)

Clause 87 is a consequential amendment as a result of amendments to part 6N, sections 80E, 80J and 80K of the *Petroleum Act 1923* ('the 1923 Act'). This clause provides that only a dealing approved, or taken to be approved, under part 6N of the 1923 Act must be recorded in the petroleum register.

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

Clause 88 provides for an amendment so that a 'permitted dealing' is now a 'dealing'. The words 'permitted dealing' have been changed as it may have been perceived that the word 'permitted' suggested that these are the only types of commercial dealings that may be undertaken on petroleum authorities. This is not the case.

To clarify this view, the word 'dealing' is now used. 'Dealings' as listed in section 80E of the *Petroleum Act 1923* ('the 1923 Act') are those that the Minister requires to be notified of, or needs to approve, and which are to be recorded on the petroleum register kept by the chief executive.

This clause also provides that for these purposes, a dealing does not include a dealing that has the effect of transferring a divided part of the area of a 1923 Act petroleum tenure.

There are other dealings (such as overriding royalty agreements, farm-in agreements, farm-out agreements etc) that the petroleum authority holder may enter into as commercial dealings. These are allowed to be entered into by a petroleum authority holder in the normal course of commercial activities, but the Minister does not need to be notified of nor approve these dealings, nor have them recorded on the petroleum register.

As outlined in the amendment to section 80B of the 1923 Act, only dealings approved, or taken to be approved, under part 6N of the 1923 Act must be recorded in the petroleum register.

This clause also makes clear that a mortgage of a petroleum authority, or a mortgage in a share of a petroleum authority and a release, transfer or surrender of a mortgage of these types, are dealings.

Further, this clause also provides that a sublease, or a share in a sublease, of a petroleum lease may be transferred, irrespective of whether it is the subject of a coordination arrangement or not.

This clause also provides that a dealing with a petroleum authority does not include a dealing as detailed in section 80E(2) of the 1923 Act.

## Amendment of s 80J (Deciding application)

Clause 89 provides consequential amendments as a result of amendments made to section 80E of the *Petroleum Act 1923*.

This clause also provides that certain dealings are now taken to be granted. For example, a release of a mortgage is now taken to be granted, as the Minister should not have to approve a dealing that is strictly a commercial transaction to which the Minister is not a party and to which the Minister is not expected to provide input to the mortgagee.

Further, this clause provides for a requirement that where the Minister has given an indication of likely conditions upon a proposed dealing, these conditions must be complied with within six months after the Minister gave the indication. Otherwise, the proposed dealing is not taken to be granted if an application is made to approve the dealing for which the indication was sought.

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

Clause 90 provides consequential amendments as a result of amendments made to section 80J of the *Petroleum Act 1923*.

This clause also provides the decision criteria that must be considered when the Minister is deciding whether to approve a dealing. This clause now provides more realistic decision criteria than those which existed prior to this amendment. Unclear decision criteria have been omitted, such as the 'hardship the applicant would suffer if the dealing is not approved'.

### Insertion of new pt 12

Clause 91 inserts a new part 12 into the Act. The new part 12 provides a transitional provision for the *Mines and Energy Legislation Amendment Act 2008*.

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

### 185 Provision for repeal of section 19

This transitional provision deals with an application for variation of an authority to prospect (ATP) made under former section 19 but not decided before the repeal of that section.

The application is taken to be a request for an amendment to the work program for the ATP made under sections 25H and 25I of the *Petroleum Act 1923* ('the 1923 Act') and decided under sections 25G, 25J and 25K of the 1923 Act.

If the application cannot be dealt with under this transitional provision, other options may exist in the 1923 Act (for example, section 125) for a person to make an application, the type of which may have been made previously under section 19 of the 1923 Act before its repeal.

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

## Act amended in pt 8 and schedule

Clause 92 provides that part 8 and the schedule amend the *Petroleum and Gas (Production and Safety) Act 2004*.

## Insertion of new s 30A

Clause 93 provides for the insertion of section 30A, which deals with joint holders of a petroleum authority. While the presumption of joint ownership of petroleum tenements arises from the *Property Law Act 1974* (section 33 at the time of writing), there is apparent confusion from persons applying for tenure as to its application under the *Petroleum and Gas (Production and Safety) Act 2004*.

To clarify this issue and in line with existing property interest provisions in the *Land Title Act 1994* (section 56) and the *Land Act 1994* (section 145), this section is inserted to remove any doubt as to how joint ownership will be dealt with in the register. A person who is eligible to hold a tenement under the *Petroleum and Gas (Production and Safety) Act 2004* may hold it as a joint tenant or as a tenant in common. However, if an application for a tenement or dealing with a tenement, e.g. an assignment or a mortgage is lodged and does not show whether co-owners are to hold as tenants in common or as joint tenants, the co-owners will be recorded as tenants in common. Where the application shows applicants as tenants in common and no shares, the register will show their shares as being equal.

## Amendment of s 236 (Ministerial approval of proposed coordination arrangement)

Clause 94 provides that the Minister may approve the coordination arrangement only if the Minister is satisfied the spatial relationship between the leases which are the subject of the arrangement is appropriate.

Before this amendment, section 236 of the *Petroleum and Gas (Production and Safety) Act 2004* provided that the Minister may not approve a coordination arrangement if the arrangement provides for a party to the

arrangement to be granted a pipeline licence and the spatial relationship between the leases is not considered appropriate.

This clause now provides that the Minister may not approve the coordination arrangement, if the spatial relationship between the leases is not considered appropriate, irrespective of whether or not the coordination arrangement provides for a party to the arrangement to be granted a pipeline licence.

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

Clause 95 amends section 288 so that a holder of a petroleum tenure or water monitoring authority may transfer a water supply bore or water observation bore to a landholder, who is the owner of the land on which the bore is located, without the need for the landholder to have a licence under the *Water Act 2000*.

However, the transfer is only in the ownership of the bore. If the landowner is required under the *Water Act 2000* to have a licence to take water from the transferred bore, this must be obtained by the landowner prior to the taking of the water from the transferred bore.

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

Clause 96 amends section 419A to allow the applicant for a pipeline licence to give notice to the Chief Inspector regarding the proposed construction of a pipeline. The situation that may have arisen previously where the pipeline holder would have to wait 20 days after the licence is granted before construction could start has been avoided by allowing the applicant to also be able to give the notice.

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

Clause 97 amends section 548 to provide for how, and in what format, records (reports) about authorised activities conducted on petroleum tenure or authorities are to be submitted to the Department.

The system (which at the time of writing is called the "Queensland Digital Exploration Reports System", or QDEX) allows for the submission of the

required records to be submitted by a petroleum explorer or producer electronically and via the Department's internet website.

As the information contained in the records is of a technical geological nature, a document that is available through the QDEX system provides for what electronic file format the various technical information is to be provided in.

These file formats are standard throughout the petroleum industry, and are substantially those agreed to by the Government Geoscience Information Committee (GGIC) and adopted by all States and Territories, after consultation with the petroleum industry.

## Amendment of s 565 (Keeping of register)

Clause 98 is a consequential amendment as a result of amendments to chapter 5, part 10, sections 568, 573 and 574 of the *Petroleum and Gas (Production and Safety) Act 2004*.

This clause provides that only a dealing approved, or taken to be approved, under chapter 5, part 10 of the *Petroleum and Gas (Production and Safety) Act 2004*, must be recorded in the petroleum register.

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

Clause 99 provides for an amendment so that a 'permitted dealing' is now known as a 'dealing'. The words 'permitted dealing' have been changed as it may have been perceived that the word 'permitted' suggested that these are the only types of commercial dealings that may be undertaken on petroleum authorities. This is not the case.

To clarify this view, the word 'dealing' is now used. 'Dealings' as listed in section 568 of the *Petroleum and Gas (Production and Safety) Act 2004* are those that the Minister requires to be notified of, or needs to approve, and which are to be recorded on the petroleum register kept by the chief executive.

This clause also provides that for these purposes, a dealing does not include a prohibited dealing as detailed in section 569(1) of the *Petroleum and Gas (Production and Safety) Act 2004*.

There are other dealings (such as overriding royalty agreements, farm-in agreements, farm-out agreements etc) that the petroleum authority holder may enter into as commercial dealings. These are allowed to be entered

into by a petroleum authority holder in the normal course of commercial activities, but the Minister does not need to be notified of nor approve these dealings, nor have them recorded on the petroleum register.

As outlined in the amendment to section 565 of the *Petroleum and Gas (Production and Safety) Act 2004* as made by the *Mines and Energy Legislation Amendment Act 2008*, only dealings approved, or taken to be approved, under chapter 5, part 10 of the *Petroleum and Gas (Production and Safety) Act 2004* must be recorded in the petroleum register.

This clause also provides clarification that a mortgage of a petroleum authority, or a mortgage in a share of a petroleum authority and a release, transfer or surrender of a mortgage of these types, are dealings.

Further, this clause also provides that a sublease, or a share in a sublease, of a petroleum lease may be transferred, irrespective of whether it is the subject of a coordination arrangement or not.

## Amendment of s 573 (Deciding application)

Clause 100 provides consequential amendments as a result of amendments made to section 568 of the *Petroleum and Gas (Production and Safety) Act 2004*.

This clause also provides that certain dealings are now taken to be granted. For example, a release of a mortgage is now taken to be granted, as the Minister should not have to approve a dealing that is strictly a commercial transaction to which the Minister is not a party and to which the Minister is not expected to provide input to the mortgagee.

Further, this clause provides for a requirement that where the Minister has given an indication of likely conditions upon a proposed dealing, these conditions must be complied with within six months after the Minister gave the indication. Otherwise, the proposed dealing is not taken to be granted if an application is made to approve the dealing for which the indication was sought.

## Amendment of s 574 (Criteria for decision)

Clause 101 amends section 574 to provide for necessary consequential amendments as a result of amendments made to section 573 of the *Petroleum and Gas (Production and Safety) Act 2004*.

This clause also clarifies the decision criteria that must be considered when the Minister is deciding whether to approve a dealing. .

## Amendment of s 590 (Imposition of petroleum royalty on petroleum producers)

Clause 102 amends section 590 to provide for a situation when a petroleum producer is required to pay the State petroleum royalty, as a consequence to amendments made to section 318CN of the *Mineral Resources Act 1989*.

A petroleum producer must now pay the State petroleum royalty for petroleum that the producer produces or that the petroleum producer accepts from the holder of a coal or oil shale mining lease (as defined in the *Mineral Resources Act 1989*), where the coal or oil shale mining lease area overlaps any area of the petroleum producer's petroleum lease.

This ensures that a mining lease holder does not pay royalty on any incidental coal seam gas that is offered, then given to the overlapping petroleum lease holder pursuant to the amendment to section 318CN of the *Mineral Resources Act 1989*, by the *Mines and Energy Legislation Amendment Act 2008*.

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

Clause 103 amends the heading of chapter 9, part 1 from "Safety requirements" to "Safety requirements and labelling".

## Insertion of new s 669A

Clause 104 inserts a new section 669A to provide a head of power to make regulations in relation to the certification and labelling of gas devices and fittings with respect to energy efficiency requirements.

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

Clause 105 inserts a new subsection that makes it an offence for someone (i.e. an employer) to direct an employee or contractor to undertake gas work in a manner that contravenes the safety requirements, for example AS5601 Gas Installations. As the gas installer is responsible for their work and is required to sign off their work as meeting the safety requirements, this offence will act as a deterrent to anyone directing the licence holder to undertake non-compliant work.

Clarification is also made that the simple disconnection and connection of a gas cylinder to a fitting/appliance (for example, a barbeque) is not an offence.

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

Clause 106 inserts a new section 727(3) that makes it an offence for someone (i.e. an employer) to direct an employee or contractor to undertake gas work in a manner that contravenes the safety requirements.

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

Clause 107 amends section 733(1) to require gas devices or fittings to comply with any labelling requirements made under regulation. Consequential amendments to definitions are made.

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

Clause 108 amends the requirement in section 734 to certify an installation (as compliant) to allow the approved form (gas system compliance certificate) to clarify exactly what must be certified. It is intended that the form will clarify the elements of the existing system that must be certified.

Provision is made for the use of compliance plates for installations to be prescribed in a regulation. Not attaching a plate as prescribed becomes an offence. It is intended that the use of compliance plates will allow for the installer to be more easily identified, and for compliance action to be more easily taken. The requirement to notify the owner/operator about safety risks has been moved to a new section.

### Insertion of new s 734A

Clause 109 inserts a new section 734A so that there is a clear obligation that if any person doing gas work knows or ought reasonably to know or suspect that the gas system does not comply with relevant safety requirements, eg installation standards, they must issue a notice in the prescribed form (i.e. a defect notice). It is intended that this means any part of the system they are working on and in the immediate vicinity or any other part of the system that they would be required to inspect under the safety requirements.

If there is an imminent risk of material harm they must take measures so that the risk is controlled such as isolating a faulty or leaking appliance. In such a case an Inspector and the gas supplier must be notified immediately by phone. These requirements apply at any time not just with respect to a new installation.

## Amendment of s 844 (Amending applications)

Clause 110 amends section 844 to provide, for an applicant that is a corporation, that a change of name or type of corporation for an applicant may be made at any stage, providing that the change of name or type of corporation does not change the company's ACN or ARBN. An example might be where an applicant for the tender of an authority to prospect has applied as (Company) Limited but after the closing date for the tenders and before the preferred tenderer is appointed, the applicant changes the company name to (Company) Pty Limited. To avoid the administrative necessity of an assignment and where the ACN or ARBN remains the same, the change of name should be allowed.

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

Clause 111 amends section 877 to provide for what is excluded land for an authority to prospect (ATP), converted on 31 December 2004 [which is the commencement date of the *Petroleum and Gas (Production and Safety) Act 2004*] from an ATP administered under the *Petroleum Act 1923* to an ATP administered under the *Petroleum and Gas (Production and Safety) Act 2004*.

Prior to this amendment, land that was in a coal or oil shale mining tenement (that is, a coal or oil shale exploration permit or a coal or oil shale mining lease) and also in any notional sub-block of an ATP administered under the *Petroleum Act 1923* at the time of its conversion, did not form part of the converted ATP and was taken to be excluded land for the ATP.

The amendments to section 877 of the *Petroleum and Gas (Production and Safety) Act 2004* and its transitional provision now provide that only land that was in a coal or oil shale mining lease, and also in any notional sub-block of ATP administered under the *Petroleum Act 1923* at the time of its conversion, does not form part of the converted ATP and is taken to be excluded land for the ATP.

### Insertion of new ch 15, pt 3, div 5, sdiv 3

Clause 112 inserts a new chapter 15, part 3, division 5, subdivision 3.

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

### 901A Application of sdivs 1 and 2

Clause 112 inserts new section 901A, which provides that chapter 15, part 3, division 5, subdivision 3 applies as if the amendment inserting section 901A under the *Mines and Energy Legislation Amendment Act 2008* had commenced on 31 December 2004. This clause also provides that the petroleum lease numbered 200 is a converted lease that is to be administered under the provisions of the *Petroleum and Gas (Production and Safety) Act 2004*.

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.

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

Clause 113 corrects a typographical error. The wording in section 903(1)(b) is amended, as it refers to a 'mining tenement' which includes coal exploration tenement or an oil shale exploration tenement, and subsection (1)(a) has already referred to these tenements. Further, chapter 3, part 3, division 2 or 3 relates only to a coal or oil shale mining lease.

### Insertion of new ch 15, pt 8

Clause 114 inserts a new chapter 15, part 8.

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

## Provision for amendment of s 877

Clause 114 inserts new chapter 15, part 8, which provides that the amendment made by the *Mines and Energy Legislation Amendment Act 2008* to section 877 applies as if the amendment of that section under the *Petroleum and Other Legislation Amendment Act 2005* had never been made.

Prior to the clause amending section 877 by the *Mines and Energy Legislation Amendment Act 2008*, land that was in a coal or oil shale mining tenement (that is, a coal or oil shale exploration permit or a coal or oil shale mining lease) and also in any notional sub-block of an ATP administered under the *Petroleum Act 1923* at the time of its conversion, did not form part of the converted ATP and was taken to be excluded land for the ATP.

The amendments to section 877 of the *Petroleum and Gas (Production and Safety) Act 2004*, made by the *Mines and Energy Legislation Amendment Act 2008*, and this transitional provision, now provide that only land that was in a coal or oil shale mining lease, and also in any notional sub-block of an ATP administered under the *Petroleum Act 1923* at the time of its conversion, does not form part of the converted ATP and is taken to be excluded land for the ATP.

It may be considered that there is a breach of a fundamental legislative principle triggered by the clause that amends section 877 and this transitional provision, as this is a retrospective provision. However, these amendments are beneficial to the holder of an ATP administered under the *Petroleum Act 1923* that was converted to an ATP administered under the *Petroleum and Gas (Production and Safety) Act 2004* on 31 December 2004, and these amendments do not adversely affect the rights of any person by their operation.

## Amendment of sch 2 (Dictionary)

Clause 115 provides that the dictionary definition of "permitted dealing" is omitted, with the definition of "dealing" inserted in its place. This will

align the dictionary definition with the amendment to section 568 of the *Petroleum and Gas (Production and Safety) Act 2004*, as made by the *Mines and Energy Legislation Amendment Act 2008*.

## Schedule Minor amendments

This schedule makes a number of minor and consequential amendments to the *Coal Mining Safety and Health Act 1999*, *Mineral Resources Act 1989, Mining and Quarrying Safety and Health Act 1999* and *Petroleum and Gas (Production and Safety) Act 2004*.