



Queensland

Mineral and Energy Resources (Financial Provisioning) Bill 2017



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209	Amendment of s 298 (Mining other minerals or use for other purposes)	185
210	Amendment of s 314 (Property remaining on former mining lease may be sold)	185
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2017

A Bill

for

An Act to establish a financial provisioning scheme to deal with the environmental impacts of resource activities, and to amend this Act, the *Environmental Protection Act 1994*, the *Mineral and Energy Resources (Common Provisions) Act 2014*, the *Mineral Resources Act 1989* and the *Right to Information Act 2009* for particular purposes

[s 1]

The Parliament of Queensland enacts—	1
Part 1 Preliminary	2
Division 1 Introduction	3
1 Short title	4
This Act may be cited as the <i>Mineral and Energy Resources (Financial Provisioning) Act 2017</i> .	5 6
2 Commencement	7
This Act commences on a day to be fixed by proclamation.	8
Division 2 Purposes and application of Act	9
3 Main purposes	10
The main purposes of this Act are—	11
(a) to provide for holders of authorities to pay a contribution to the scheme fund, or give a surety, for the authorities; and	12 13 14
(b) to provide a way to manage the risk to the State of incurring costs and expenses if the holder of an authority or small scale mining tenure does not comply with the holder’s obligations under the authority or tenure; and	15 16 17 18
(c) to provide a source of funds to the State if the State does incur costs and expenses mentioned in paragraph (b); and	19 20 21
(d) to provide a source of funds to the State for—	22

(i)	rehabilitation activities at land on which an abandoned mine exists; and	1 2
(ii)	remediation activities in relation to an abandoned operating plant; and	3 4
(iii)	scientific research that may contribute to the rehabilitation of land on which resource activities have been carried out.	5 6 7
4	How main purposes to be achieved	8
	The main purposes are to be achieved by—	9
(a)	establishing a financial provisioning scheme to deal with the environmental impacts of resource activities (the <i>scheme</i>), including, for example—	10 11 12
(i)	a scheme fund; and	13
(ii)	a cash surety account; and	14
(b)	providing for the appointment of a person to manage the scheme; and	15 16
(c)	providing for the person mentioned in paragraph (b) to make payments from the scheme fund and the cash surety account, enter into surety arrangements, and call on and release sureties.	17 18 19 20
5	Relationship with Environmental Protection Act 1994	21
(1)	This Act does not exclude, limit or otherwise affect the operation of the <i>Environmental Protection Act 1994</i> unless this Act otherwise expressly provides.	22 23 24
(2)	Without limiting subsection (1), this Act does not exclude, limit or otherwise affect the duties, obligations, requirements or restrictions imposed, under the <i>Environmental Protection Act 1994</i> , on the holder of an authority or small scale mining tenure.	25 26 27 28 29

[s 6]

6	Act does not affect other rights or remedies	1
(1)	This Act does not affect or limit a civil right or remedy that exists apart from this Act, whether at common law or otherwise.	2 3 4
(2)	Without limiting subsection (1), compliance with this Act does not necessarily show that a civil obligation that exists apart from this Act has been satisfied or has not been breached.	5 6 7 8
(3)	In addition, a breach of an obligation under this Act does not of itself give rise to an action for breach of statutory duty or another civil right or remedy.	9 10 11
(4)	To remove any doubt, it is declared that nothing in this Act creates an obligation on the State to take action, or incur costs and expenses, to—	12 13 14
(a)	prevent or minimise environmental harm or rehabilitate or restore the environment, in relation to the carrying out of an activity under an authority or small scale mining tenure; or	15 16 17 18
(b)	secure compliance with an authority or small scale mining tenure.	19 20
Division 3	Interpretation	21
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7	Definitions	23
	The dictionary in schedule 1 defines particular words used in this Act.	24 25

Subdivision 2	Key definitions	1
8	What is the <i>estimated rehabilitation cost</i>	2
	The <i>estimated rehabilitation cost</i> , for an environmental authority for a resource activity (an <i>authority</i>), is the amount of the estimated cost of rehabilitating the land on which the resource activity is carried out, for an ERC period, as decided under the <i>Environmental Protection Act 1994</i> , section 300 by the administering authority.	3 4 5 6 7 8
9	What is an entity's <i>total estimated rehabilitation cost</i>	9
	The <i>total estimated rehabilitation cost</i> , for an entity, is the sum of the estimated rehabilitation cost for each authority for which—	10 11 12
	(a) a contribution to the scheme fund is payable; and	13
	(b) the entity is the holder or, if there is more than 1 holder of the authority, the relevant holder.	14 15
10	What is the State's <i>total estimated rehabilitation cost</i>	16
	The <i>total estimated rehabilitation cost</i> , for the State, is the sum of the estimated rehabilitation cost for each authority granted by the State.	17 18 19
11	What is the <i>fund threshold</i>	20
	(1) The <i>fund threshold</i> is—	21
	(a) the amount prescribed by regulation for this paragraph; or	22 23
	(b) if no amount is prescribed under paragraph (a)—\$450,000,000.	24 25
	(2) Before recommending to the Governor in Council that an amount be prescribed under subsection (1)(a), the Minister must have regard to—	26 27 28

[s 12]

- (a) the percentage of the State's total estimated rehabilitation cost that the amount represents; and 1
2
- (b) the effect of the percentage under paragraph (a) on the financial viability of the scheme fund; and 3
4
- (c) if the actuarial sustainability of the scheme has been investigated under section 73—the actuary's opinion, and the scheme manager's recommendation, about whether the fund threshold should be changed. 5
6
7
8

Part 2 Establishment of scheme 9

Division 1 Scheme manager 10

12 Appointment 11

- (1) There is to be a scheme manager. 12
- (2) The scheme manager is to be appointed by the Governor in Council. 13
14
- (3) The scheme manager is appointed under this Act and not the *Public Service Act 2008*. 15
16

13 Term of appointment 17

- (1) The scheme manager holds office for the term stated in the scheme manager's instrument of appointment. 18
19
- (2) The stated term must not be more than 5 years. 20
- (3) The scheme manager may be reappointed. 21

14 Remuneration and conditions 22

- (1) The scheme manager is to be paid the remuneration and other allowances decided by the Governor in Council. 23
24

-
- (2) The remuneration must not be reduced during the scheme manager's term of office without the scheme manager's written consent. 1
2
3
- 15 Resignation** 4
- The scheme manager may, at any time, resign office as scheme manager by signed notice given to the Minister. 5
6
- 16 Acting scheme manager** 7
- (1) The Minister may appoint a person to act as scheme manager— 8
9
- (a) during a vacancy in the office; or 10
- (b) during any period, or during all periods, when the scheme manager is absent from duty or from the State or is, for another reason, unable to perform the duties of the office. 11
12
13
14
- (2) However, the person can not be appointed for more than 6 months in any 12 month period. 15
16
- (3) The acting scheme manager is appointed under this Act and not the *Public Service Act 2008*. 17
18
- (4) It does not matter whether the appointee is or is not a public service officer. 19
20
- 17 Preservation of rights** 21
- (1) This section applies if a public service officer is appointed as the scheme manager. 22
23
- (2) The person keeps all rights accrued or accruing to the person as a public service officer as if service as the scheme manager were a continuation of service as a public service officer. 24
25
26
- (3) Without limiting subsection (2), the person's appointment does not— 27
28

[s 18]

(a)	prejudice the person’s existing or accruing rights to superannuation or recreation, sick, long service or other leave; or	1 2 3
(b)	interrupt continuity of service, except that the employee is not entitled to claim the benefit of a right or entitlement more than once in relation to the same period of service; or	4 5 6 7
(c)	entitle the person to a payment or other benefit because the person is no longer a public service officer.	8 9
18	Relationship with State	10
(1)	The scheme manager represents the State.	11
(2)	Without limiting subsection (1), the scheme manager has the status, privileges and immunities of the State.	12 13
19	Finance	14
(1)	The scheme manager is a part of the department for the purposes of the <i>Financial Accountability Act 2009</i> .	15 16
(2)	Despite the <i>Financial Accountability Act 2009</i> , section 76, the accountable officer for the department under that Act may delegate the officer’s functions under that Act to the scheme manager.	17 18 19 20
20	Not statutory body for particular Acts	21
	The scheme manager is not a statutory body for the <i>Statutory Bodies Financial Arrangements Act 1982</i> or the <i>Financial Accountability Act 2009</i> .	22 23 24
21	Functions	25
(1)	The scheme manager has the following functions—	26
(a)	allocating authorities to a risk category;	27

-
- (b) reviewing the risk category to which authorities have been allocated; 1
2
 - (c) managing the scheme; 3
 - (d) setting investment objectives for the scheme fund or part of the scheme fund and establishing investment strategies and policies to achieve the objectives. 4
5
6
 - (2) The scheme manager may— 7
 - (a) ask the Long Term Asset Advisory Board for advice about performing the function under subsection (1)(d); or 8
9
10
 - (b) appoint an entity nominated by the Treasurer to perform, or advise the scheme manager about performing, the function under subsection (1)(d). 11
12
13
 - (3) In this section— 14
 - Long Term Asset Advisory Board* means the Long Term Asset Advisory Board established under the *Queensland Treasury Corporation Act 1988*, section 10. 15
16
17

22 Powers 18

- (1) Subject to subsection (3), the scheme manager has all the powers of an individual and may, for example— 19
20
 - (a) enter into contracts; and 21
 - (b) acquire, hold, deal with and dispose of property; and 22
 - (c) appoint agents and attorneys; and 23
 - (d) engage consultants; and 24
 - (e) do anything else necessary or convenient to be done in the performance of the scheme manager's functions. 25
26
- (2) Subject to subsection (3), the scheme manager also has the powers given to the scheme manager under this Act or another Act. 27
28
29
- (3) The scheme manager does not have power to borrow money. 30

[s 23]

23	Staff services from department	1
(1)	The chief executive may, at the scheme manager's request, assign public service employees of the department to perform work for the scheme manager.	2 3 4
(2)	A person assigned to perform work for the scheme manager under subsection (1) is not subject to the direction of the chief executive in relation to the work.	5 6 7
Division 2	Scheme fund and cash surety account	8 9
24	Establishment of scheme fund	10
(1)	The Financial Provisioning Fund (the <i>scheme fund</i>) is established.	11 12
(2)	Accounts for the scheme fund must be kept as part of the departmental accounts of the department.	13 14
(3)	Amounts received for the scheme fund—	15
(a)	must be deposited in a departmental financial institution account of the department; and	16 17
(b)	may be deposited in an account used for depositing other amounts of the department.	18 19
(4)	The chief executive (environment) must pay into the scheme fund an amount recovered under the <i>Environmental Protection Act 1994</i> in relation to costs and expenses for which the chief executive (environment) receives an amount from the scheme manager under section 65.	20 21 22 23 24
(5)	The Treasurer may advance amounts to the scheme fund on the terms the Treasurer considers appropriate.	25 26
(6)	An advance by the Treasurer under subsection (5) is to be paid by the Treasurer out of the consolidated fund which is appropriated accordingly.	27 28 29
(7)	Amounts received for the scheme fund include the following—	30 31

-
- (a) contributions to the scheme fund paid under this Act; 1
 - (b) fees paid under this Act; 2
 - (c) amounts received from the chief executive (environment) under subsection (4); 3
4
 - (d) amounts advanced by the Treasurer; 5
 - (e) amounts earned as interest on the cash surety account deposited into the scheme fund by the scheme manager; 6
7
 - (f) amounts earned as interest on the scheme fund. 8
 - (8) An amount mentioned in subsection (7) is a controlled receipt for the *Financial Accountability Act 2009*. 9
10
 - (9) An amount is payable from the scheme fund for— 11
 - (a) the purposes of this Act, including, for example, a cost related to the administration of the scheme or staff services under section 23; or 12
13
14
 - (b) the repayment of an amount advanced to the scheme fund by the Treasurer. 15
16
 - (10) In this section— 17
 - departmental financial institution account*, of the department, means an account of the department kept under the *Financial Accountability Act 2009*, section 83. 18
19
20

25 Cash surety account 21

- (1) The scheme manager must keep a separate bank account (a *cash surety account*) with a financial institution for the management of cash amounts paid as surety for authorities. 22
23
24
- (2) Accounts for the cash surety account must be kept as part of the departmental accounts of the department. 25
26
- (3) The scheme manager must pay into the cash surety account a cash amount paid as surety for an authority. 27
28
- (4) The scheme manager may make payments from the cash surety account only for— 29
30

[s 26]

(a)	giving an amount to a requesting entity under section 68(b); or	1 2
(b)	depositing an amount of interest earned on the account into the scheme fund; or	3 4
(c)	releasing a surety under section 58.	5
(5)	The scheme manager may invest an amount in the cash surety account only in—	6 7
(a)	deposits with a financial institution; or	8
(b)	investment arrangements mentioned in the <i>Statutory Bodies Financial Arrangements Act 1982</i> , section 44(1)(d).	9 10 11
(6)	An investment mentioned in subsection (5) must be—	12
(a)	at call; or	13
(b)	for a fixed time of not more than 1 year.	14
Part 3	Operation of scheme	15
Division 1	Risk category allocation	16
Subdivision 1	Initial allocation	17
26	Application of subdivision	18
(1)	This subdivision applies if—	19
(a)	the administering authority decides, under the <i>Environmental Protection Act 1994</i> , section 300, the estimated rehabilitation cost for an authority; and	20 21 22
(b)	the estimated rehabilitation cost decided by the administering authority is equal to or more than the following amount (the <i>prescribed ERC amount</i>)—	23 24 25

-
- (i) the amount prescribed by regulation for this subparagraph; 1
2
- (ii) if no amount is prescribed under subparagraph (i)—\$100,000. 3
4
- (2) If the administering authority makes more than 1 decision 5
under the *Environmental Protection Act 1994*, section 300 in 6
relation to an authority, this subdivision applies only in 7
relation to the first decision for which the estimated 8
rehabilitation cost is equal to or more than the prescribed ERC 9
amount. 10
- 27 Scheme manager must make initial risk category allocation** 11
12
- (1) The scheme manager must decide to allocate the authority to 1
of the following risk categories (the *initial risk category allocation*)— 13
14
15
- (a) very low; 16
- (b) low; 17
- (c) moderate; 18
- (d) high. 19
- (2) In deciding the initial risk category allocation, the scheme 20
manager— 21
- (a) must consider— 22
- (i) the scheme manager’s opinion of the probability of 23
the State incurring costs and expenses because the 24
holder has not prevented or minimised 25
environmental harm, or rehabilitated or restored 26
the environment, in relation to a resource activity 27
carried out under, or to ensure compliance with, 28
the authority; and 29
- (ii) submissions made under section 28; and 30
- (iii) the scheme manager guidelines; and 31

[s 28]

- (b) may consider any other matter the scheme manager considers relevant to the decision. 1
2
 - (3) In forming an opinion under subsection (2)(a)(i), the scheme manager— 3
4
 - (a) must consider— 5
 - (i) the financial soundness of the holder and any parent corporation of the holder; and 6
7
 - (ii) the scheme manager guidelines; and 8
 - (b) may consider— 9
 - (i) the characteristics of a resource project to which the authority relates; and 10
11
 - (ii) any other matter the scheme manager considers relevant to forming the opinion. 12
13
 - (4) If there is more than 1 holder, the scheme manager— 14
 - (a) may, for subsection (3)(a)(i), consider the financial soundness of— 15
16
 - (i) any or all of the holders; and 17
 - (ii) a parent corporation of any or all of the holders; and 18
19
 - (b) must, for making the decision under section 53(c)(ii), assign the authority to 1 only of the holders (the *relevant holder* for the authority). 20
21
22
- 28 Scheme manager must notify holder of indicative risk category allocation** 23
24
- (1) The scheme manager must, before deciding the initial risk category allocation, give the holder a notice (a *notice of indicative decision*) stating— 25
26
27
 - (a) the risk category to which the scheme manager intends to allocate the authority (the *indicative risk category allocation*); and 28
29
30

(b)	the reasons for the indicative risk category allocation; and	1 2
(c)	if the scheme manager has assigned the authority to a relevant holder—the identity of the relevant holder; and	3 4
(d)	the amount of the contribution to the scheme fund, or surety, required under the indicative risk category allocation; and	5 6 7
(e)	that the holder may, within 20 business days after the notice of indicative decision is given—	8 9
(i)	make submissions to the scheme manager about a matter mentioned in paragraph (a), (b), (c) or (d); or	10 11 12
(ii)	give the scheme manager notice that the holder accepts the indicative risk category allocation.	13 14
(2)	The scheme manager may extend the period mentioned in subsection (1)(e) by notice given to the holder.	15 16
29	When indicative risk category allocation becomes the initial risk category allocation	17 18
	The scheme manager must decide to allocate the authority to the risk category stated under section 28(1)(a) in the notice of indicative decision if the holder—	19 20 21
(a)	does not make submissions under section 28; or	22
(b)	gives the scheme manager a notice under section 28 that the holder accepts the indicative risk category allocation.	23 24 25
30	Period for making initial risk category allocation	26
	The scheme manager must decide the initial risk category allocation—	27 28
(a)	if the holder gives the scheme manager a notice under section 28 that the holder accepts the indicative risk	29 30

[s 31]

- category allocation—within 5 business days after the
scheme manager receives the notice; or
- (b) if the holder does not make submissions under section
28—within 5 business days after the period in which the
holder was permitted to make submissions ends; or
- (c) if the holder makes submissions under section
28—within 20 business days after the scheme manager
receives the submissions; or
- (d) if the scheme manager requires the holder, under section
44, to give the scheme manager information or a
document the scheme manager reasonably requires to
make the decision—within 20 business days after the
scheme manager receives the information or document.
- 31 Notice of initial risk category allocation**
- The scheme manager must, as soon as practicable after
deciding the initial risk category allocation, give the holder a
notice stating—
- (a) the day the risk category allocation was decided (the
initial allocation day for the authority); and
- (b) the initial risk category allocation; and
- (c) if the scheme manager has assigned the authority to a
relevant holder—the relevant holder for the authority;
and
- (d) the amount of the contribution to the scheme fund, or
surety, required under division 2 in relation to the
authority, and when the amount must be paid or given;
and
- (e) the amount of the assessment fee for the decision, and
when the fee must be paid.

Subdivision 2	Changed holder review allocation	1
32	Scheme manager may review risk category allocation if changed holder	2 3
(1)	This section applies if—	4
(a)	an authority is allocated to a risk category; and	5
(b)	the estimated rehabilitation cost for the authority is equal to or more than the prescribed ERC amount; and	6 7
(c)	either—	8
(i)	an entity applies under the <i>Mineral and Energy Resources (Common Provisions) Act 2014</i> , section 19 for approval to register a prescribed dealing under section 17 of that Act that is—	9 10 11 12
(A)	an assessable transfer, of a resource authority relating to the authority, to another entity (the changed holder); or	13 14 15
(B)	a non-assessable transfer, of a resource authority relating to the authority, that is a transfer of the resource authority or of a share in the resource authority, if part of 1 holder's share in the resource authority will be transferred to another holder of the resource authority (also the changed holder); or	16 17 18 19 20 21 22 23
(ii)	either of the following changes happen—	24
(A)	an entity starts or stops controlling the holder (also the changed holder) under the Corporations Act, section 50AA;	25 26 27
(B)	the holder (also the changed holder) starts or stops being a subsidiary of a corporation under the Corporations Act, section 46.	28 29 30
(2)	The scheme manager may—	31

[s 32]

- (a) review the risk category to which the authority is allocated; and 1
2
- (b) decide to confirm or change— 3
 - (i) the risk category to which the authority is allocated (the *changed holder review allocation*); and 4
5
 - (ii) if the scheme manager has assigned the authority to a relevant holder—the relevant holder for the authority. 6
7
8
- (3) In making the changed holder review allocation, the scheme manager— 9
10
 - (a) must consider— 11
 - (i) the scheme manager’s opinion of the probability mentioned in section 27(2)(a)(i) having regard to the changed holder; and 12
13
14
 - (ii) submissions made under section 34; and 15
 - (iii) the scheme manager guidelines; and 16
 - (b) may consider any other matter the scheme manager considers relevant. 17
18
- (4) In forming an opinion under subsection (3)(a)(i), the scheme manager— 19
20
 - (a) must consider— 21
 - (i) the financial soundness of the changed holder and any parent corporation of the changed holder; and 22
23
 - (ii) the scheme manager guidelines; and 24
 - (b) may consider— 25
 - (i) the characteristics of a resource project to which the authority relates; and 26
27
 - (ii) any other matter the scheme manager considers relevant to forming the opinion. 28
29
- (5) For subsection (1)(c)(i), a resource authority relates to an authority if the resource authority authorises the carrying out of a resource activity for the authority. 30
31
32

33	Application to scheme manager if proposed changed holder	1 2
(1)	This section applies if—	3
(a)	an authority is allocated to a risk category; and	4
(b)	the estimated rehabilitation cost for the authority is equal to or more than the prescribed ERC amount; and	5 6
(c)	either—	7
(i)	an entity proposes to apply under the <i>Mineral and Energy Resources (Common Provisions) Act 2014</i> , section 19 for approval to register a prescribed dealing under section 17 of that Act that is—	8 9 10 11
(A)	an assessable transfer, of a resource authority relating to the authority, to another entity (the changed holder); or	12 13 14
(B)	a non-assessable transfer, of a resource authority relating to the authority, that is a transfer of the resource authority or of a share in the resource authority, if part of 1 holder’s share in the resource authority will be transferred to another holder of the resource authority (also the changed holder); or	15 16 17 18 19 20 21 22
(ii)	either of the following changes is proposed—	23
(A)	an entity is to start or stop controlling the holder (also the changed holder) under the Corporations Act, section 50AA;	24 25 26
(B)	the holder (also the changed holder) is to start or stop being a subsidiary of a corporation under the Corporations Act, section 46.	27 28 29 30
(2)	The holder of the authority, or the changed holder with the consent of the holder of the authority, may apply to the scheme manager to make a changed holder review allocation as if—	31 32 33 34

[s 34]

- (a) for subsection (1)(c)(i)—the application for approval to register the prescribed dealing had been made; or 1
2
 - (b) for subsection (1)(c)(ii)—the change had happened. 3
 - (3) The scheme manager must make the changed holder review allocation only if the application is accompanied by the assessment fee for the decision. 4
5
6
 - (4) For subsection (1)(c)(i), a resource authority relates to an authority if the resource authority authorises the carrying out of a resource activity for the authority. 7
8
9
- 34 Scheme manager must notify interested entity of indicative changed holder review allocation** 10
11
- (1) The scheme manager must, before deciding the changed holder review allocation, give the entity mentioned in section 32(1)(c)(i), the holder mentioned in section 32(1)(c)(ii), or the applicant under section 33(2) (each the *interested entity* for the authority), a notice (the *notice of indicative decision*) stating— 12
13
14
15
16
17
 - (a) the risk category to which the scheme manager intends to allocate the authority (the *indicative changed holder allocation*); and 18
19
20
 - (b) the reasons for the indicative changed holder allocation; and 21
22
 - (c) if the scheme manager intends to assign the authority to a different relevant holder—the identity of the different relevant holder; and 23
24
25
 - (d) the amount of the contribution to the scheme fund, or surety, required under the indicative changed holder allocation; and 26
27
28
 - (e) that the interested entity may, within 20 business days after the notice of indicative decision is given— 29
30
 - (i) make submissions to the scheme manager about a matter mentioned in paragraph (a), (b), (c) or (d); or 31
32
33

-
- (ii) give the scheme manager notice that the interested entity accepts the indicative changed holder allocation. 1
2
3
- (2) The scheme manager may extend the period mentioned in subsection (1)(e) by notice given to the interested entity. 4
5
- 35 When indicative changed holder allocation becomes the changed holder review allocation** 6
7
- The scheme manager must decide to allocate the authority to the risk category stated under section 34(1)(a) in the notice of indicative decision if the interested entity— 8
9
10
- (a) does not make submissions under section 34; or 11
- (b) gives the scheme manager a notice under section 34 that the interested entity accepts the indicative changed holder allocation. 12
13
14
- 36 Notice of changed holder review allocation** 15
- The scheme manager must, as soon as practicable after deciding the changed holder review allocation, give a notice to the interested entity stating— 16
17
18
- (a) the day the changed holder review allocation was decided (the *changed holder review day* for the authority); and 19
20
21
- (b) the risk category to which the authority is allocated under the changed holder review allocation; and 22
23
- (c) if the scheme manager has assigned the authority to a relevant holder—the relevant holder for the authority under the review; and 24
25
26
- (d) the amount of the contribution to the scheme fund, or surety, required under division 2 in relation to the authority, and when the amount must be paid or given; and 27
28
29
30

[s 37]

- (e) the amount of the assessment fee for the decision, and when the fee must be paid, unless the assessment fee has been paid under section 33; and
- (f) when the changed holder review decision takes effect.

37 When changed holder review decision takes effect

- (1) The changed holder review decision takes effect—
 - (a) for an application mentioned in section 32(1)(c)(i)—if and when the application is approved under the *Mineral and Energy Resources (Common Provisions) Act 2014*; or
 - (b) for a change mentioned in section 32(1)(c)(ii)—on the day that is 10 business days after the notice under section 36 is given to the interested entity; or
 - (c) for a proposed application mentioned in section 33(1)(c)(i)—if and when the application is made and approved under the *Mineral and Energy Resources (Common Provisions) Act 2014*; or
 - (d) for a proposed change mentioned in section 33(1)(c)(ii)—if and when the proposed change happens.
- (2) However—
 - (a) subsection (1)(c) applies only if the proposed application is made within the prescribed period after the notice under section 36 is given to the interested entity; and
 - (b) subsection (1)(d) applies only if the proposed change happens within the prescribed period after the notice under section 36 is given to the interested entity.
- (3) In this section—

prescribed period means—

 - (a) the period prescribed by regulation for this paragraph; or
 - (b) if no period is prescribed under paragraph (a)—6 months.

Subdivision 3	Annual review allocation	1
38	Annual review of risk category allocation	2
(1)	This section applies if—	3
(a)	an authority is allocated to a risk category; and	4
(b)	the estimated rehabilitation cost for the authority is equal to or more than the prescribed ERC amount.	5 6
(2)	The scheme manager must, within 30 business days before each anniversary day for the authority—	7 8
(a)	review the risk category to which the authority is allocated; and	9 10
(b)	decide to confirm or change—	11
(i)	the risk category to which the authority is allocated (the <i>annual review allocation</i>); and	12 13
(ii)	if the scheme manager has assigned the authority to a relevant holder—the relevant holder for the authority.	14 15 16
(3)	In making the annual review allocation, the scheme manager—	17 18
(a)	must consider—	19
(i)	the scheme manager’s opinion of the probability mentioned in section 27(2)(a)(i); and	20 21
(ii)	submissions made under section 39; and	22
(iii)	the scheme manager guidelines; and	23
(b)	may consider any other matter the scheme manager considers relevant.	24 25
(4)	In forming an opinion under subsection (3)(a)(i), the scheme manager—	26 27
(a)	must consider—	28
(i)	the financial soundness of the holder and any parent corporation of the holder; and	29 30

[s 39]

- (ii) the scheme manager guidelines; and 1
 - (b) may consider— 2
 - (i) the characteristics of a resource project to which the authority relates; and 3 4
 - (ii) any other matter the scheme manager considers relevant to forming the opinion. 5 6
 - (5) In this section— 7
 - anniversary day*, for an authority, means— 8
 - (a) if a changed holder review decision takes effect in relation to the authority—the day in each year that is the anniversary of the changed holder review day for the authority; or 9 10 11 12
 - (b) otherwise—the day in each year that is the anniversary of the initial allocation day for the authority. 13 14
- 39 Scheme manager must notify holder of indicative annual review allocation** 15 16
- (1) The scheme manager must, before deciding the annual review allocation, give the holder a notice (the *notice of indicative decision*) stating— 17 18 19
 - (a) the risk category to which the scheme manager intends to allocate the authority (the *indicative annual review allocation*); and 20 21 22
 - (b) the reasons for the indicative annual review allocation; and 23 24
 - (c) if the scheme manager intends to assign the authority to a different relevant holder—the identity of the different relevant holder; and 25 26 27
 - (d) the amount of the contribution to the scheme fund, or surety, required under the indicative annual review allocation; and 28 29 30
 - (e) that the holder may, within 20 business days after the notice of indicative decision is given— 31 32

	(i) make submissions to the scheme manager about a matter mentioned in paragraph (a), (b), (c) or (d); or	1 2 3
	(ii) give the scheme manager notice that the holder accepts the indicative annual review allocation.	4 5
(2)	The scheme manager may extend the period mentioned in subsection (1)(e) by notice given to the holder.	6 7
40	When indicative annual review allocation becomes the annual review allocation	8 9
	The scheme manager must decide to allocate the authority to the risk category stated under section 39(1)(a) in the notice of indicative decision if the holder—	10 11 12
	(a) does not make submissions under section 39; or	13
	(b) gives the scheme manager a notice under section 39 that the changed holder accepts the indicative annual review allocation.	14 15 16
41	Notice of annual review allocation	17
	The scheme manager must, as soon as practicable after deciding the annual review allocation, give a notice to the holder stating—	18 19 20
	(a) the day the annual review allocation was decided (the <i>annual review day</i> for the authority); and	21 22
	(b) the risk category to which the authority is allocated under the annual review allocation; and	23 24
	(c) if the scheme manager has assigned the authority to a relevant holder—the relevant holder for the authority under the review; and	25 26 27
	(d) the amount of the contribution to the scheme fund, or surety, required under division 2 in relation to the authority, and when the amount must be paid or given; and	28 29 30 31

[s 42]

- (e) the amount of the assessment fee for the decision, and when the fee must be paid. 1
2

Subdivision 4 Information disclosure 3

42 Holder must give scheme manager notice if changed holder 4 5

- (1) If an authority has been allocated under this division to a risk category, the holder of the authority must give the scheme manager a notice under this section if either— 6
7
8
 - (a) an entity applies under the *Mineral and Energy Resources (Common Provisions) Act 2014*, section 19 for approval to register a prescribed dealing under section 17 of that Act that is— 9
10
11
12
 - (i) an assessable transfer, of a resource authority relating to the authority, to another entity; or 13
14
 - (ii) a non-assessable transfer, of a resource authority relating to the authority, that is a transfer of the resource authority or of a share in the resource authority, if part of 1 holder’s share in the resource authority will be transferred to another holder of the resource authority; or 15
16
17
18
19
20
 - (b) either of the following changes happen— 21
 - (i) an entity starts or stops controlling the holder under the Corporations Act, section 50AA; 22
23
 - (ii) the holder starts or stops being a subsidiary of a corporation under the Corporations Act, section 46. 24
25
26
- Maximum penalty—100 penalty units. 27
- (2) The notice must— 28
 - (a) state the details of the matter mentioned in subsection (1); and 29
30
 - (b) include the other information prescribed by regulation. 31

-
- (3) The notice must be given within 10 business days after— 1
- (a) for a matter mentioned in subsection (1)(a)—the 2
application for approval to register the prescribed 3
dealing is made; or 4
- (b) for a matter mentioned in subsection (1)(b)—the change 5
happens. 6
- (4) For subsection (1)(a), a resource authority relates to an 7
authority if the resource authority authorises the carrying out 8
of a resource activity for the authority. 9
- 43 Holder must give scheme manager notice if cessation in 10
production 11**
- (1) This section applies to an authority if the resource activity for 12
which the authority is given is authorised under any of the 13
following resource authorities— 14
- (a) a mining lease or mining development licence under the 15
Mineral Resources Act 1989; 16
- (b) an authority to prospect or petroleum lease under the 17
Petroleum and Gas (Production and Safety) Act 2004; 18
- (c) a geothermal production lease under the *Geothermal 19
Energy Act 2010*. 20
- (2) The holder of the authority must give the scheme manager a 21
notice under this section if, after the start of production under 22
the resource authority— 23
- (a) the holder ceases production under the resource 24
authority and does not expect production to restart 25
within 6 months after the cessation; or 26
- (b) production has not been carried out under the resource 27
authority for 6 months. 28
- Maximum penalty—100 penalty units. 29
- (3) The notice must— 30
- (a) state the details of the matter mentioned in subsection 31
(2); and 32

[s 44]

- (b) include the other information prescribed by regulation. 1
- (4) The notice must be given within 10 business days after — 2
 - (a) for the matter mentioned in subsection (2)(a)—the 3
holder ceases production; or 4
 - (b) for the matter mentioned in subsection (2)(b)—the end 5
of the 6 month period mentioned in that subsection. 6
- (5) In this section— 7
 - production** means— 8
 - (a) for a resource authority mentioned in subsection 9
(1)(a)—an activity mentioned in the *Mineral Resources* 10
Act 1989, section 6A(1)(a) or (b); or 11
 - (b) for a resource authority mentioned in subsection 12
(1)(b)—an activity mentioned in the *Petroleum and Gas* 13
(Production and Safety) Act 2004, section 15; or 14
 - (c) for a resource authority mentioned in subsection 15
(1)(c)—an activity mentioned in the *Geothermal Energy* 16
Act 2010, section 14. 17
- 44 Scheme manager may require further information from 18
holder before allocation decision 19**
 - (1) The scheme manager may, before making an allocation 20
decision for an authority, require the holder of the authority to 21
give the scheme manager further information or a document 22
the scheme manager reasonably requires to make the decision. 23
 - (2) For an initial allocation decision, the scheme manager may 24
exercise the power mentioned in subsection (1) at any time 25
after the holder has applied for an ERC decision under the 26
Environmental Protection Act 1994, section 298 in relation to 27
the authority. 28
 - (3) The requirement must— 29
 - (a) be made by notice given to the holder; and 30

-
- (b) state a reasonable period of a least 10 business days within which the holder must comply with the requirement. 1
2
3
- (4) The scheme manager may extend the period mentioned in subsection (3)(b) by notice given to the holder. 4
5
- (5) The holder of the authority must, unless the holder has a reasonable excuse, comply with the requirement. 6
7
- Maximum penalty—100 penalty units. 8
- (6) If the holder of the authority does not comply with the requirement, the scheme manager may make the decision without the further information or document. 9
10
11
- 45 Scheme manager may require further information from interested entity before changed holder review decision 12
13**
- (1) The scheme manager may, before making a changed holder review decision for an authority, require an interested entity for the authority to give the scheme manager further information or a document the scheme manager reasonably requires to make the decision. 14
15
16
17
18
- (2) The requirement must— 19
- (a) be made by notice given to the interested entity; and 20
- (b) state a reasonable period of a least 10 business days within which the interested entity must comply with the requirement. 21
22
23
- (3) The scheme manager may extend the period mentioned in subsection (2)(b) by notice given to the interested entity. 24
25
- (4) The interested entity must, unless the interested entity has a reasonable excuse, comply with the requirement. 26
27
- Maximum penalty—100 penalty units. 28
- (5) If the interested entity does not comply with the requirement, the scheme manager may make the decision without the further information or document. 29
30
31

[s 46]

Division 2	Liability under scheme	1
Subdivision 1	Contribution to scheme fund	2
46	Application of subdivision	3
	This subdivision applies if—	4
	(a) both of the following apply—	5
	(i) the scheme manager makes an allocation decision for an authority that allocates the authority to 1 of the following risk categories—	6 7 8
	(A) very low;	9
	(B) low;	10
	(C) moderate;	11
	(ii) the scheme manager does not decide, under section 53(c)(ii), that the holder of the authority must give a surety rather than pay a contribution; or	12 13 14
	(b) all of the following apply—	15
	(i) the scheme manager makes an annual review decision for an authority that allocates the authority to the risk category of high;	16 17 18
	(ii) the scheme manager has made an annual review decision for the authority, for each of the 4 years immediately preceding the decision mentioned in subparagraph (i), that allocates the authority to 1 of the following risk categories—	19 20 21 22 23
	(A) very low;	24
	(B) low;	25
	(C) moderate;	26
	(iii) the scheme manager is satisfied when the scheme manager makes the annual review decision mentioned in subparagraph (i) that the holder is not	27 28 29

	reasonably able to give a surety for the authority	1
	within 12 months after the decision is made.	2
47	Holder must pay contribution to scheme fund	3
(1)	The holder of the authority must pay a contribution to the	4
	scheme fund within 30 business days after—	5
(a)	for an initial allocation decision—the initial allocation	6
	day for the authority; or	7
(b)	for a changed holder review decision—the day the	8
	decision takes effect under section 37; or	9
(c)	for an annual review decision—the annual review day	10
	for the authority.	11
	<i>Note—</i>	12
	The holder of the authority must not carry out, or allow the carrying out	13
	of, a resource activity under the authority unless the holder has paid the	14
	contribution—see the <i>Environmental Protection Act 1994</i> , section 297.	15
(2)	The contribution payable must be worked out using the	16
	formula—	17
	C = A x B	18
	where—	19
	A is the estimated rehabilitation cost for the authority at the	20
	beginning of the day that is—	21
(a)	for an initial allocation decision—the initial allocation	22
	day for the authority; or	23
(b)	for a changed holder review decision—the day the	24
	decision takes effect under section 37; or	25
(c)	for an annual review decision—the annual review day	26
	for the authority.	27
	B is the prescribed percentage for the authority.	28
	C is the amount of the contribution.	29

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48	Rate of contribution if holder not able to give surety	1
	An authority mentioned in section 46(b) is taken to be	2
	allocated to the risk category of moderate for working out,	3
	under section 47, the contribution payable for the authority.	4
49	Holder must pay contribution and give surety if estimated rehabilitation cost more than fund threshold	5
		6
(1)	This section applies if the estimated rehabilitation cost for the authority is more than the fund threshold.	7
		8
(2)	Despite section 47(2), the contribution must be worked out using the formula—	9
		10
	C = A x B	11
	where—	12
	A is the fund threshold.	13
	B is the prescribed percentage for the authority.	14
	C is the amount of the contribution.	15
(3)	In addition to paying the contribution worked out under subsection (2), the holder of the authority must give a surety for the amount that equals the estimated rehabilitation cost for the authority less the fund threshold.	16
		17
		18
		19
50	Refund of contribution to previous holder	20
(1)	This section applies if—	21
		22
(a)	a holder of an authority (a <i>previous holder</i>) pays a contribution; and	23
		24
(b)	during the 12 months after the contribution is paid the scheme manager makes a changed holder review decision that has the effect of another holder of the authority (the <i>changed holder</i>) being liable to pay a contribution, or give a surety, under this part.	25
		26
		27
		28
(2)	The scheme manager must, within 30 business days after the changed holder pays the contribution or gives the surety under	29
		30

this part, refund to the previous holder the pro rata amount of
the contribution relating to the remainder of the year after the
decision.

(3) In this section—

pro rata amount, of a contribution relating to the remainder of
a year, means the proportion of the amount of the contribution
that is the same proportion that the remainder of the year bears
to the whole year.

51 Recovery of unpaid contribution

A contribution payable under this subdivision may be
recovered as a debt payable to the State.

52 Notification of administering authority

The scheme manager must, as soon as practicable after the
holder of an authority has paid a contribution under this
subdivision, give the administering authority for the authority
notice of the payment.

Subdivision 2 Surety

53 Application of subdivision

This subdivision applies if—

(a) both of the following apply—

(i) the scheme manager makes an allocation decision
for an authority that allocates the authority to the
risk category of high;

(ii) section 46(b) does not apply; or

(b) both of the following apply—

(i) the scheme manager makes an allocation decision
for an authority that allocates the authority to the
risk category of very low, low or moderate;

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- (ii) the holder of the authority is required to give a surety under section 49(3); or
- (c) both of the following apply—
 - (i) the scheme manager makes an allocation decision for an authority that allocates the authority to the risk category of very low, low or moderate;
 - (ii) the scheme manager decides the holder of the authority must give a surety, rather than pay a contribution, to preserve the financial viability of the scheme fund; or
- (d) the estimated rehabilitation cost for an authority is less than the prescribed ERC amount; or
- (e) the holder of a small scale mining tenure is required under the *Environmental Protection Act 1994*, section 21A(2) to give a surety before carrying out an activity, or allowing the carrying out of an activity, under the tenure.

54 Scheme manager's decision about financial viability of scheme fund

In making a decision under section 53(c)(ii), the scheme manager may consider whether the total estimated rehabilitation cost for the holder or, if there is more than 1 holder, the relevant holder of the authority, and the total estimated rehabilitation cost for any or all of the following is likely to be more than the fund threshold—

- (a) a parent corporation of the holder or relevant holder of the authority;
- (b) a subsidiary corporation, under the Corporations Act, section 46, of a parent corporation mentioned in paragraph (a);
- (c) a corporation controlled, under the Corporations Act, section 50AA, by a parent corporation mentioned in paragraph (a).

-
- 55 Holder must give surety** 1
- (1) The holder of the authority, or small scale mining tenure, must 2
give a surety for the authority, or tenure, in a form approved 3
by the scheme manager under section 56. 4
- Notes—* 5
- 1 The holder of the authority must not carry out, or allow the 6
carrying out of, a resource activity under the authority unless the 7
holder has given the surety—see the *Environmental Protection Act* 8
1994, section 297. 9
- 2 For small scale mining tenures, see the *Environmental Protection* 10
Act 1994, sections 21A and 435A. 11
- (2) The amount of the surety is— 12
- (a) for an authority mentioned in section 53(a) or (c) —the 13
amount of the estimated rehabilitation cost for the 14
authority at the beginning of the day that is— 15
- (i) for an initial allocation decision—the initial 16
allocation day for the authority; or 17
- (ii) for a changed holder review decision—the day the 18
decision takes effect under section 37; or 19
- (iii) for an annual review decision—the annual review 20
day for the authority; or 21
- (b) for an authority mentioned in section 53(b)—the 22
amount worked out under section 49(3); or 23
- (c) for an authority mentioned in section 53(d)—the 24
amount of the estimated rehabilitation cost for the 25
authority; or 26
- (d) for a small scale mining tenure—the amount under the 27
Environmental Protection Act 1994, section 21A(2)(a). 28
- (3) The surety must be given— 29
- (a) for an authority mentioned in section 53(a) or (b)— 30
within 30 business days after— 31
- (i) for an initial allocation decision—the initial 32
allocation day for the authority; or 33

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- (ii) for a changed holder review decision—the day the decision takes effect under section 37; or
 - (iii) for an annual review decision—the annual review day for the authority; or
 - (b) for an authority mentioned in section 53(c)—within 30 business days after the day the scheme manager decides the holder must give a surety, rather than pay a contribution, to preserve the financial viability of the scheme fund; or
 - (c) for an authority mentioned in section 53(d)—within 30 business days after—
 - (i) if a contribution to the scheme fund has been paid for the authority within the 12 month period immediately preceding the day the administering authority decided the estimated rehabilitation cost for the authority—the day that is 12 months after the day the contribution was paid; or
 - (ii) otherwise—the day the administering authority decides the estimated rehabilitation cost for the authority; or
 - (d) for a small scale mining tenure mentioned in section 53(e)—before carrying out an activity, or allowing the carrying out of an activity, under the tenure.
- (4) The scheme manager may extend a period mentioned in subsection (3)(a), (b) or (c) if the scheme manager is satisfied it is not reasonably practicable for the holder to obtain the surety within the period.
- (5) For the *Mineral and Energy Resources (Common Provisions) Act 2014*, section 20A, the holder mentioned in subsection (1) is the entity mentioned in section 20A(2) of that Act.

56 Form of surety

- (1) The scheme manager may only approve a surety in 1 or more of the following forms—

-
- (a) a bank guarantee— 1
- (i) in the approved form; or 2
- (ii) on terms and conditions approved by the scheme 3
manager; 4
- (b) an insurance bond issued by a prescribed insurer— 5
- (i) in the approved form; or 6
- (ii) on terms and conditions approved by the scheme 7
manager; 8
- (c) a payment of a cash amount— 9
- (i) on the condition that the giver of the surety is not 10
entitled to interest on the amount of the surety; and 11
- (ii) subject to subparagraph (i), on the terms and 12
conditions approved by the scheme manager. 13
- (2) The *Acts Interpretation Act 1954*, section 48A(1) does not 14
apply to an approved form mentioned in subsection (1). 15
- (3) In this section— 16
- prescribed insurer* means an insurer prescribed by regulation 17
for this section. 18

57 When holder must give increased surety 19

- (1) This section applies if— 20
- (a) a surety is given for an authority mentioned in section 21
53(a), (b) or (c); and 22
- (b) within 12 months after the allocation decision for the 23
authority mentioned in section 53(a), (b) or (c), the 24
estimated rehabilitation cost for the authority increases. 25
- (2) In addition to giving the surety under section 55, the holder of 26
the authority must give a surety in the amount— 27
- (a) for an authority mentioned in section 53(a) or (c)—that 28
equals the amount of the increased estimated 29
rehabilitation cost for the authority less the amount of 30
the surety for the authority already given; or 31

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- (b) for an authority mentioned in section 53(b)—that equals the amount of the increased estimated rehabilitation cost for the authority less both the fund threshold and the amount of the surety for the authority already given.
- (3) The surety must be in the form approved by the scheme manager under section 56.
- (4) The surety must be given within 30 business days after the estimated rehabilitation cost for the authority increases.
- (5) The scheme manager may extend the period mentioned in subsection (4) if the scheme manager is satisfied it is not reasonably practicable for the holder to obtain the surety within the period.

58 Release of surety

- (1) This section applies if—
 - (a) a surety given under this subdivision for an authority is replaced with another surety for the authority in a form approved by the scheme manager under section 56; or
 - (b) a surety given under this subdivision for an authority or small scale mining tenure is no longer required to be given under this subdivision; or
 - (c) for an authority for which a surety has been given under this subdivision—the authority is surrendered under the *Environmental Protection Act 1994*; or
 - (d) for a small scale mining tenure for which a surety has been given under this subdivision—the small scale mining tenure is surrendered under the *Mineral Resources Act 1989*.
- (2) The scheme manager must release the surety to the giver of the surety as soon as practicable after—
 - (a) for subsection (1)(a)—the replacement surety is given; or
 - (b) for subsection (1)(b)—the surety is no longer required under this subdivision; or

(c)	for subsection (1)(c)—the authority is surrendered; or	1
(d)	for subsection (1)(d)—the small scale mining tenure is surrendered.	2 3
59	Notification of administering authority	4
	The scheme manager must, as soon as practicable after the holder of an authority or small scale mining tenure gives a surety under this subdivision, give the administering authority for the authority notice of the giving of the surety.	5 6 7 8
	Subdivision 3 Fees	9
60	Assessment fee	10
(1)	If the scheme manager makes an allocation decision for an authority, the holder of the authority must pay the scheme manager the assessment fee prescribed by regulation for the decision.	11 12 13 14
(2)	The assessment fee must be paid within 30 business days after the decision is made.	15 16
61	Administration fee for particular sureties	17
(1)	This section applies if—	18
(a)	the holder of an authority is required to give a surety under section 53(d); or	19 20
(b)	the holder of a small scale mining tenure is required to give a surety under section 53(e); or	21 22
(c)	the holder of an authority or small scale mining tenure replaces a surety.	23 24
(2)	The holder must pay the scheme manager the administration fee prescribed by regulation for the surety.	25 26
(3)	The administration fee must be paid—	27

[s 62]

(a)	for subsection (1)(a) or (b)—within the period mentioned in section 55(3) for giving the surety; or	1 2
(b)	for subsection (1)(c)—within 30 business days after the replacement surety is given.	3 4
62	Recovery of unpaid fee	5
	A fee payable under this subdivision may be recovered as a debt payable to the State.	6 7
Division 3	Claiming financial provision	8
Subdivision 1	Payments from scheme fund	9
63	Application of subdivision	10
	This subdivision applies if—	11
(a)	the administering authority (the <i>requesting entity</i>) decides, under the <i>Environmental Protection Act 1994</i> , section 316F, to ask the scheme manager for the payment of costs and expenses from the scheme fund; or	12 13 14 15
(b)	the chief executive (mineral resources) (also the <i>requesting entity</i>) incurs, or might reasonably incur, costs and expenses in authorising a person, under the <i>Mineral Resources Act 1989</i> , section 344A, to carry out rehabilitation activities at land on which an abandoned mine exists; or	16 17 18 19 20 21
(c)	the chief executive (petroleum) (also the <i>requesting entity</i>) incurs, or might reasonably incur, costs and expenses in authorising a person, under the <i>Petroleum and Gas (Production and Safety) Act 2004</i> , section 799G, to carry out remediation activities in relation to an abandoned operating plant; or	22 23 24 25 26 27
(d)	the chief executive (resources) or the chief executive (environment) (also the <i>requesting entity</i>) incurs, or	28 29

	might reasonably incur, costs and expenses relating to	1
	particular scientific research that may contribute to the	2
	rehabilitation of land on which resource activities have	3
	been carried out.	4
64	Requesting entity may ask for payment from scheme fund	5 6
	(1) The requesting entity may ask the scheme manager for	7
	payment of the costs and expenses from the scheme fund.	8
	(2) The request must—	9
	(a) be in writing; and	10
	(b) state the details of the costs and expenses; and	11
	(c) for costs and expenses mentioned in section	12
	63(a)—state the details of the authority to which the	13
	costs and expenses relate; and	14
	(d) include the other information prescribed by regulation.	15
	(3) If a request under section 63(b) relates to a	16
	pre-commencement abandoned mine, the requesting entity	17
	must consult with the advisory committee before making the	18
	request.	19
	(4) Before making a request under section 63(c), the requesting	20
	entity must consult with the advisory committee about the	21
	proposed request.	22
	(5) In this section—	23
	<i>pre-commencement abandoned mine</i> means an abandoned	24
	mine in existence before the commencement.	25
65	Decision of scheme manager	26
	(1) The scheme manager must decide to authorise or not to	27
	authorise payment of the costs and expenses from the scheme	28
	fund.	29

[s 66]

- (2) The scheme manager must decide to authorise payment of the costs and expenses unless the payment would adversely affect the financial viability of the scheme fund. 1
2
3
- (3) If the scheme manager decides to authorise payment of the costs and expenses, the scheme manager must give the amount of the costs and expenses to the requesting entity. 4
5
6

Subdivision 2 Realising surety 7

66 Application of subdivision 8

This subdivision applies if the administering authority (the *requesting entity*) decides, under the *Environmental Protection Act 1994*, section 316F, to ask the scheme manager for the payment of costs and expenses by the scheme manager making a claim on or realising a surety or part of it. 9
10
11
12
13

67 Requesting entity may ask for realisation of surety 14

- (1) The requesting entity may ask the scheme manager for payment of the costs and expenses by making a claim on or realising the surety or part of it. 15
16
17
- (2) The request must— 18
- (a) be in writing; and 19
 - (b) state the details of the costs and expenses; and 20
 - (c) state the details of the authority or small scale mining tenure to which the request relates; and 21
22
 - (d) include the other information prescribed by regulation. 23

68 Realisation of surety 24

The scheme manager must, as soon as practicable after receiving the request— 25
26

- (a) make a claim on, or realise, the surety to the extent of the lesser of the following— 27
28

	(i) the amount of the costs and expenses;	1
	(ii) the amount of the surety; and	2
	(b) give the amount claimed or realised under paragraph (a) to the requesting entity.	3 4
69	Replenishment of surety	5
	(1) This section applies if—	6
	(a) under section 68, all or part of the surety is claimed or realised; and	7 8
	(b) a surety for the authority or small scale mining tenure is still required under this part.	9 10
	(2) The scheme manager must give the holder of the authority or small scale mining tenure a notice—	11 12
	(a) stating how much of the surety has been claimed or realised; and	13 14
	(b) directing the holder to, within 30 business days after the giving of the notice, replenish the surety to the amount that was held by the scheme manager before the surety started to be claimed or realised.	15 16 17 18
	(3) It is a condition of the authority or small scale mining tenure that the holder must comply with the direction.	19 20
	(4) The scheme manager must give a notice to the administering authority to inform the administering authority whether or not the holder has complied with the direction.	21 22 23
	(5) The scheme manager may extend the period mentioned in subsection (2)(b) by notice given to the holder.	24 25
Division 4	Accountability	26
70	Guidelines	27
	(1) The scheme manager may make guidelines about the operation of the scheme, including, for example, about—	28 29

[s 71]

- (a) the making of allocation decisions for authorities; and 1
 - (b) the assigning of authorities to a relevant holder; and 2
 - (c) the making of decisions under section 53(c)(ii); and 3
 - (d) the forms of surety under section 56. 4
 - (2) The guidelines may be amended or replaced by later 5
guidelines made under this section. 6
 - (3) The guidelines are a statutory instrument under the *Statutory 7
Instruments Act 1992*. 8
- 71 Scheme manager to keep Minister informed 9**
- (1) The scheme manager must— 10
 - (a) keep the Minister reasonably informed of the 11
operations, financial performance and financial position 12
of the scheme; and 13
 - (b) give the Minister reports and information the Minister 14
requires to help the Minister make informed 15
assessments of the matters mentioned in paragraph (a); 16
and 17
 - (c) if matters arise that in the scheme manager’s opinion 18
may prevent, or significantly affect, the financial 19
viability of the scheme fund—immediately inform the 20
Minister of the matters and the scheme manager’s 21
opinion in relation to them. 22
 - (2) Subsection (1) does not limit the matters of which the scheme 23
manager is required to keep the Minister informed, or limit 24
the reports or information the scheme manager is required, or 25
may be required, to give to the Minister under another Act. 26
- 72 Scheme annual report 27**
- (1) For each year, the scheme manager must give the Minister a 28
report on the administration of this Act and the scheme during 29
the year. 30
 - (2) The report must include— 31

(a)	information relating to an investigation under section 73 by the scheme manager, including, for example—	1 2
(i)	the actuary’s opinions; and	3
(ii)	the scheme manager’s recommendations; and	4
(iii)	any action taken in response to the scheme manager’s recommendations; and	5 6
(b)	a summary of information received from the public during the year of the report about the effectiveness of the scheme; and	7 8 9
(c)	the other information prescribed by regulation.	10
(3)	The report must be given to the Minister within 3 months after the end of the year.	11 12
(4)	The report must be published on the department’s website as soon as practicable after it is given to the Minister.	13 14
73	Investigation of actuarial sustainability of scheme	15
(1)	The scheme manager must, within the prescribed period, investigate the actuarial sustainability of the scheme.	16 17
(2)	For subsection (1), the scheme manager must appoint an appropriately qualified actuary to give the scheme manager a report about the actuarial sustainability of the scheme.	18 19 20
(3)	The actuary’s report must include the actuary’s opinion about whether—	21 22
(a)	the amount of the scheme fund is adequate to achieve the main purposes of this Act; and	23 24
(b)	any of the following characteristics of the scheme fund should be changed—	25 26
(i)	the fund threshold;	27
(ii)	the number of risk categories;	28
(iii)	the rate of contribution to the scheme fund; and	29
(c)	the amount of the assessment fee and administration fee are adequate to meet the cost of operating the scheme.	30 31

[s 74]

- (4) After the scheme manager completes the investigation, the scheme manager must give the Minister— 1
2
(a) the actuary’s report; and 3
(b) the scheme manager’s recommendations about— 4
(i) the actuary’s opinion under subsection (3)(b); and 5
(ii) any other matter relating to the operation of the 6
scheme. 7
(5) This section does not limit the scheme manager’s ability to 8
make other inquiries about the operation of the scheme. 9
(6) In this section— 10
prescribed period means— 11
(a) for the first investigation—5 years after the 12
commencement; or 13
(b) for each investigation after the first investigation—3 14
years after the date of the immediately preceding report. 15

Division 5 Effect of decisions 16

74 Application for judicial review of particular decisions 17

- (1) A dissatisfied person may apply for review under the *Judicial Review Act 1991* of the following decisions of the scheme manager— 18
19
20
(a) an initial risk category allocation; 21
(b) a changed holder review allocation; 22
(c) an annual review allocation. 23
(2) In this section— 24
dissatisfied person means— 25
(a) for an initial risk category allocation—the holder of the 26
authority for which the allocation is made; or 27

(b)	for a changed holder review allocation—the interested entity for which the allocation is made; or	1 2
(c)	for an annual review allocation—the holder of the authority for which the allocation is made.	3 4
75	Decisions of scheme manager otherwise final	5
(1)	This section is subject to section 74.	6
(2)	Unless the Supreme Court decides a decision of the scheme manager under this Act is affected by jurisdictional error, the decision—	7 8 9
(a)	is final and conclusive; and	10
(b)	can not be challenged, appealed against, reviewed, quashed, set aside or called in question in any other way under the <i>Judicial Review Act 1991</i> or otherwise (whether by the Supreme Court, another court, a tribunal or another entity); and	11 12 13 14 15
(c)	is not subject to any declaratory, injunctive or other order of the Supreme Court, another court, a tribunal or another entity on any ground.	16 17 18
(3)	The <i>Judicial Review Act 1991</i> , part 5 applies to a decision of the scheme manager under this part to the extent it is affected by jurisdictional error.	19 20 21
76	No stay of decisions	22
	A decision mentioned in section 74 must not be stayed.	23
Part 4	Offences and proceedings	24
77	False or misleading statements	25
	A person must not, in relation to the administration of this Act—	26 27

[s 78]

- (a) state anything to the scheme manager the person knows, or should reasonably know, is false or misleading in a material particular; or
 - (b) omit from a statement made to the scheme manager anything without which the statement is, to the person's knowledge, misleading in a material particular.
- Maximum penalty—100 penalty units.

78 False or misleading documents

- (1) A person must not, in relation to the administration of this Act, give to the scheme manager a document containing information the person knows, or should reasonably know, is false or misleading in a material particular.
Maximum penalty—100 penalty units.
- (2) Subsection (1) does not apply to a person if the person, when giving the document—
 - (a) informs the scheme manager, to the best of the person's ability, how it is false or misleading; and
 - (b) if the person has, or can reasonably obtain, the correct information, gives the correct information.

Part 5 Confidentiality

79 Definitions for part

- In this part—
- confidential information*—
- (a) means information—
 - (i) about a person's commercial, business or financial affairs; or
 - (ii) disclosed to, or in the possession or under the control of, the scheme manager under part 3; or

(iii)	about a contribution paid, or a surety given, under part 3; and	1 2
(b)	does not include—	3
(i)	statistical or other information that could not reasonably be expected to result in the identification of the person to whom it relates; or	4 5 6
(ii)	information that is publicly available.	7
	<i>disclose</i> includes give access to.	8
	<i>information</i> includes a document.	9
80	Duty of confidentiality	10
(1)	This section applies to a person who—	11
(a)	is, or has been, any of the following persons performing functions under or relating to the administration of this Act—	12 13 14
(i)	the scheme manager;	15
(ii)	an acting scheme manager;	16
(iii)	the chief executive;	17
(iv)	a public service employee of the department;	18
(v)	a person engaged under a contract of service to perform work for the scheme manager;	19 20
(vi)	a person to whom the scheme manager delegates a function;	21 22
(vii)	a member of the advisory committee; and	23
(b)	in that capacity, acquired confidential information or has access to, or custody of, confidential information.	24 25
(2)	The person must not use or disclose the confidential information, other than under this part.	26 27
	Maximum penalty—100 penalty units.	28

[s 81]

81	Use or disclosure for authorised purpose	1
	The person may use or disclose the confidential information as follows—	2 3
	(a) to the extent the use or disclosure is required or permitted under this Act or necessary to perform the person’s functions under this Act;	4 5 6
	(b) if the information relates to an adult—with the adult’s consent;	7 8
	(c) if the information relates to an entity other than an individual—with the entity’s consent;	9 10
	(d) in compliance with lawful process requiring production of documents or giving of evidence before a court or tribunal;	11 12 13
	(e) if otherwise required or permitted under another law.	14
82	Disclosure to particular chief executives of departments to assist in performance of functions	15 16
(1)	The scheme manager may disclose the confidential information to—	17 18
	(a) the chief executive (environment) if the scheme manager is satisfied the disclosure would assist in the performance of the chief executive’s functions under the <i>Environmental Protection Act 1994</i> ; or	19 20 21 22
	(b) the chief executive (mineral resources), the chief executive (petroleum) or the chief executive (resources) if the scheme manager is satisfied the disclosure would assist in the performance of the chief executive’s functions under the <i>Mineral and Energy Resources (Common Provisions) Act 2014</i> or a Resource Act.	23 24 25 26 27 28
(2)	A person who acquires the confidential information mentioned in subsection (1), or has access to, or custody of, the confidential information, must not use or disclose the confidential information, other than under subsection (1).	29 30 31 32
	Maximum penalty—50 penalty units.	33

-
- (3) In this section— 1
Resource Act see the *Mineral and Energy Resources* 2
(Common Provisions) Act 2014, section 9. 3

Part 6 **Miscellaneous** 4

83 **Advisory committee** 5

- (1) The chief executive must establish an advisory committee to 6
give advice— 7
- (a) under section 64 to a requesting entity; or 8
 - (b) to the scheme manager about the operation of the 9
scheme. 10
- (2) The advisory committee is to consist of at least 5 11
appropriately qualified persons appointed by the Minister. 12
- (3) The persons appointed under subsection (2) must include at 13
least— 14
- (a) 1 person nominated by an organisation representing 15
environmental interests in Queensland; and 16
 - (b) 1 person nominated by an organisation representing the 17
interests of the mineral and energy resources sector in 18
Queensland. 19
- (4) The Minister must appoint 1 of the members of the advisory 20
committee as chairperson. 21
- (5) The terms on which the members of the advisory committee 22
hold office are to be decided by the Minister. 23
- (6) However, a member of the advisory committee is— 24
- (a) not entitled to be paid remuneration; and 25
 - (b) is entitled to be paid expenses. 26

[s 84]

84	Delegation	1
(1)	The scheme manager may delegate the scheme manager’s functions under this Act to an appropriately qualified person.	2 3
(2)	In this section—	4
	<i>function</i> includes power.	5
85	Protection from liability	6
(1)	A protected person does not incur civil liability for an act done, or omission made, in good faith under this Act.	7 8
(2)	If subsection (1) prevents a civil liability attaching to a protected person, the liability attaches instead to the State.	9 10
(3)	The <i>Public Service Act 2008</i> , section 26C does not apply to a protected person who is a State employee for part 3, division 3 of that Act.	11 12 13
(4)	In this section—	14
	<i>protected person</i> means—	15
(a)	the scheme manager; or	16
(b)	an acting scheme manager; or	17
(c)	a person to whom the scheme manager delegates a function under section 84; or	18 19
(d)	a member of the advisory committee.	20
86	Approved forms	21
	The chief executive may approve forms for use under this Act.	22
87	Regulation-making power	23
(1)	The Governor in Council may make regulations under this Act.	24 25
(2)	A regulation may—	26
(a)	prescribe fees payable under the Act; and	27

-
- (b) provide for a maximum penalty of 20 penalty units for a
contravention of a regulation. 1
2

88 Transitional regulation-making power 3

- (1) A regulation (a *transitional regulation*) may make provision
about a matter for which— 4
5
- (a) it is necessary to make provision to allow or facilitate 6
the doing of anything to achieve the transition from the 7
operation of the old scheme to the operation of the new 8
scheme; and 9
- (b) this Act does not make provision or sufficient provision. 10
- (2) A transitional regulation may have retrospective operation to a 11
day not earlier than the day of the commencement. 12
- (3) A transitional regulation must declare it is a transitional 13
regulation. 14
- (4) This section and any transitional regulation expire 2 years 15
after the day of the commencement. 16
- (5) In this section— 17
- new scheme* means the scheme established under this Act. 18
- old scheme* means the scheme of financial provisioning 19
provided for by the *Environmental Protection Act 1994*, 20
chapter 5, part 12 immediately before the commencement. 21

Part 7 Transitional provisions 22

89 Application of part 23

- (1) This part applies to— 24
- (a) a financial assurance given by the holder of an 25
environmental authority for a resource activity under the 26
repealed provisions if, immediately before the 27
commencement, the financial assurance was in effect; 28
and 29

[s 90]

- (b) a financial assurance given by the holder of a small scale mining tenure under the repealed provision if, immediately before the commencement, the financial assurance was in effect. 1
2
3
4
- (2) In this section— 5
- repealed provision* means the *Environmental Protection Act 1994*, section 21A(2) as in force immediately before the commencement. 6
7
8
- repealed provisions* means the *Environmental Protection Act 1994*, chapter 5, part 12 as in force immediately before the commencement. 9
10
11
- 90 Financial assurance taken to be surety given under this Act** 12
13
- (1) The financial assurance is taken to be a surety given under part 3 for the authority or small scale mining tenure. 14
15
- (2) This Act applies in relation to the surety. 16
- (3) However, it does not matter if the surety does not comply with section 56. 17
18
- (4) Also, an administration fee is not payable for the surety. 19
- (5) Without limiting subsection (2), the scheme manager may make a claim on or realise the surety or part of it under part 3, division 3, subdivision 2. 20
21
22
- (6) An instrument comprising or relating to the surety must be interpreted, and takes effect, as if it were amended to the extent necessary for this section. 23
24
25
- (7) Without limiting subsection (6)— 26
- (a) subsection (2) applies despite the terms of an instrument comprising or relating to the surety, including, for example, a term that the surety or its benefit is not transferable; and 27
28
29
30
- (b) the surety is taken to have been given for valuable consideration and any instrument granting it is taken to 31
32

-
- have been executed as a deed under seal by each party to
the instrument; and
- (c) this section, or anything done under it, does not—
- (i) discharge the surety; or
 - (ii) discharge or release the surety or other obligee,
wholly or partly, from an obligation; or
 - (iii) fulfil a condition allowing a person to—
 - (A) terminate an instrument comprising or
relating to the surety; or
 - (B) be released, wholly or partly, from an
obligation; or
 - (C) modify the operation or effect of an
instrument comprising or relating to the
surety, or an obligation; and
- (d) if the advice or consent of, or giving notice to, a person
would be necessary to give effect to the giving of the
surety—
- (i) the advice is taken to have been obtained; and
 - (ii) the consent or notice is taken to have been given.
- 91 Initial allocation decision not required until scheme
manager gives transition notice**
- (1) Despite sections 26 and 27, the scheme manager is not
required to make an initial allocation decision for an
environmental authority mentioned in section 89(1)(a) unless
the scheme manager gives the holder of the authority a notice
(a *transition notice*) for the authority.
- (2) The transition notice must state—
- (a) that the scheme manager intends to start making an
initial allocation decision for the authority; and
 - (b) the day on which the scheme manager intends to start
making the initial allocation decision.
-

[s 92]

(3)	The transition notice for the authority must be given within 3 years after the commencement.	1 2
92	Scheme manager may require further information from holder before allocation decision	3 4
	Section 44 applies to the holder of an environmental authority mentioned in section 89(1)(a) on and from the commencement.	5 6 7
Part 8	Amendment of Acts	8
Division 1	Amendment of this Act	9
93	Act amended	10
	This division amends this Act.	11
94	Amendment of long title	12
	Long title, from ‘, and to amend’— <i>omit.</i>	13 14
Division 2	Amendment of Environmental Protection Act 1994	15 16
95	Act amended	17
	This division amends the <i>Environmental Protection Act 1994</i> .	18
96	Amendment of s 21A (Meaning of <i>prescribed condition</i>)	19
	Section 21A(2) and (3)— <i>omit, insert—</i>	20 21

	(2) It is also a <i>prescribed condition</i> for carrying out a small scale mining activity that the holder of the mining tenure (a <i>small scale mining tenure</i>) for the activity must not carry out, or allow the carrying out of, the activity unless the holder has given a surety—	1 2 3 4 5 6
	(a) of the amount prescribed by regulation; and	7
	(b) in the form approved by the scheme manager under the <i>Mineral and Energy Resources (Financial Provisioning) Act 2017</i> , section 56.	8 9 10 11
	(3) However, subsection (2) does not apply if the holder's small scale mining tenure is a prospecting permit.	12 13 14
97	Amendment of ch 5, hdg (Environmental authorities and environmentally relevant activities)	15 16
	Chapter 5, heading, 'and'—	17
	<i>omit, insert—</i>	18
	, PRC plans and	19
98	Insertion of new s 111A	20
	After section 111—	21
	<i>insert—</i>	22
	111A Meaning of <i>stable condition</i>	23
	Land is in a <i>stable condition</i> if—	24
	(a) the land is safe and structurally stable; and	25
	(b) there is no environmental harm being caused by anything on or in the land; and	26 27
	(c) the land can sustain a post-mining land use.	28

[s 99]

99	Amendment of s 112 (Other key definitions for ch 5)	1
	Section 112—	2
	<i>insert—</i>	3
	<i>management milestone</i> , for a non-use management area, means each significant event or step necessary to—	4 5 6
	(a) achieve best practice management of the area; and	7 8
	(b) minimise risks to the environment.	9
	<i>non-use management area</i> means an area of land that can not be rehabilitated to a stable condition after all environmentally relevant activities carried out on the land have ended.	10 11 12 13
	<i>post-mining land use</i> , for land, means the purpose for which the land will be used after all environmentally relevant activities carried out on the land have ended.	14 15 16 17
	<i>PRC plan</i> , for land the subject of a mining lease, means a plan for the land that consists of—	18 19
	(a) the rehabilitation planning part of the plan; and	20 21
	(b) the PRCP schedule for the plan, including any conditions imposed on the schedule.	22 23
	<i>PRCP schedule</i> , for a PRC plan, means a schedule of the plan that—	24 25
	(a) complies with section 126D; and	26
	(b) is approved under chapter 5, part 5, division 2, with or without conditions.	27 28
	<i>rehabilitation milestone</i> , for the rehabilitation of land, means each significant event or step necessary to rehabilitate the land to a stable condition.	29 30 31 32
	<i>rehabilitation planning part</i> , of a PRC plan, see	33

	section 126C(2).	1
	<i>stable condition</i> , for land, see section 111A.	2
100	Amendment of ch 5, pt 1, div 3, hdg (Stages of assessment process)	3 4
	Chapter 5, part 1, division 3, heading, after ‘Stages’—	5
	<i>insert</i> —	6
	and application	7
101	Insertion of new s 114A	8
	Chapter 5, part 1, division 3—	9
	<i>insert</i> —	10
	114A Application of assessment process for proposed PRC plans	11 12
	(1) This section applies if, under section 125(1)(n), a site-specific application is required to be accompanied by a proposed PRC plan.	13 14 15
	(2) Parts 3 to 5 apply to the proposed PRC plan, as if the plan were a part of the application.	16 17
	(3) Unless otherwise provided, a reference in parts 3 to 5 to an application includes a reference to the proposed PRC plan.	18 19 20
102	Amendment of ch 5, pt 2, div 3, hdg (Applying for environmental authorities)	21 22
	Chapter 5, part 2, division 3, heading, after ‘authorities’—	23
	<i>insert</i> —	24
	and requirements for PRC plans	25

[s 103]

103	Amendment of s 125 (Requirements for applications generally)	1
		2
(1)	Section 125(1)(l)(i)(E), ‘details’—	3
	<i>omit, insert—</i>	4
	if paragraph (n) does not apply—details	5
(2)	Section 125(1)—	6
	<i>insert—</i>	7
	(ma) if the application is a site-specific application for a mining activity relating to a mining lease—be accompanied by a proposed PRC plan that complies with this division; and	8 9 10 11 12
(3)	Section 125(1)(ma) to (n)—	13
	<i>renumber</i> as section 125(1)(n) to (o).	14
104	Insertion of new ss 126B–126D	15
	After section 126A—	16
	<i>insert—</i>	17
	126B Main purpose of PRC plan	18
	The main purposes of a PRC plan are to—	19
(a)	require the holder of an environmental authority issued for an application mentioned in section 125(1)(n) to plan for how and where environmentally relevant activities will be carried out on land in a way that maximises the progressive rehabilitation of the land to a stable condition; and	20 21 22 23 24 25 26 27
(b)	provide for the condition to which the holder must rehabilitate the land before the authority may be surrendered.	28 29 30

126C Requirements for PRC plan

- | | |
|--|----------------------------|
| | 1 |
| (1) A proposed PRC plan for a relevant activity for a site-specific application must— | 2
3 |
| (a) be in the approved form; and | 4 |
| (b) describe the following— | 5 |
| (i) each resource tenure, including the area of each tenure, to which the application relates; | 6
7
8 |
| (ii) the relevant activities to which the application relates; | 9
10 |
| (iii) the likely duration of the relevant activities; and | 11
12 |
| (c) include— | 13 |
| (i) a proposed PRCP schedule that complies with section 126D; and | 14
15 |
| (ii) a detailed description, including maps, of how and where the relevant activities are to be carried out; and | 16
17
18 |
| (iii) details of the consultation undertaken by the applicant in developing the PRC plan; and | 19
20
21 |
| (iv) details of how the applicant will undertake ongoing consultation in relation to the rehabilitation to be carried out under the plan; and | 22
23
24
25 |
| (d) state the extent to which each proposed post-mining land use for land, or non-use management area, identified in the proposed PRCP schedule for the plan is consistent with— | 26
27
28
29
30 |
| (i) the outcome of consultation with the community in developing the plan; and | 31
32 |

[s 104]

- (ii) any strategies or plans for the land of a local government, the State or the Commonwealth; and
 - (e) for each proposed post-mining land use for land, state the applicant's proposed methods or techniques for rehabilitating the land to a stable condition in a way that supports the rehabilitation milestones under the proposed PRCP schedule; and
 - (f) identify the risks of a stable condition for land mentioned in paragraph (e) not being achieved, and how the applicant intends to manage or minimise the risks; and
 - (g) for each proposed non-use management area, state the reasons the applicant considers the area can not be rehabilitated to a stable condition because of a matter mentioned in section 126D(2); and
 - (h) for each matter mentioned in paragraph (g), include copies of reports or other evidence relied on by the applicant for each proposed non-use management area; and
 - (i) for each proposed non-use management area, state the applicant's proposed methodology for achieving best practice management of the area to support the management milestones under the proposed PRCP schedule for the area; and
 - (j) include the other information the administering authority reasonably considers necessary to decide whether to approve the plan.
- (2) The matters mentioned in subsection (1), other than the matter mentioned in subsection (1)(c)(i), are the *rehabilitation planning part* of the proposed PRC plan.

126D Requirements for proposed PRCP schedule	1
(1) A proposed PRCP schedule must—	2
(a) for the area of each resource tenure described in the PRC plan, state—	3 4
(i) the proposed post-mining land use for the land; or	5 6
(ii) that the applicant considers the land to be a non-use management area; and	7 8
(b) for each proposed post-mining land use mentioned in paragraph (a)(i), state—	9 10
(i) each rehabilitation milestone required to achieve a stable condition for the land; and	11 12 13
(ii) when each rehabilitation milestone is to be achieved; and	14 15
(c) for each non-use management area mentioned in paragraph (a)(ii), state—	16 17
(i) each management milestone for the area; and	18 19
(ii) when each management milestone is to be achieved; and	20 21
(d) include maps showing the land mentioned in paragraphs (a), (b) and (c).	22 23
(2) The PRCP schedule may state that land is a non-use management area only if—	24 25
(a) carrying out rehabilitation of the land would cause a greater risk of environmental harm than not carrying out the rehabilitation; or	26 27 28
(b) both of the following apply—	29
(i) the risk of environmental harm as a result of not carrying out rehabilitation of the land is confined to the area of the relevant resource tenure;	30 31 32 33

[s 104]

- (ii) failing to rehabilitate the land to a stable condition is justified, having regard to the costs of rehabilitation and the public interest in the resource activity being carried out. 1
2
3
4
5
- (3) Despite subsection (2), if land the subject of the proposed PRCP schedule will contain a void situated wholly or partly in a flood plain, the schedule must provide for rehabilitation of the land to a stable condition. 6
7
8
9
10
- (4) For subsection (1)(b)(ii), the PRCP schedule must provide for each rehabilitation milestone to be achieved as soon as practicable after the land to which it relates becomes available for rehabilitation. 11
12
13
14
15
- (5) For subsection (4), land is *available for rehabilitation* if the land is not being mined, unless— 16
17
18
- (a) the land is being used for operating infrastructure or machinery for mining, including, for example, a dam or water storage facility; or 19
20
21
22
- (b) the land is identified in the proposed PRCP schedule or the application for an environmental authority for relevant activities to which the schedule relates as containing a resource to be mined within 10 years after the land would otherwise have become available for rehabilitation; or 23
24
25
26
27
28
29
- (c) the land contains permanent infrastructure identified in the proposed PRCP schedule as remaining on the land for a post-mining land use. 30
31
32
33
- (6) In this section— 34
mined means mined within the meaning of the Mineral Resources Act, section 6A. 35
36

	<i>void</i> means an area of land to be excavated in the carrying out of a mining activity.	1 2
105	Amendment of s 130 (Nomination of principal applicant)	3
	Section 130(2) and (3), after ‘relating to the application’—	4
	<i>insert</i> —	5
	or a proposed PRC plan accompanying the application	6 7
106	Amendment of s 131 (Meaning of <i>minor change</i>)	8
(1)	Section 131, ‘for an application, is any of the following changes to the application’—	9 10
	<i>omit, insert</i> —	11
	for an application or proposed PRC plan, is any of the following changes to the application or plan	12 13
(2)	Section 131(d), from ‘changed application’—	14
	<i>omit, insert</i> —	15
	changed application.	16
(3)	Section 131—	17
	<i>insert</i> —	18
	(2) For subsection (1)(d), a <i>minor change</i> does not include a change that would have the effect that the type of application is changed.	19 20 21
107	Amendment of s 132 (Changing application)	22
(1)	Section 132, heading, after ‘application’—	23
	<i>insert</i> —	24
	or proposed PRC plan	25
(2)	Section 132(1), from ‘decided’ to ‘application’—	26
	<i>omit, insert</i> —	27

[s 108]

	decided or a proposed PRCP schedule is	1
	approved, the applicant may change the	2
	application or proposed PRC plan for the schedule	3
(3)	Section 132(2), after ‘an application’—	4
	<i>insert—</i>	5
	or proposed PRC plan	6
108	Amendment of s 133 (Effect on assessment process—minor changes and agreed changes)	7
		8
(1)	Section 133(1) and (2), after ‘changed application’—	9
	<i>insert—</i>	10
	or proposed PRC plan	11
(2)	Section 133(1)(a) and (2)(a), after ‘application’—	12
	<i>insert—</i>	13
	or plan	14
109	Amendment of s 134 (Effect on assessment process—other changes)	15
		16
(1)	Section 134(1) and (3), after ‘changed application’—	17
	<i>insert—</i>	18
	or proposed PRC plan	19
(2)	Section 134(3)(a), after ‘application’—	20
	<i>insert—</i>	21
	or proposed PRC plan	22
110	Amendment of s 139 (Information stage does not apply if EIS process complete)	23
		24
	Section 139(1)(b)—	25
	<i>omit, insert—</i>	26

(b)	since the EIS mentioned in paragraph (a)(i)	1
	or the evaluation mentioned in paragraph	2
	(a)(ii) was completed—	3
(i)	for an environmental authority—the	4
	environmental risks of the activity and	5
	the way the activity will be carried out	6
	have not changed; or	7
(ii)	for a proposed PRC plan—	8
(A)	a post-mining land use or non-use	9
	management area has not	10
	changed; or	11
(B)	achieving a stable condition for	12
	land has not changed; or	13
(C)	the way a post-mining land use	14
	will be achieved, or a non-use	15
	management area will be	16
	managed, has not changed in a	17
	way likely to result in	18
	significantly different impacts on	19
	environmental values compared to	20
	the impacts on the values under	21
	the EIS; or	22
(D)	the day by which rehabilitation of	23
	land to a stable condition will be	24
	achieved has not changed.	25
111	Amendment of s 144 (When information request must be made)	26
		27
	Section 144(a)—	28
	<i>omit, insert</i> —	29
(a)	for a site-specific application, within the	30
	following periods (each the <i>information</i>	31
	<i>request period</i>)—	32

[s 112]

	(i) if the application is accompanied by a proposed PRC plan—30 business days after the day the application stage ends for the application;	1 2 3 4
	(ii) otherwise—20 business days after the day the application stage ends for the application; or	5 6 7
112	Amendment of s 145 (Extending information request period)	8 9
	Section 145(2), after ‘subsection (1)’—	10
	<i>insert—</i>	11
	for the application	12
113	Amendment of s 150 (Notification stage does not apply to particular applications)	13 14
	Section 150(1)(c) and (d)—	15
	<i>omit, insert—</i>	16
	(c) for an application for an environmental authority, since the EIS mentioned in paragraph (a) or (b) was notified—	17 18 19
	(i) the environmental risks of the relevant activity and the way it will be carried out have not changed; or	20 21 22
	(ii) if the application proposes a change to the way the relevant activity will be carried out—the administering authority is satisfied the change would not be likely to attract a submission objecting to the thing the subject of the change, if the notification stage were to apply to the change; and	23 24 25 26 27 28 29 30

	(d) for a proposed PRC plan, since the EIS mentioned in paragraph (a) or (b) was notified—	1 2 3
	(i) a post-mining land use or non-use management area has not changed; or	4 5
	(ii) the day by which rehabilitation of land to a stable condition will be achieved has not changed.	6 7 8
114	Amendment of s 153 (Required content of application notice)	9 10
	Section 153(3)(a) and (b)—	11
	<i>omit, insert—</i>	12
	(a) for an environmental authority—	13
	(i) the environmental risks of the activity that have changed as a result of the proposed changes to the way the relevant activity is to be carried out; and	14 15 16 17 18
	(ii) the proposed changes to the way the relevant activity is to be carried out;	19 20
	(b) for a proposed PRC plan—	21
	(i) the proposed change to a post-mining land use or non-use management area; and	22 23 24
	(ii) the proposed change to the day by which rehabilitation of land to a stable condition will be achieved.	25 26 27
115	Amendment of s 160 (Right to make submission)	28
	Section 160(2)(a) and (b)—	29
	<i>omit, insert—</i>	30

[s 116]

(a)	for an environmental authority—	1
(i)	the environmental risks of the activity that have changed as a result of the proposed changes to the way the relevant activity is to be carried out; or	2 3 4 5
(ii)	the proposed changes to the way the relevant activity is to be carried out;	6 7
(b)	for a proposed PRC plan—	8
(i)	the post-mining land use or non-use management area that has changed; or	9 10
(ii)	the change to the day by which rehabilitation of land to a stable condition will be achieved.	11 12 13
116	Amendment of s 168 (When decision must be made—generally)	14 15
(1)	Section 168(1) and (2)—	16
	<i>omit, insert—</i>	17
(1)	If section 169 does not apply, a decision under subdivision 2 must be made within—	18 19
(a)	if the application is accompanied by a proposed PRC plan—30 business days after the day the decision stage for the application starts; or	20 21 22 23
(b)	otherwise—20 business days after the day the decision stage for the application starts.	24 25
(2)	The administering authority may, by written notice given to the applicant and without the applicant’s agreement, extend the period mentioned in subsection (1) by not more than the number of business days stated for making the decision under subsection (1).	26 27 28 29 30 31
(2)	Section 168(3), after ‘subsection (2)’—	32

<i>insert—</i>	1
for the application	2
117 Amendment of s 172 (Deciding site-specific application)	3
(1) Section 172, heading, after ‘application’—	4
<i>insert—</i>	5
and approving PRCP schedule	6
(2) Section 172—	7
<i>insert—</i>	8
(3) If the site-specific application is accompanied by a proposed PRC plan, before making a decision under subsection (2), the administering authority must decide—	9 10 11 12
(a) to approve the proposed PRCP schedule for the plan, with or without conditions; or	13 14
(b) to refuse the proposed PRCP schedule.	15
(4) If the administering authority refuses the proposed PRCP schedule, the administering authority must also refuse the application under subsection (2).	16 17 18 19
118 Insertion of new s 176A	20
After section 176—	21
<i>insert—</i>	22
176A Criteria for decision—proposed PRCP schedule	23 24
(1) This section applies if a site-specific application is accompanied by a proposed PRC plan.	25 26
(2) In deciding whether to approve the proposed PRCP schedule for the plan, the administering authority must—	27 28 29

[s 119]

(a) comply with any relevant regulatory requirement; and	1 2
(b) subject to paragraph (a), have regard to each of the following—	3 4
(i) the site-specific application;	5
(ii) the proposed PRC plan;	6
(iii) any response given for an information request for the proposed PRC plan;	7 8
(iv) the standard criteria;	9
(v) the guidelines under section 550.	10
119 Amendment of s 181 (Notice of decision)	11
Section 181(2)(b) and (c)—	12
<i>omit, insert—</i>	13
(b) if the decision is to approve the application or is a decision under section 170(2)(b)—	14 15
(i) for an application for an environmental authority—be accompanied by a draft environmental authority in the approved form; and	16 17 18 19
(ii) for a proposed PRC plan accompanying the application for the environmental authority—be accompanied by the approved PRCP schedule for the plan; and	20 21 22 23 24
(iii) state that a submitter may, by written notice given to the administering authority, ask that its submission be taken to be an objection to the application or proposed PRC plan; and	25 26 27 28 29
(c) state the applicant may, by written notice given to the administering authority, ask the administering authority to refer the	30 31 32

application, including an accompanying proposed PRC plan, to the Land Court.	1 2
120 Replacement of s 190 (Nature of objections decision)	3
Section 190—	4
<i>omit, insert—</i>	5
190 Requirements for objections decision	6
(1) An objections decision for an application for an environmental authority must be a recommendation to the administering authority that—	7 8 9 10
(a) if a draft environmental authority was given for the application—	11 12
(i) the application be approved on the basis of the draft environmental authority for the application; or	13 14 15
(ii) the application be approved, but on stated conditions that are different to the conditions in the draft environmental authority; or	16 17 18 19
(iii) the application be refused; or	20
(b) if a draft environmental authority was not given for the application—	21 22
(i) the application be approved subject to conditions; or	23 24
(ii) the application be refused.	25
(2) An objections decision for a proposed PRC plan accompanying the application for the environmental authority must be a recommendation to the administering authority that the PRCP schedule for the plan—	26 27 28 29 30
(a) be approved, with or without stated conditions; or	31 32

[s 121]

	(b) be refused.	1
(3)	However, if a relevant mining lease is, or is included in, a coordinated project, any stated conditions under subsection (1)(a)(ii) or (b)(i) or (2)(a)—	2 3 4 5
	(a) must include the Coordinator-General's conditions; and	6 7
	(b) can not be inconsistent with the Coordinator-General's conditions.	8 9
121	Replacement of s 194 (Final decision on application)	10
	Section 194—	11
	<i>omit, insert—</i>	12
	194 When administering authority must make final decision on application	13 14
(1)	The administering authority must make a final decision under section 194A for an application if—	15 16 17
	(a) the administering authority referred the application to the Land Court under section 185 and an objections decision is made about the application; or	18 19 20 21
	(b) the administering authority referred the application to the Land Court under section 185 because of an objection notice but, before an objections decision is made about the application, all objection notices for the application are struck out or withdrawn.	22 23 24 25 26 27
(2)	The final decision must be made—	28
	(a) if the MRA Minister or State Development Minister is given a copy of the objections decision under section 192—	29 30 31
	(i) if the application is accompanied by a proposed PRC plan—within 20	32 33

-
- business days after the end of the longer period within which either Minister must give advice relating to the application under section 193; or
- (ii) otherwise—within 10 business days after the end of the longer period within which either Minister must give advice relating to the application under section 193; or
- (b) if paragraph (a) does not apply—
- (i) if the application is accompanied by a proposed PRC plan—within 20 business days after receipt by the administering authority of notice under section 182(4) that the last remaining objection notice for the application is withdrawn; or
- (ii) otherwise—within 10 business days after receipt by the administering authority of notice under section 182(4) that the last remaining objection notice for the application is withdrawn.

194A Final decision on application

- (1) The administering authority's final decision on an application for an environmental authority must be—
- (a) if a draft environmental authority was given for the application—
- (i) the application be approved on the basis of the draft environmental authority for the application; or
- (ii) the application be approved, but on stated conditions that are different to

[s 121]

- the conditions in the draft environmental authority; or 1
2
- (iii) the application be refused; or 3
- (b) if a draft environmental authority was not given for the application— 4
5
- (i) the application be approved subject to conditions; or 6
7
- (ii) the application be refused. 8
- (2) The administering authority’s final decision on a proposed PRC plan accompanying the application for the environmental authority must be— 9
10
11
- (a) the proposed PRCP schedule for the plan be approved, with or without conditions; or 12
13
- (b) the proposed PRCP schedule be refused. 14
- (3) If the administering authority refuses to approve a PRCP schedule for a proposed PRC plan accompanying an application for an environmental authority, the administering authority must also refuse the application for the environmental authority. 15
16
17
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- 194BMatters to be considered in making final decision** 21
22
- (1) In making a final decision on an application under section 194A, the administering authority must— 23
24
- (a) have regard to— 25
- (i) any objections decision for the application; and 26
27
- (ii) advice given by the MRA Minister or State Development Minister to the administering authority under section 193; and 28
29
30
31

-
- (iii) if a draft environmental authority was given for the application, or conditions were stated for the PRCP schedule for the proposed PRC plan accompanying the application—the draft environmental authority or conditions; and
- (b) if a draft environmental authority was not given for the application, or conditions were not stated for the PRCP schedule—
- (i) comply with relevant regulatory requirements; and
- (ii) subject to subparagraph (i), have regard to each matter mentioned in subsection (2).
- (2) For subsection (1)(b)(ii), the matters are—
- (a) the application; and
- (b) if the application is for an environmental authority—the standard conditions for the relevant activity or authority; and
- (c) a response given to an information request for the application; and
- (d) the standard criteria.
- (3) The administering authority must not approve a PRCP schedule unless the administering authority is satisfied—
- (a) the schedule provides for all land the subject of the PRC plan to be either—
- (i) rehabilitated to a stable condition for a post-mining land use; or
- (ii) maintained as a non-use management area in a way that complies with best practice standards for the management of non-use management areas and

[s 122]

minimises risks to the environment;	1
and	2
(b) each proposed non-use management area	3
has been properly identified as a non-use	4
management area.	5
122 Replacement of ss 195 and 197	6
Section 195—	7
<i>omit, insert—</i>	8
195 Issuing environmental authority or PRCP	9
schedule	10
(1) This section applies if the administering	11
authority—	12
(a) decides to approve an application for an	13
environmental authority; or	14
(b) decides to approve a PRCP schedule for a	15
proposed PRC plan; or	16
(c) makes a decision under section 170(2)(b) or	17
171(2)(b).	18
(2) The administering authority must, within the	19
period stated in section 196—	20
(a) for a decision mentioned in subsection	21
(1)(a) or (c)—issue an environmental	22
authority to the applicant; or	23
(b) for a decision mentioned in subsection	24
(1)(b)—issue a PRCP schedule to the	25
applicant.	26
196 Requirements for issuing environmental	27
authority or PRCP schedule	28
For section 195(2), the period within which an	29
environmental authority or PRCP schedule must	30
be issued is—	31

-
- (a) if the application is referred to the Land Court under section 185—within 5 business days after a final decision for the application and schedule is made under section 194; or
- (b) if notice of the decision is given under section 181 and the application is not referred to the Land Court under section 185—within 25 business days after the notice is given under section 181; or
- (c) for an application for a development approval that, under section 115, is taken to be an application for an environmental authority—
- (i) if the administering authority is the assessment manager for the development application—when the decision notice is given under the Planning Act for the development application; or
- (ii) if the administering authority is a referral agency for the development application—when the administering authority gives its referral agency’s response under the Planning Act to the applicant for the development application; or
- (iii) if the planning chief executive is a referral agency for the development application—within 5 business days after the planning chief executive gives its referral agency’s response under the Planning Act to the applicant for the development application; or
- (iv) if the planning chief executive is the assessment manager for the development application—within 5 business days after the planning chief

[s 123]

	executive gives the applicant a decision notice under the Planning Act for the development application;	1 2 3
	(d) otherwise—within 5 business days after the decision mentioned in section 194(2) is made.	4 5 6
	197 Including environmental authorities and PRC plans in register	7 8
	After an environmental authority or PRCP schedule is issued, the administering authority must include a copy of the environmental authority or PRC plan for the PRCP schedule in the relevant register.	9 10 11 12 13
123	Amendment of s 200 (When environmental authority takes effect)	14 15
	Section 200(1)—	16
	<i>insert—</i>	17
	<i>Note—</i>	18
	See section 297 for conditions about when the holder of an environmental authority for a resource activity must not carry out, or allow the carrying out, of the activity under the authority.	19 20 21 22
124	Insertion of new ch 5, pt 5, div 5A	23
	Chapter 5, part 5—	24
	<i>insert—</i>	25
	Division 5A PRCP schedules	26
	202A Requirements for PRCP schedule	27
	A PRCP schedule must—	28
	(a) be in the approved form; and	29

-
- (b) contain all conditions imposed on the 1
schedule. 2

202B When PRCP schedule takes effect 3

A PRCP schedule has effect on the day the 4
environmental authority for carrying out relevant 5
activities on land to which the schedule relates 6
takes effect. 7

202C Term of PRCP schedule 8

- (1) A PRCP schedule continues in force until the 9
environmental authority for the relevant activities 10
to which the PRCP schedule relates is cancelled 11
or surrendered. 12
- (2) To remove any doubt, it is declared that a PRCP 13
schedule continues in force— 14
- (a) in relation to a relevant activity carried out 15
on land identified by reference to a resource 16
tenure, even if the resource tenure expires or 17
is cancelled; and 18
- (b) even if the environmental authority for 19
carrying out a relevant activity on land to 20
which the PRCP schedule relates is 21
suspended under part 11 or 11A. 22

202D PRCP schedule includes conditions 23

A PRCP schedule includes the conditions 24
imposed on the schedule. 25

**202E Environmental authority overrides PRCP 26
schedule 27**

If there is an inconsistency between an 28
environmental authority and a PRCP schedule, 29
the environmental authority prevails to the extent 30

[s 125]

	of the inconsistency.	1
125	Amendment of s 203 (Conditions generally)	2
(1)	Section 203(1), ‘or draft environmental authority’—	3
	<i>omit, insert—</i>	4
	, draft environmental authority or PRCP schedule	5
(2)	Section 203(2), ‘on an environmental authority or draft environmental authority’—	6
	<i>omit.</i>	7
		8
126	Amendment of s 205 (Conditions that must be imposed if application relates to coordinated project)	9
		10
(1)	Section 205(1)(a), after ‘application’—	11
	<i>insert—</i>	12
	, or a PRCP schedule for a proposed PRC plan accompanying the application,	13
		14
(2)	Section 205(2), ‘or draft environmental authority any conditions for the authority’—	15
	<i>omit, insert—</i>	16
	, draft environmental authority or PRCP schedule any conditions for the authority or schedule	17
		18
		19
(3)	Section 205(3), after ‘authority’—	20
	<i>insert—</i>	21
	or schedule	22
127	Insertion of new s 206A	23
	After section 206—	24
	<i>insert—</i>	25

206A Conditions for PRCP schedules

- (1) It is a condition of a PRCP schedule that, in carrying out a relevant activity under the schedule, the holder must comply with a requirement stated in the environmental authority relevant to carrying out the activity.
- (2) Also, it is a condition of a PRCP schedule that the holder must comply with the following matters stated in the schedule—
- (a) each rehabilitation milestone and management milestone;
 - (b) when each rehabilitation milestone and management milestone is to be achieved.
- (3) Without limiting the conditions that may be imposed on a PRCP schedule or proposed PRCP schedule, a condition may require the holder of the schedule to give the administering authority written notice (a *statement of compliance*) about a document or work relating to a relevant activity.

128 Amendment of s 207 (Conditions that may be imposed)

- (1) Section 207, heading, after ‘imposed’—
- insert*—
- on environmental authority**
- (2) Section 207(1)(e), after ‘activity’—
- insert*—
- , other than a relevant activity to which a PRCP schedule applies
- (3) Section 207(1), note—
- omit, insert*—
- Note*—
- For conditions about ERC decisions and financial assurance, see sections 297 and 307.

[s 129]

129	Amendment of s 208 (Condition requiring statement of compliance)	1
		2
	Section 208(1), ‘or draft environmental authority’—	3
	<i>omit, insert—</i>	4
	, draft environmental authority, PRCP schedule or	5
	proposed PRCP schedule	6
130	Amendment of s 210 (Inconsistencies between particular conditions)	7
		8
	Section 210, heading, after ‘conditions’—	9
	<i>insert—</i>	10
	of environmental authorities	11
131	Amendment of ch 5, pt 6, hdg (Amending environmental authorities by administering authority)	12
		13
	Chapter 5, part 6, heading, ‘Amending environmental authorities’—	14
		15
	<i>omit, insert—</i>	16
	Amendments	17
132	Amendment of s 211 (Corrections)	18
	(1) Section 211, after ‘an environmental authority’—	19
	<i>insert—</i>	20
	or PRCP schedule	21
	(2) Section 211(a), ‘environmental authority’—	22
	<i>omit.</i>	23

133	Amendment of s 212 (Amendment of particular environmental authorities to reflect NNTT conditions)	1 2
(1)	Section 212, heading, ‘of particular environmental authorities’—	3 4
	<i>omit.</i>	5
(2)	Section 212(1), after ‘authority’—	6
	<i>insert—</i>	7
	or PRCP schedule	8
(3)	Section 212(2), after ‘environmental authority’—	9
	<i>insert—</i>	10
	or impose conditions on the PRCP schedule	11
(4)	Section 212(3)—	12
	<i>omit, insert—</i>	13
	(3) The administering authority must give written notice of the amendment or conditions to the holder of the environmental authority or PRCP schedule.	14 15 16 17
134	Amendment of s 212A (Amendment of particular environmental authorities to reflect regional interests development approval conditions)	18 19 20
(1)	Section 212A, heading, ‘of particular environmental authorities’—	21 22
	<i>omit.</i>	23
(2)	Section 212A(1) and (2), after ‘environmental authority’—	24
	<i>insert—</i>	25
	or PRCP schedule	26
(3)	Section 212A(3), ‘environmental authority holder’—	27
	<i>omit, insert—</i>	28
	holder of the environmental authority or PRCP schedule	29 30

[s 135]

(4)	Section 212A(4), from ‘or a regional’ to ‘of the authority’—	1
	<i>omit, insert—</i>	2
	, PRCP schedule or a regional interests	3
	development approval includes a reference to a	4
	condition of the authority, schedule	5
135	Amendment of s 215 (Other amendments)	6
(1)	Section 215(1), after ‘an environmental authority’—	7
	<i>insert—</i>	8
	or PRCP schedule	9
(2)	Section 215(1)(b)—	10
	<i>omit, insert—</i>	11
	(b) the holder of the authority or schedule has	12
	agreed in writing to the amendment.	13
(3)	Section 215(2) and (3)—	14
	<i>omit, insert—</i>	15
	(2) For subsection (1)(a), the matters are the	16
	following—	17
	(a) a contravention of this Act or an	18
	environmental offence committed by the	19
	holder;	20
	(b) for an environmental authority issued for a	21
	standard application or variation	22
	application—the relevant activity does not	23
	comply with the eligibility criteria for the	24
	activity;	25
	(c) for an environmental authority—	26
	(i) another entity becomes a holder of the	27
	authority; or	28
	(ii) another entity becomes a holding	29
	company of a holder of the authority;	30

-
- (d) the authority was issued or schedule was approved because of a materially false or misleading representation or declaration, made either orally or in writing; 1
2
3
4
- (e) for an environmental authority—the authority was issued on the basis of a miscalculation of— 5
6
7
- (i) the environmental values affected or likely to be affected by the relevant activity; or 8
9
10
- (ii) the quantity or quality of contaminant permitted to be released into the environment; or 11
12
13
- (iii) the effects of the release of a quantity or quality of contaminant permitted to be released into the environment; 14
15
16
- (f) the issue of a temporary emissions licence; 17
- (g) the approval of an environmental protection policy or the approval of an amendment of an environmental protection policy; 18
19
20
- (h) for a PRCP schedule—an audit report for the schedule given to the administering authority under part 12; 21
22
23
- (i) an environmental audit, investigation or report under chapter 7, part 2; 24
25
- (j) the amendment or withdrawal of an environmental protection order; 26
27
- (k) a compliance statement given under this chapter; 28
29
- (l) a report made by or for, or approved by, a recognised entity if the report— 30
31
- (i) is relevant to the authority or schedule, or a relevant activity carried out under the authority or schedule; and 32
33
34

[s 135]

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|------|--|--|
| (ii) | if the administering authority is not the chief executive—has been accepted by the chief executive; | 1
2
3 |
| (m) | an annual return required under part 15, division 1; | 4
5 |
| (n) | a significant change in the way in which, or the extent to which, the activity is being carried out; | 6
7
8 |
| | <i>Example of significant change for paragraph (n)—</i> | 9 |
| | The conditions of an environmental authority for a mining activity authorised under a mining lease were imposed on the basis that a particular method for removing contaminants from a waste stream for a relevant mining activity would be used. The mining lease is transferred and the transferee changes the method. | 10
11
12
13
14
15
16 |
| (o) | for an environmental authority or PRCP schedule for a resource activity—a relevant tenure (the <i>old tenure</i>) for the authority or schedule is replaced with a new resource tenure of the same type for all or part of the old tenure's area under the resource legislation; | 17
18
19
20
21
22
23 |
| (p) | for an environmental authority—a surrender application under part 10 is approved for a partial surrender of the authority; | 24
25
26 |
| (q) | for an environmental authority for a resource activity—an underground water impact report under the <i>Water Act 2000</i> , chapter 3, identifies impacts, or potential impacts, on an environmental value; | 27
28
29
30
31 |
| (r) | another circumstance prescribed by regulation. | 32
33 |
| (3) | An amendment because of a matter mentioned in subsection (2)(c) may only be to impose a condition under section 307 requiring the holder of the environmental authority to give the | 34
35
36
37 |

	administering authority financial assurance.	1
136	Amendment of s 216 (Application of div 2)	2
(1)	Section 216, after ‘an environmental authority’—	3
	<i>insert—</i>	4
	or PRCP schedule	5
(2)	Section 216(b), ‘environmental authority holder’—	6
	<i>omit, insert—</i>	7
	holder of the environmental authority or PRCP	8
	schedule	9
137	Amendment of s 217 (Notice of proposed amendment)	10
(1)	Section 217(1), ‘environmental authority holder’—	11
	<i>omit, insert—</i>	12
	holder of the environmental authority or PRCP	13
	schedule	14
(2)	Section 217(3), after ‘environmental authority’—	15
	<i>insert—</i>	16
	or PRCP schedule	17
138	Amendment of s 218 (Considering representations)	18
	Section 218, after ‘environmental authority’—	19
	<i>insert—</i>	20
	or PRCP schedule	21
139	Amendment of s 220 (Notice of amendment decision)	22
	Section 220, ‘environmental authority holder’—	23
	<i>omit, insert—</i>	24

[s 140]

	holder of the environmental authority or PRCP schedule	1 2
140	Amendment of s 221 (Steps for amendment)	3
(1)	Section 221(1) and (2), after ‘environmental authority’— <i>insert</i> — or PRCP schedule	4 5 6
(2)	Section 221(4)— <i>renumber</i> as section 221(3).	7 8
(3)	Section 221(3), as renumbered, definition <i>relevant period</i> , paragraph (c)— <i>omit, insert</i> — (b) if the administering authority amends the environmental authority or PRCP schedule with the holder’s agreement—10 business days after the agreement is given; or	9 10 11 12 13 14 15
(4)	Section 221(3), as renumbered, definition <i>relevant period</i> , paragraph (d)— <i>renumber</i> as paragraph (c).	16 17 18
141	Amendment of ch 5, pt 7, hdg (Amendment of environmental authorities by application)	19 20
	Chapter 5, part 7, heading, ‘of environmental authorities’— <i>omit</i> .	21 22
142	Amendment of s 223 (Definitions for pt 7)	23
(1)	Section 223, heading, ‘pt 7’— <i>omit, insert</i> — part	24 25 26

-
- (2) Section 223, definitions *major amendment* and *minor amendment*— 1
2
omit. 3
- (3) Section 223— 4
insert— 5
- major amendment***, for an environmental 6
authority or PRCP schedule, means an 7
amendment that is not a minor amendment. 8
- minor amendment***, for an environmental 9
authority or PRCP schedule, means an 10
amendment that is— 11
- (a) for an environmental authority— 12
- (i) a condition conversion; or 13
- (ii) a minor amendment (threshold); or 14
- (b) for a PRCP schedule—a minor amendment 15
(PRCP threshold). 16
- minor amendment (PRCP threshold)***, for a 17
PRCP schedule, means an amendment that— 18
- (a) does not change a post-mining land use or 19
non-use management area; or 20
- (b) does not affect whether a stable condition 21
will be achieved for land under the schedule; 22
or 23
- (c) does not change the way a post-mining land 24
use will be achieved, or a non-use 25
management area will be managed, in a way 26
likely to result in significantly different 27
impacts on environmental values compared 28
to the impacts on the values under the 29
schedule before the change; or 30
- (d) does not relate to a new mining tenure for 31
the schedule; or 32

[s 143]

	(e) does not change when a rehabilitation milestone or management milestone will be achieved by more than 5 years after the time stated in the schedule when it was first approved; or	1 2 3 4 5
	(f) does not extend the day by which rehabilitation of land to a stable condition will be achieved.	6 7 8
(4)	Section 223, definition <i>minor amendment (threshold)</i> , ‘the administering authority is satisfied’— <i>omit.</i>	9 10 11
143	Amendment of s 224 (Who may apply)	12
	Section 224, after ‘environmental authority’— <i>insert</i> — or PRCP schedule	13 14 15
144	Replacement of s 226 (Requirements for amendment application generally)	16 17
	Section 226— <i>omit, insert</i> —	18 19
	226 Requirements for amendment applications generally	20 21
	An amendment application must—	22
	(a) be made to the administering authority; and	23
	(b) be in the approved form; and	24
	(c) be accompanied by the fee prescribed by regulation; and	25 26
	(d) describe the proposed amendment; and	27
	(e) describe the land that will be affected by the proposed amendment; and	28 29

-
- (f) include any other document relating to the application prescribed by regulation. 1
2

226A Requirements for amendment applications for environmental authorities 3
4

- (1) If the amendment application is for the amendment of an environmental authority, the application must also— 5
6
7
- (a) describe any development permits in effect under the Planning Act for carrying out the relevant activity for the authority; and 8
9
10
- (b) state whether each relevant activity will, if the amendment is made, comply with the eligibility criteria for the activity; and 11
12
13
- (c) if the application states that each relevant activity will, if the amendment is made, comply with the eligibility criteria for the activity—include a declaration that the statement is correct; and 14
15
16
17
18
- (d) state whether the application seeks to change a condition identified in the authority as a standard condition; and 19
20
21
- (e) if the application relates to a new relevant resource tenure for the authority that is an exploration permit or GHG permit—state whether the applicant seeks an amended environmental authority that is subject to the standard conditions for the relevant activity or authority, to the extent it relates to the permit; and 22
23
24
25
26
27
28
29
- (f) include an assessment of the likely impact of the proposed amendment on the environmental values, including— 30
31
32

[s 144]

- (i) a description of the environmental values likely to be affected by the proposed amendment; and
 - (ii) details of emissions or releases likely to be generated by the proposed amendment; and
 - (iii) a description of the risk and likely magnitude of impacts on the environmental values; and
 - (iv) details of the management practices proposed to be implemented to prevent or minimise adverse impacts; and
 - (v) if a PRCP schedule does not apply for each relevant activity—details of how the land the subject of the application will be rehabilitated after each relevant activity ends; and
 - (g) include a description of the proposed measures for minimising and managing waste generated by amendments to the relevant activity; and
 - (h) include details of any site management plan or environmental protection order that relates to the land the subject of the application.
- (2) Subsection (1)(f) does not apply for an amendment application for an environmental authority if—
- (a) the process under chapter 3 for an EIS for the proposed amendment has been completed; and
 - (b) an assessment of the environmental risk of the proposed amendment would be the same as the assessment in the EIS.
- (3) Also, subsections (1)(d) to (f) and (2) do not apply

	to an application for a condition conversion.	1
	226B Requirements for amendment applications for PRCP schedules	2 3
	An amendment application for a PRCP schedule must be accompanied by an amended rehabilitation planning part for the holder's PRC plan that complies with section 126C in relation to the proposed amendment.	4 5 6 7 8
145	Amendment of s 227A (Early refusal of particular amendment applications and requirement to replace environmental authority)	9 10 11
	Section 227A(4), 'section 314(3)'—	12
	<i>omit, insert</i> —	13
	section 316O(3)	14
146	Amendment of s 232 (Relevant application process applies)	15 16
	(1) Section 232(1) and (2)—	17
	<i>omit, insert</i> —	18
	(1) Parts 3 to 5 apply to the amendment application—	19
	(a) if the amendment application is for a PRCP schedule—as if the amendment application and amended rehabilitation part for the holder's PRC plan were a proposed PRC plan accompanying a site-specific application; or	20 21 22 23 24 25
	(b) otherwise—as if it were a site-specific application.	26 27
	(2) Despite subsection (1), part 4 applies to an amendment application for an environmental authority for a resource activity only if, under	28 29 30

[s 147]

	section 230, the notice given under section 229	1
	states part 4 applies.	2
	<i>Note—</i>	3
	Part 4 applies in all cases for an amendment application	4
	for a major amendment of a PRCP schedule.	5
(2)	Section 232(4)(a) and (b), after ‘environmental authority’—	6
	<i>insert—</i>	7
	or PRCP schedule	8
147	Amendment of s 235 (Criteria for deciding amendment application)	9
	Section 235, after ‘section 176(2)(b)’—	10
	<i>insert—</i>	11
	or 176A	12
148	Amendment of s 240 (Deciding amendment application)	13
(1)	Section 240(1)(a), after ‘conversion’—	14
	<i>insert—</i>	15
	for an environmental authority	16
(2)	Section 240(3), after ‘environmental authority’—	17
	<i>insert—</i>	18
	or PRCP schedule	19
149	Amendment of s 241 (Criteria for deciding amendment application)	20
	Section 241(b)(ii), after ‘authority’—	21
	<i>insert—</i>	22
	or PRCP schedule	23
		24
		25

150	Amendment of s 242 (Steps after deciding amendment application)	1 2
	Section 242(1), after ‘environmental authority’—	3
	<i>insert</i> —	4
	or PRCP schedule	5
151	Amendment of ch 5, pt 8, hdg (Amalgamating and de-amalgamating environmental authorities)	6 7
	Chapter 5, part 8, heading, after ‘environmental authorities’—	8
	<i>insert</i> —	9
	and PRCP schedules	10
152	Amendment of s 246 (Requirements for amalgamation application)	11 12
	Section 246(d)—	13
	<i>omit, insert</i> —	14
	(d) if PRC plans relating to the environmentally relevant activities for the environmental authorities will require amalgamation if the application is approved—be accompanied by a proposed amalgamated PRC plan for the activities; and	15 16 17 18 19 20
	(e) be accompanied by the fee prescribed by regulation.	21 22
153	Amendment of s 247 (Deciding amalgamation application)	23 24
	(1) Section 247—	25
	<i>insert</i> —	26
	(3A) If the administering authority approves an application for an amalgamated project authority for environmental authorities for which PRCP	27 28 29

[s 154]

	schedules also apply, each of the schedules must also be amalgamated.	1 2
(2)	Section 247(3A) and (4)— <i>renumber</i> as section 247(4) and (5).	3 4
154	Amendment of s 248 (Steps after deciding amalgamation application)	5 6
	Section 248(c)— <i>omit, insert</i> —	7 8
	(c) if PRCP schedules for existing environmental authorities are amalgamated—give the applicant a copy of the amalgamated PRCP schedule; and	9 10 11 12
	(d) include a copy of the amalgamated environmental authority and PRC plan in the relevant register.	13 14 15
155	Replacement of s 250 (Relationship between amendment application and amalgamation application)	16 17
	Section 250— <i>omit, insert</i> —	18 19
	250 Relationship between amendment application and amalgamation application	20 21
	(1) This section applies if, before an amalgamation application for an environmental authority is decided—	22 23 24
	(a) an amendment application for the environmental authority is made but not decided; or	25 26 27
	(b) an amendment application for a PRCP schedule for relevant activities to which the environmental authority applies is made but not decided.	28 29 30 31

(2)	If the amalgamation application is approved, the amendment application is taken to be—	1 2
(a)	for an environmental authority mentioned in subsection (1)(a)—an amendment application for the amalgamated environmental authority; or	3 4 5 6
(b)	for a PRCP schedule mentioned in subsection (1)(b)—an amendment application for the amalgamated PRCP schedule.	7 8 9 10
156	Amendment of s 250B (Requirements for de-amalgamation application)	11 12
	Section 250B(c)—	13
	<i>omit, insert—</i>	14
(c)	if a PRCP schedule relating to environmentally relevant activities for the authority will require de-amalgamation if the application is approved—be accompanied by proposed de-amalgamated PRC plans for the activities; and	15 16 17 18 19 20
(d)	be accompanied by the fee prescribed by regulation.	21 22
157	Replacement of s 250C (De-amalgamation)	23
	Section 250C—	24
	<i>omit, insert—</i>	25
	250CDe-amalgamation	26
(1)	Within 15 business days after receiving a de-amalgamation application that complies with section 250B, the administering authority must—	27 28 29
(a)	de-amalgamate the environmental authority to give effect to the de-amalgamation; and	30 31

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- (b) for de-amalgamation of an environmental authority for relevant activities to which a PRCP schedule relates—de-amalgamate the schedule to the extent necessary to give effect to the de-amalgamation of the authority; and
 - (c) issue the de-amalgamated environmental authorities to the applicant; and
 - (d) give the applicant a copy of any de-amalgamated PRCP schedules; and
 - (e) include a copy of each environmental authority issued under paragraph (c), and each de-amalgamated PRC plan, in the relevant register.
- (2) If a PRCP schedule is de-amalgamated under subsection (1)(b), the holder of each de-amalgamated schedule must be the holder of the de-amalgamated environmental authority.
- 158 Amendment of s 250D (When de-amalgamation takes effect)**
- Section 250D(c), ‘section 250C(b)’—
omit, insert—
section 250C(1)(c)
- 159 Amendment of s 262 (Requirements for surrender application)**
- (1) Section 262(1)(d)—
omit, insert—
- (d) if the relevant activity was carried out—be accompanied by—
 - (i) if the environmental authority contains conditions about rehabilitation and a

-
- PRCP schedule does not apply for the
relevant activity—a final rehabilitation
report for the authority that complies
with section 264; and
- (ii) if a PRCP schedule applies for the
relevant activity—a post-mining
management report under section
264A; and
- (iii) a compliance statement for the
environmental authority and, if a PRCP
schedule applies for the relevant
activity, the PRCP schedule and the
conditions imposed on the schedule;
and
- (iv) the fee prescribed by regulation.
- (2) Section 262(2)(b)—
omit, insert—
- (b) state the following—
- (i) the extent to which relevant activities
carried out under the environmental
authority have complied with the
conditions of the authority;
- (ii) if a final rehabilitation report is
required for the application—the extent
to which the report is accurate; and
- (c) if a PRCP schedule applies for the relevant
activities, state the following—
- (i) whether the rehabilitation milestones
and management milestones under the
schedule have been met;
- (ii) the extent to which conditions imposed
on the schedule have been complied
with;
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	(iii) the extent to which the post-mining management report is accurate and complies with section 264A.	1 2 3
160	Amendment of ch 5, pt 10, div 3, hdg (Final rehabilitation reports)	4 5
	Chapter 5, part 10, division 3, heading, after ‘reports’—	6
	<i>insert—</i>	7
	and post-mining management reports	8
161	Insertion of new s 264A	9
	Chapter 5, part 10, division 3—	10
	<i>insert—</i>	11
	264A Requirements for post-mining management report	12 13
	A post-mining management report for land must—	14 15
	(a) be in the approved form; and	16
	(b) state the requirements for ongoing management of the land; and	17 18
	(c) propose the residual risks associated with the rehabilitation of the land mentioned in section 264(1)(d)(iii); and	19 20 21
	(d) include an environmental risk assessment for the land that complies with section 264(2); and	22 23 24
	(e) include the matters prescribed by regulation.	25
162	Amendment of s 268 (Criteria for decision generally)	26
	(1) Section 268(b)(iii), after ‘authority’—	27
	<i>insert—</i>	28

	and, if a PRCP schedule applies for carrying out a relevant activity under the authority, the post-mining management report under section 264A for the schedule;	1 2 3 4
(2)	Section 268(b)(iv)— <i>omit, insert—</i>	5 6
	(iv) the compliance statement for the environmental authority or the part of the environmental authority the subject of the application, and any PRCP schedule for carrying out a relevant activity under the authority;	7 8 9 10 11 12
163	Amendment of s 268A (Criteria for decision—prescribed resource activities in overlapping area)	13 14
(1)	Section 268A(2)(a), after ‘authority’— <i>insert—</i>	15 16
	, or a PRCP schedule,	17
(2)	Section 268A(2)(b), ‘authority for’— <i>omit, insert—</i>	18 19
	authority or PRCP schedule for	20
164	Amendment of s 269 (Restrictions on giving approval)	21
(1)	Section 269(1)(b), after ‘requiring rehabilitation’— <i>insert—</i>	22 23
	, and a PRCP schedule does not apply for a relevant activity under the environmental authority	24 25 26
(2)	Section 269(1)(c)— <i>omit, insert—</i>	27 28

[s 165]

(c)	if a PRCP schedule applies for carrying out a relevant activity under the environmental authority—the administering authority is satisfied the rehabilitation milestones and management milestones under the schedule have been met; and	1 2 3 4 5 6
(d)	if a regulation has prescribed another circumstance for this section—the administering authority is satisfied of the circumstance.	7 8 9 10
(3)	Section 269(2)(a), after ‘environmental authority’— <i>insert—</i> , or a PRCP schedule,	11 12 13
(4)	Section 269(2)(b), ‘authority for’— <i>omit, insert—</i> authority or PRCP schedule for	14 15 16
165	Insertion of new s 269A	17
	After section 269— <i>insert—</i>	18 19
	269A Effect of approval of surrender application on PRCP schedule	20 21
(1)	This section applies if—	22
(a)	the administering authority approves a surrender application, other than a surrender application for a part of an environmental authority; and	23 24 25 26
(b)	a PRCP schedule applies for carrying out relevant activities under the environmental authority as in force before the surrender.	27 28 29
(2)	On the approval of the surrender application, the PRCP schedule ceases to have effect.	30 31

166	Amendment of s 275 (Steps after deciding surrender application)	1 2
(1)	Section 275(a)(ii)(B), ‘or’— <i>omit, insert—</i>	3 4
	and	5
(2)	Section 275(a)— <i>insert—</i>	6 7
	(iii) give written notice of the decision to the scheme manager; or	8 9
167	Insertion of new s 275A	10
	After section 275— <i>insert—</i>	11 12
	275A Administering authority may amend PRCP schedule	13 14
(1)	This section applies if—	15
(a)	a surrender application for part of an environmental authority is approved; and	16 17
(b)	a PRCP schedule applies for carrying out a relevant activity under the environmental authority as in force before the surrender; and	18 19 20 21
(c)	because of the approval of the surrender application, the holder is no longer required to comply with a requirement under the PRCP schedule or a condition imposed on the schedule.	22 23 24 25 26
(2)	The administering authority must, within the relevant period—	27 28
(a)	amend the PRCP schedule or a condition imposed on the schedule to remove the requirement; and	29 30 31

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	(b) give a copy of the amended PRCP schedule to the holder; and	1 2
	(c) include a copy of the amended PRCP schedule in the relevant register; and	3 4
	(d) give the holder an information notice about the amendment.	5 6
	(3) In this section—	7
	<i>relevant period</i> means 10 business days after the administering authority decides the surrender application.	8 9 10
168	Amendment of s 278 (Cancellation or suspension by administering authority)	11 12
	(1) Section 278(2)(b), ‘section 296’—	13
	<i>omit, insert—</i>	14
	section 310	15
	(2) Section 278(2)(baa), ‘section 302’—	16
	<i>omit, insert—</i>	17
	section 311	18
	(3) Section 278(2)(ba), ‘section 306’—	19
	<i>omit, insert—</i>	20
	section 314	21
	(4) Section 278(2)(c), ‘section 307(2)(b)’—	22
	<i>omit, insert—</i>	23
	section 315(2)(b)	24
	(5) Section 278(2)—	25
	<i>insert—</i>	26
	(ca) the holder has failed to comply with a requirement to pay a contribution or surety to the scheme manager under the <i>Mineral</i>	27 28 29

<i>and Energy Resources (Financial Provisioning) Act 2017;</i>	1 2
(cb) if a PRCP schedule applies for carrying out relevant activities under the environmental authority—the holder has failed to comply with the schedule;	3 4 5 6
169 Insertion of new s 278A	7
Chapter 5, part 11, division 1—	8
<i>insert—</i>	9
278A Effect of cancellation or suspension of environmental authority on PRCP schedule	10 11
(1) If a PRCP schedule applies for carrying out a relevant activity to which a suspended environmental authority relates, the PRC plan for the schedule—	12 13 14 15
(a) continues in force for the relevant activity; and	16 17
(b) is not affected by the suspension.	18
(2) If a PRCP schedule applies for carrying out a relevant activity under an environmental authority that is cancelled, the schedule ceases to have effect on the cancellation.	19 20 21 22
170 Amendment of s 284E (Restrictions on giving approval)	23
Section 284E, from ‘only if’—	24
<i>omit, insert—</i>	25
only if—	26
(a) the environmental authority is not subject to conditions requiring rehabilitation; or	27 28

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	(b) a PRCP schedule does not apply for carrying out relevant activities under the environmental authority.	1 2 3
171	Replacement of ch 5, pt 12 (General provisions)	4
	Chapter 5, part 12—	5
	<i>omit, insert—</i>	6
	Part 12 Auditing PRCP schedules	7 8
	Division 1 Requirements for audit	9
	285 PRCP schedule must be audited	10
	(1) The holder of a PRCP schedule must commission an audit of the schedule by a rehabilitation auditor for the following periods (each an <i>audit period</i>)—	11 12 13
	(a) the 3-year period starting on the day the schedule takes effect;	14 15
	(b) each 3-year period starting on the day after the previous audit period ended.	16 17
	(2) The holder must, within 4 months after the end of each audit period, give the administering authority—	18 19 20
	(a) the rehabilitation auditor’s report (an <i>audit report</i>) about the audit that complies with section 286; and	21 22 23
	(b) a declaration for the audit report stating the holder—	24 25
	(i) has not knowingly given false or misleading information to the rehabilitation auditor; and	26 27 28

(ii)	has given all relevant information to the rehabilitation auditor.	1 2
	Maximum penalty—100 penalty units.	3
(3)	The declaration mentioned in subsection (2)(b) must be made—	4 5
(a)	if the holder is an individual—by the holder; or	6 7
(b)	if the holder is a corporation—by an executive officer of the corporation.	8 9
286	Requirements for report about PRCP schedule audit	10 11
	An audit report for a PRCP schedule must be in the approved form, and include the following—	12 13
(a)	a statement about whether the holder has complied with the schedule during the audit period, including—	14 15 16
(i)	details of actions the holder has taken, or failed to take, in relation to the rehabilitation milestones and management milestones under the schedule; and	17 18 19 20 21
(ii)	whether the holder has complied, or failed to comply, with conditions imposed on the schedule; and	22 23 24
(iii)	whether information given to the administering authority under this Act about rehabilitation carried out under the schedule is accurate;	25 26 27 28
(b)	an assessment of whether the post-mining land use for land the subject of the schedule is likely to be achieved, having regard to the rehabilitation that has been and is to be carried out under the schedule;	29 30 31 32 33

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- (c) recommendations about actions the holder should take to ensure rehabilitation milestones and management milestones are achieved or conditions of the schedule are complied with; 1
2
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- (d) the other information the administering authority reasonably considers necessary to decide whether to take action to amend the schedule under part 6. 6
7
8
9

Division 2 Steps after receiving audit report and rehabilitation auditors 10
11
12

287 Administering authority may request further information 13
14

- (1) After receiving an audit report for a PRCP schedule, the administering authority may, by written notice given to the holder of the schedule, ask the holder to give further information the authority requires to decide whether to take action to amend the schedule under part 6. 15
16
17
18
19
20
- (2) The request must— 21
 - (a) be made within 10 business days after the report is received; and 22
23
 - (b) state a period of at least 20 business days within which the holder must give the information. 24
25
26

288 Rehabilitation auditors 27

- (1) A person may be commissioned to carry out an audit of a PRCP schedule only if the person meets the requirements decided by the chief executive. 28
29
30

-
- (2) To remove any doubt, it is declared that chapter 1
12, part 3A does not apply in relation to 2
rehabilitation auditors. 3

Part 13 Plan of operations 4

289 Definition for part 5

In this part— 6

plan of operations, for a petroleum lease, 7
includes a plan of operations given to the 8
administering authority for a proposed lease 9
substantially the same as the petroleum lease. 10

290 Application of part 11

This part applies in relation to an environmental 12
authority for a petroleum activity authorised 13
under a petroleum lease, if the petroleum activity 14
is an ineligible ERA. 15

291 Plan of operations required before acting under petroleum lease 16 17

The holder of the environmental authority must 18
not carry out, or allow the carrying out of, a 19
petroleum activity under the petroleum lease 20
unless— 21

- (a) the holder has given the administering 22
authority a plan of operations for the 23
petroleum activities; and 24
- (b) at least 20 business days, or a shorter period 25
agreed in writing by the administering 26
authority and the holder, have passed since 27
the plan was submitted; and 28
- (c) the plan complies with section 292. 29

[s 171]

<i>Note—</i>	1
See section 297 for conditions about when the holder of an environmental authority for a resource activity must not carry out, or allow the carrying out, of the resource activity under the authority.	2 3 4 5
Maximum penalty—100 penalty units.	6

292 Requirements for plan of operations 7

- (1) A plan of operations must— 8
 - (a) be in the approved form; and 9
 - (b) describe the following— 10
 - (i) each petroleum lease for the environmental authority; 11
12
 - (ii) the land to which each petroleum lease relates; 13
14
 - (iii) the land to which the plan applies; and 15
 - (c) state the period to which the plan applies (the *plan period*); and 16
17
 - (d) include the following— 18
 - (i) a map showing where all petroleum activities are to be carried out on the land; 19
20
21
 - (ii) an action program for complying with the conditions of the environmental authority; 22
23
24
 - (iii) a program for the rehabilitation of land disturbed or proposed to be disturbed under each petroleum lease; 25
26
27
 - (iv) the matters prescribed under an environmental protection policy or by regulation; and 28
29
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 - (e) be accompanied by a compliance statement for the plan; and 31
32

-
- (f) be accompanied by the fee prescribed by regulation. 1
2
 - (2) A compliance statement under subsection (1)(e) must— 3
4
 - (a) be made by or for the holder of the environmental authority; and 5
6
 - (b) state the extent to which the plan complies with the conditions of the environmental authority; and 7
8
9
 - (c) be made— 10
 - (i) if the holder is an individual—by the holder; or 11
12
 - (ii) if the holder is a corporation—by an executive officer of the corporation. 13
14
 - (3) The plan period can not be longer than 5 years. 15
 - (4) A proposed plan of operations may relate to 1 or more petroleum leases. 16
17

293 Amending or replacing plan 18

- (1) This section applies if— 19
 - (a) the holder of the environmental authority has given the administering authority a plan of operations (the *original plan*); and 20
21
22
 - (b) the plan period for the plan has not ended. 23
- (2) The holder may amend or replace the original plan at any time before the plan period ends by giving the administering authority a written notice that— 24
25
26
27
 - (a) states— 28
 - (i) the amendment of the original plan; or 29
 - (ii) that the original plan is replaced; and 30
 - (b) is accompanied by— 31

[s 171]

(i)	for a replacement—the replacement plan; and	1 2
(ii)	a compliance statement for the original plan, as amended, or for the replacement plan; and	3 4 5
(iii)	the fee prescribed by regulation.	6
(3)	The compliance statement must comply with section 292(2).	7 8
(4)	The holder’s plan of operations is taken to be the original plan, as amended from time to time by any amendment under this section.	9 10 11
(5)	However, an amendment can not extend the plan period.	12 13
(6)	The original plan ceases to apply if it is replaced.	14
(7)	A replacement plan may apply for a period of no more than 5 years after the day the notice of the replacement plan is given under this section.	15 16 17
294 Failure to comply with plan of operations		18
	The environmental authority holder must, when carrying out a petroleum activity under the petroleum lease, comply with the plan of operations.	19 20 21 22
	Maximum penalty—100 penalty units.	23
295 Environmental authority overrides plan		24
(1)	This section applies if there is an inconsistency between an environmental authority and a plan of operations.	25 26 27
(2)	The environmental authority prevails to the extent of the inconsistency.	28 29
(3)	The holder of the environmental authority must, within 15 business days after the holder becomes	30 31

aware of the inconsistency, amend the plan to remove the inconsistency.	1 2
Maximum penalty—100 penalty units.	3
Part 14	
Matters relating to costs of rehabilitation	4 5
Division 1	
Estimated rehabilitation costs for resource activities and ERC decisions	6 7 8 9
296 Definitions for division	10
In this division—	11
<i>ERC decision</i> means a decision of the administering authority under section 300 about the estimated rehabilitation cost for a resource activity.	12 13 14 15
<i>ERC period</i> , for the estimated rehabilitation cost for a resource activity, means—	16 17
(a) if a PRCP schedule applies for the activities, or the activities relate to a 1923 Act petroleum tenure granted under the <i>Petroleum Act 1923</i> —the period of between 1 and 5 years stated in the ERC decision about the estimated rehabilitation cost; or	18 19 20 21 22 23
(b) if a plan of operations applies for the activities—the plan period for the plan of operations; or	24 25 26
(c) otherwise—the total period during which the resource activity is likely to be carried	27 28

[s 171]

out under the environmental authority for 1
the activity. 2

estimated rehabilitation cost, for a resource 3
activity, see section 300(1). 4

297 Condition about ERC decision 5

It is a condition of an environmental authority for 6
a resource activity that the holder must not carry 7
out, or allow the carrying out of, a resource 8
activity under the authority unless— 9

(a) an ERC decision is in effect for the resource 10
activity when the activity is carried out; and 11

(b) the holder has paid a contribution to the 12
scheme fund or given a surety for the 13
authority under the *Mineral and Energy* 14
Resources (Financial Provisioning) Act 15
2017. 16

298 Applying for ERC decision 17

(1) The holder of an environmental authority for a 18
resource activity may apply to the administering 19
authority for an ERC decision for the resource 20
activity. 21

(2) The application must— 22

(a) be in the approved form; and 23

(b) state the ERC period to which the 24
application relates; and 25

(c) state the amount the holder considers to be 26
an estimate of the total cost, for the ERC 27
period, of rehabilitating the land on which 28
the resource activity is carried out, worked 29
out in compliance with the methodology 30
decided by the chief executive; and 31

-
- (d) include the other information the administering authority reasonably considers necessary to make the ERC decision; and
 - (e) include a compliance statement made by or for the holder stating the amount mentioned in paragraph (c) for the ERC period—
 - (i) is worked out in compliance with the methodology mentioned in that paragraph; and
 - (ii) if a PRCP schedule or plan of operations applies for the resource activities—is consistent with the schedule or plan.

299 Administering authority may require additional information

- (1) The administering authority may, within 10 business days after receiving the application, give the holder a written notice asking the holder to provide further information the authority reasonably requires to make the ERC decision.
- (2) The notice must state a period of at least 10 business days within which the information must be given.
- (3) If the holder does not comply with the notice, the administering authority may make the ERC decision without the further information.

300 Making ERC decision

- (1) After receiving the application, the administering authority must decide, for the ERC period, the amount of the estimated cost of rehabilitating the land on which the resource activity is carried out (the *estimated rehabilitation cost*).

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- (2) The decision must be made within— 1
 - (a) the later of— 2
 - (i) 15 business days after the application is 3
received; or 4
 - (ii) if a notice under section 299 is given to 5
the holder of the environmental 6
authority—10 business days after the 7
day the further information is received 8
or the holder fails to comply with the 9
notice; or 10
 - (b) if the holder agrees to a longer period of no 11
more than 10 business days—the longer 12
period. 13
- (3) In making the decision, the administering 14
authority must have regard to whether the 15
estimate of the total cost mentioned in section 16
298(2)(c) has been worked out, for the ERC 17
period, as mentioned in that paragraph. 18
- (4) The ERC decision— 19
 - (a) takes effect on the day the decision is made; 20
and 21
 - (b) subject to section 305, remains in effect 22
until the day the ERC period to which the 23
decision relates ends. 24

301 Notice of decision 25

- (1) The administering authority must, within 5 26
business days after making the ERC decision, 27
give an information notice for the decision to— 28
 - (a) the holder of the environmental authority; 29
and 30
 - (b) the scheme manager. 31
- (2) The notice must state— 32

(a) the estimated rehabilitation cost for the resource activity; and	1 2
(b) the period for which the ERC decision is in force.	3 4
302 Application for new ERC decision before expiry	5 6
The holder of an environmental authority for a resource activity for which an ERC decision is in force must apply, under section 298, for a new ERC decision at least 3 months before the ERC period to which the decision relates ends.	7 8 9 10 11
Maximum penalty—100 penalty units.	12
303 Administering authority may direct holder to re-apply for ERC decision	13 14
(1) This section applies if the administering authority becomes aware of a change relating to the carrying out of a resource activity by a holder of an environmental authority that may result in an increase in the estimated rehabilitation cost for the activity.	15 16 17 18 19 20
(2) The administering authority may give the holder a written notice directing the holder to re-apply, under section 298, for an ERC decision for the resource activity.	21 22 23 24
(3) The notice must state a reasonable period within which the holder must comply with the direction.	25 26
(4) The holder must comply with the direction.	27
Maximum penalty—100 penalty units.	28
304 When holder must re-apply for ERC decision	29
(1) This section applies in relation to the holder of an environmental authority for a resource activity	30 31

[s 171]

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|---|----------------------|
| if— | 1 |
| (a) there is an increase in the likely maximum amount of disturbance to the environment as a result of the holder carrying out the resource activity; or | 2
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5 |
| (b) there is a change relating to the carrying out of the resource activity that may result in an increase in the estimated rehabilitation cost for the activity; or | 6
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8
9 |
| (c) the holder's annual return given under section 316H states there has been a change to the carrying out of the activity that may affect the estimated rehabilitation cost. | 10
11
12
13 |
| (2) The holder must re-apply, under section 298, for an ERC decision for the resource activity— | 14
15 |
| (a) if subsection (1)(a) or (b) applies—within 10 business days after the holder becomes aware of the increase or change; or | 16
17
18 |
| (b) if subsection (1)(c) applies—within 10 business days after the holder gives the annual return to the administering authority. | 19
20
21 |
| Maximum penalty—100 penalty units. | 22 |

305 Effect of re-application on ERC decision 23

- | | |
|--|----------------------------------|
| (1) If an application for an ERC decision is made in compliance with section 302, 303 or 304, and the application has not been decided before the ERC period for the current decision ends, the current decision remains in effect until the day the application is decided. | 24
25
26
27
28
29 |
| (2) The current decision stops having effect for this Act when the ERC decision on the re-application is made. | 30
31
32 |
| (3) In this section— | 33 |

current decision, for the holder of an environmental authority, means the ERC decision in effect when the holder applies for a decision under section 302, 303 or 304.

Division 2 Financial assurance for prescribed ERAs

306 Application of division

This division applies in relation to an environmental authority for a prescribed ERA.

307 Requirement to give financial assurance for environmental authority

- (1) The administering authority may impose a condition on an environmental authority that the holder must not carry out, or allow the carrying out of, a relevant activity under the authority unless the holder has paid a financial assurance to the administering authority under this division.
- (2) The condition may require the financial assurance to be given as security for—
 - (a) compliance with the environmental authority; and
 - (b) costs and expenses, or likely costs and expenses, mentioned in section 316B.
- (3) However, the administering authority may impose the condition only if it is satisfied the condition is justified having regard to—
 - (a) the degree of risk of environmental harm being caused, or that might reasonably be expected to be caused, by the relevant activity; and

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(b)	the likelihood of action being required to rehabilitate or restore and protect the environment because of environmental harm being caused by the activity; and	1 2 3 4
(c)	the environmental record of the holder.	5
(4)	The administering authority may require a financial assurance to remain in force until it is satisfied no claim is likely to be made on the assurance.	6 7 8 9
308	Application for decision about amount and form of financial assurance	10 11
(1)	This section applies if a condition requiring a holder to give a financial assurance is imposed on an environmental authority.	12 13 14
(2)	The holder may apply to the administering authority for a decision about the amount and form of financial assurance.	15 16 17
(3)	The application must—	18
(a)	be in the approved form; and	19
(b)	include the information the administering authority reasonably considers necessary to decide the application.	20 21 22
309	Deciding amount and form of financial assurance	23 24
(1)	The administering authority must decide the amount and form of financial assurance required under a condition of an environmental authority.	25 26 27
(2)	The decision must be made within—	28
(a)	10 business days after the application made under section 308 is received by the administering authority; or	29 30 31

-
- (b) if a longer period is agreed to by the holder—the longer period. 1
2
- (3) In making the decision, the administering authority must have regard to the financial assurance guideline. 3
4
5
- (4) Despite subsections (1) and (3), the administering authority can not require financial assurance of an amount that exceeds the amount representing the total likely costs and expenses that may be incurred in carrying out rehabilitation of, or to restore and protect, the environment because of environmental harm that may be caused by the prescribed ERA. 6
7
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13
- (5) In this section— 14
costs and expenses includes costs and expenses for monitoring and maintenance. 15
16
- 310 Notice of decision** 17
- The administering authority must, within 5 business days after making a decision under section 309, give an information notice about the decision to the holder of the environmental authority. 18
19
20
21
22
- 311 Application to amend or discharge financial assurance** 23
24
- (1) The holder of an environmental authority for which financial assurance has been given may apply to the administering authority to— 25
26
27
- (a) amend the amount (by decreasing or increasing the amount) or form of the financial assurance; or 28
29
30
- (b) discharge the financial assurance. 31
- (2) The application must— 32

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- (a) be in the approved form; and 1
- (b) state whether the application relates to— 2
 - (i) amending the amount or form of 3
financial assurance; or 4
 - (ii) discharging the financial assurance; 5
and 6
- (c) if the application relates to amending the 7
amount or form of financial 8
assurance—include details of the proposed 9
amendment; and 10
- (d) include the information the administering 11
authority reasonably considers necessary to 12
decide the application. 13

**312 Administering authority may require 14
compliance statement 15**

- (1) This section applies to an application under 16
section 311. 17
- (2) The administering authority may, by written 18
notice given to the applicant, require the applicant 19
to give the administering authority a compliance 20
statement for the financial assurance before 21
deciding the application. 22
- (3) The compliance statement must— 23
 - (a) be made by or for the applicant; and 24
 - (b) state the extent to which activities carried 25
out under the environmental authority to 26
which the application relates have complied 27
with the conditions of the environmental 28
authority; and 29
 - (c) state whether or not the amount of the 30
financial assurance has been calculated 31
having regard to the financial assurance 32
guideline. 33

313 Deciding application

- | | |
|---|----|
| | 1 |
| (1) The administering authority must, within the | 2 |
| relevant period— | 3 |
| (a) approve or refuse an application under | 4 |
| section 311; and | 5 |
| (b) if the decision is to refuse the | 6 |
| application—give the applicant an | 7 |
| information notice about the decision. | 8 |
| (2) If the application relates to amending the amount | 9 |
| or form of financial assurance, the authority must | 10 |
| have regard to the financial assurance guideline in | 11 |
| deciding the application. | 12 |
| (3) Despite subsection (1), the administering | 13 |
| authority may only approve an application to | 14 |
| discharge a financial assurance if the authority is | 15 |
| satisfied no claim is likely to be made on the | 16 |
| assurance. | 17 |
| (4) Subsection (5) applies if the application— | 18 |
| (a) relates to amending or discharging the | 19 |
| financial assurance; and | 20 |
| (b) the application was made because of a | 21 |
| transfer application for the environmental | 22 |
| authority for which the financial assurance | 23 |
| was given. | 24 |
| (5) Despite subsection (1), the administering | 25 |
| authority may withhold making a decision under | 26 |
| that subsection until— | 27 |
| (a) the transfer application has been approved; | 28 |
| and | 29 |
| (b) any financial assurance for the | 30 |
| environmental authority required to be given | 31 |
| by the new holder has been given; and | 32 |
| (c) the transfer has taken effect. | 33 |
| (6) In this section— | 34 |

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- relevant period* means— 1
- (a) if the applicant is required to give a 2
compliance statement under section 3
312—20 business days after the statement is 4
received by the administering authority; or 5
 - (b) otherwise—20 business days after the 6
application is received. 7

**314 Power to require a change to financial 8
assurance 9**

- (1) The administering authority may, at any time, 10
require the holder of an environmental authority 11
for which financial assurance has been given to 12
change the amount of the financial assurance. 13
- (2) Before making the requirement, the administering 14
authority must give written notice to the holder. 15
- (3) The notice must— 16
 - (a) state the details of the proposed 17
requirement; and 18
 - (b) invite the holder to make written 19
representations about the proposed 20
requirement within a stated period of at least 21
20 business days after the day the holder is 22
given the notice. 23
- (4) The administering authority must, before 24
deciding to make the requirement, consider the 25
representations made by the holder within the 26
stated period. 27
- (5) The requirement does not take effect until— 28
 - (a) the day the holder is given an information 29
notice for the decision; or 30
 - (b) if the information notice states a later 31
day—the later day. 32
- (6) In this section— 33

change, financial assurance, includes to decrease 1
or increase the amount of the financial assurance. 2
financial assurance includes financial assurance 3
given by a holder that has changed because of a 4
requirement previously made under this section. 5

315 Replenishment of financial assurance 6

- (1) This section applies if— 7
- (a) under this division, all or part of the 8
financial assurance for an environmental 9
authority has been realised; and 10
 - (b) the environmental authority is still in force. 11
- (2) The administering authority must give the holder 12
of the environmental authority a notice— 13
- (a) stating how much of the financial assurance 14
has been used; and 15
 - (b) directing the holder to, within 20 business 16
days after the giving of the notice, replenish 17
the financial assurance to the amount that 18
was held by the administering authority 19
before the financial assurance started to be 20
realised. 21
- (3) It is a condition of the environmental authority 22
that the holder must comply with the direction. 23

Division 3 Claiming 24

316 Definitions for division 25

In this division— 26

environmental authority includes a cancelled or 27
surrendered environmental authority. 28

EPA assurance means a financial assurance 29

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given under this Act. 1

scheme assurance means a contribution paid to 2
the scheme fund or a surety given under the 3
Mineral and Energy Resources (Financial 4
Provisioning) Act 2017. 5

316AReferences to EPA assurance or surety 6

A reference in this division to making a claim on 7
or realising an EPA assurance or a surety includes 8
a reference to making a claim on or realising a part 9
of the EPA assurance or surety. 10

316BApplication of division 11

This division applies if the administering 12
authority incurs, or might reasonably incur, costs 13
and expenses in taking action to— 14

- (a) prevent or minimise environmental harm or 15
rehabilitate or restore the environment in 16
relation to the carrying out of an activity for 17
which an EPA assurance or scheme 18
assurance has been given; or 19
- (b) secure compliance with an environmental 20
authority or prescribed condition for a small 21
scale mining activity for which an EPA 22
assurance or scheme assurance has been 23
given. 24

316CAdministering authority may claim or realise 25
EPA assurance or ask scheme manager for 26
payment 27

- (1) If an entity has given an EPA assurance for an 28
activity, the administering authority may recover 29
the reasonable costs and expenses of taking an 30
action under section 316B by making a claim on 31
or realising the financial assurance. 32

-
- (2) If an entity has given a scheme assurance, the administering authority may ask the scheme manager for—
- (a) payment of the costs and expenses from the scheme fund; or
 - (b) if a surety has been given—payment of the costs and expenses by the scheme manager making a claim on or realising the surety.

316D Notice about claiming or realising EPA assurance or asking scheme manager for payment

- (1) Before making a claim on or realising an EPA assurance, the administering authority must give written notice to the entity who gave the assurance.
- (2) Also, before asking the scheme manager for payment of the costs and expenses under section 316C(2)(b), the administering authority must give written notice to the entity who paid the surety.
- (3) The notice must—
- (a) state details of the action the administering authority proposes to take; and
 - (b) state the amount of the EPA assurance to be claimed or realised, or amount to be requested from the scheme manager; and
 - (c) for making a claim on or realising an EPA assurance or a surety under the Mineral and Energy Resources (Financial Provisioning) Act 2017—invite the entity to make written representations to the administering authority about why the assurance or surety should not be claimed or realised as proposed; and

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(d) state the period within which the representations must be made.	1 2
(4) The stated period must end at least 20 business days after the entity is given the notice.	3 4
316E Considering representations	5
The administering authority must consider any written representations made within the stated period by the entity.	6 7 8
316F Decision	9
(1) The administering authority must, within 10 business days after the end of the stated period, decide whether to make a claim on, or realise, the EPA assurance, or to ask for a payment of the costs and expenses mentioned in section 316C(2).	10 11 12 13 14
(2) If the administering authority decides to act as mentioned in subsection (1), it must, within 5 business days after making the decision, give the entity an information notice about the decision.	15 16 17 18
Part 15	General provisions 19
Division 1	Requirement for holders of PRC plan 20 21
316G Obligation to give amended rehabilitation planning part to administering authority	22 23
(1) This section applies if a PRCP schedule is amended under this chapter.	24 25
(2) Within the relevant period, the holder must—	26

-
- (a) review the rehabilitation planning part of the holder's PRC plan and make the necessary or appropriate amendments as a result of the amendment of the PRCP schedule; and
- (b) give a copy of the amended rehabilitation planning part to the administering authority.
- Maximum penalty—100 penalty units.
- (3) The administering authority must include the amended rehabilitation planning part of the plan on the relevant register.
- (4) In this section—
relevant period, for an amendment of a PRCP schedule, means—
- (a) 10 business days after the holder receives—
- (i) for an amendment under section 211—a written notice of the amendment under section 211(b); or
- (ii) for another amendment—a copy of the amended PRCP schedule; or
- (b) if the administering authority agrees to a longer period—the longer period.

Division 2 Annual fees and returns 22

316H Annual return for environmental authorities 23

- (1) This section applies to the holder of an environmental authority for which an annual fee is prescribed by regulation.
- (2) The holder must give the administering authority an annual return that complies with this division.
- Maximum penalty—100 penalty units.
- (3) The annual return must—

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- (a) be in the approved form; and 1
 - (b) be accompanied by the annual fee; and 2
 - (c) for an environmental authority for a 3
resource activity—state whether there has 4
been a change to the carrying out of the 5
activity that may affect the estimated 6
rehabilitation cost for the activity. 7
 - (4) The annual return must be given to the 8
administering authority before each anniversary 9
day for the environmental authority. 10
 - (5) If the holder does not pay the annual fee, the 11
administering authority may recover the annual 12
fee as a debt. 13
- 316I Particular requirement for annual return if 14
PRCP schedule applies 15**
- (1) This section applies to the holder of an 16
environmental authority for a relevant activity to 17
which a PRCP schedule applies. 18
 - (2) The annual return must include an evaluation of 19
the effectiveness of the schedule, including the 20
effectiveness of the environmental management 21
carried out under the schedule, for the year to 22
which the annual report relates. 23
 - (3) Without limiting subsection (2), the evaluation 24
must state— 25
 - (a) whether any rehabilitation milestones or 26
management milestones to be completed 27
under the PRCP schedule during the year 28
have been met; and 29
 - (b) whether the holder has complied with the 30
conditions imposed on the PRCP schedule. 31

-
- 316J Particular requirement for annual return for
CSG environmental authority** 1
2
- (1) This section applies to the holder of an 3
environmental authority for a CSG activity if the 4
activity is an ineligible ERA. 5
- (2) The annual return must include an evaluation of 6
the effectiveness of the management of CSG 7
water under the criteria mentioned in section 8
126(1)(e) for carrying out each relevant CSG 9
activity. 10
- (3) Without limiting subsection (2), the evaluation 11
must state— 12
- (a) whether the CSG water has been effectively 13
managed having regard to the criteria; and 14
- (b) if the water has not been effectively 15
managed— 16
- (i) the action that will be taken to ensure 17
the water will in the future be 18
effectively managed having regard to 19
the criteria; and 20
- (ii) when the action will be taken. 21

Division 3 Changing anniversary day 22

- 316K Changing anniversary day** 23
- (1) The administering authority may change the 24
anniversary day, for an environmental authority 25
for which an annual fee is prescribed by 26
regulation, to another day (the *new day*) if the 27
holder of the environmental authority— 28
- (a) agrees in writing to the change; or 29
- (b) applies to the administering authority to 30
change the anniversary day to a new day. 31

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(2)	The application must be in the approved form and be accompanied by the fee prescribed by regulation.	1 2 3
316L	Deciding application	4
	The administering authority must, within 20 business days after the application is made, decide whether to change the anniversary day to the new day.	5 6 7 8
316M	Notice of decision	9
	The administering authority must, within 10 business days after the decision is made, give the holder—	10 11 12
(a)	if the decision is to change the day—written notice of the decision; or	13 14
(b)	if the decision is not to change the day—an information notice for the decision.	15 16
316N	When decision takes effect	17
	A decision to change the anniversary day takes effect on the later of the following days—	18 19
(a)	the day the holder is given notice of the decision;	20 21
(b)	a later day of effect stated in the notice.	22
Division 4	Non-compliance with eligibility criteria	23 24

316O Requirement to replace environmental authority if non-compliance with eligibility criteria	1
	2
	3
(1) This section applies if—	4
(a) an environmental authority is issued for a standard or variation application under part 5; and	5 6 7
(b) the relevant activity for the authority does not comply with the eligibility criteria for the activity.	8 9 10
(2) The administering authority may require the holder of the environmental authority to—	11 12
(a) make a site-specific application for a new environmental authority under part 2 to replace the environmental authority; or	13 14 15
(b) make an amendment application for the environmental authority under part 7.	16 17
(3) Before making a requirement under subsection (2), the administering authority must give written notice of the proposed requirement to the holder of the environmental authority.	18 19 20 21
(4) The notice must state the following—	22
(a) the grounds for the requirement;	23
(b) the facts and circumstances that are the basis for the grounds;	24 25
(c) that the holder may, within a stated period of at least 20 business days, make written representations to show why the requirement should not be made.	26 27 28 29
(5) The administering authority must, before deciding to make the requirement, consider the representations made by the holder within the stated period.	30 31 32 33
(6) The requirement does not take effect until—	34

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- (a) the holder is given an information notice about the decision; or
 - (b) if the information notice states a later day the requirement takes effect—the later day.
- (7) The holder of the authority must comply with a requirement under subsection (2).
Maximum penalty for subsection (7)—4,500 penalty units.

Division 5 Miscellaneous provisions

316P Administering authority may seek advice, comment or information about application

- (1) The administering authority may ask any entity for advice, comment or information about an application, or a proposed PRC plan accompanying the application, made under this chapter at any time.
- (2) There is no particular way the advice, comment or information may be asked for and received and the request may be by public notice.

316Q Decision criteria are not exhaustive

- (1) This section applies if—
 - (a) an entity is deciding, or is required to decide, an application under this chapter; and
 - (b) a provision of this chapter requires the entity, in making the decision, to consider stated criteria or matters.
- (2) The stated criteria or matters do not limit the criteria or matters the entity may consider in making the decision.

172	Amendment of s 318Z (What is <i>progressive certification</i>)	1
	Section 318Z(1)(c)—	2
	<i>omit, insert—</i>	3
	(c) a PRCP schedule applying to the activities carried out under the environmental authority; and	4 5 6
	(d) a relevant guideline or other document made under this Act.	7 8
173	Amendment of s 318ZB (Continuing responsibility of environmental authority holder relating to certified rehabilitated area)	9 10 11
	(1) Section 318ZB, heading, ‘environmental authority’—	12
	<i>omit.</i>	13
	(2) Section 318ZB(2), after ‘of the authority’—	14
	<i>insert—</i>	15
	, or rehabilitation milestones or management milestones under a PRCP schedule,	16 17
	(3) Section 318ZB(3), from ‘authority’ to ‘existing conditions’—	18
	<i>omit, insert—</i>	19
	authority, or rehabilitation milestones or management milestones under the schedule, is of no effect to the extent it purports to impose a more stringent obligation for the certified rehabilitated area than an obligation applying under the existing conditions or milestones	20 21 22 23 24 25
	(4) Section 318ZB(4)(b), after ‘authority’—	26
	<i>insert—</i>	27
	or PRCP schedule	28

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174	Amendment of s 318ZD (Requirements for progressive certification application)	1 2
(1)	Section 318ZD(1)(c)(i), after ‘for the environmental authority’—	3 4
	<i>insert—</i>	5
	, and any PRCP schedule relating to the environmental authority,	6 7
(2)	Section 318ZD(2)(b)(i), after ‘conditions of the environmental authority’—	8 9
	<i>insert—</i>	10
	and any PRCP schedule relating to the authority	11
175	Amendment of s 318ZF (Requirements for progressive rehabilitation report)	12 13
	Section 318ZF(1)(a)—	14
	<i>omit, insert—</i>	15
	(a) contain the information required under each of the following sections, as if a reference in the section to land were a reference to the proposed certified rehabilitated area—	16 17 18 19
	(i) if a PRCP schedule applies for the relevant activities carried out in the proposed certified rehabilitated area—section 264A;	20 21 22 23
	(ii) otherwise—section 264; and	24
176	Amendment of s 318ZI (Criteria for decision)	25
(1)	Section 318ZI(1)(b)(iv) and (v)—	26
	<i>omit, insert—</i>	27
	(iv) if a PRCP schedule applies for the proposed certified rehabilitated area—the PRC plan;	28 29

(v) further information received in response to a request under section 318ZG(1);	1 2
(vi) the matters prescribed under an environmental protection policy or by regulation.	3 4 5
(2) Section 318ZI(2)(c)—	6
<i>omit, insert—</i>	7
(c) if a PRCP schedule applies for the proposed certified rehabilitated area—it is satisfied the schedule has been complied with in relation to the area; or	8 9 10 11
(d) if a regulation has prescribed another circumstance for this section—the administering authority is satisfied with the circumstance.	12 13 14 15
177 Amendment of s 318ZJ (Steps after making decision)	16
Section 318ZJ(1)(a)(i) and (ii)—	17
<i>omit, insert—</i>	18
(i) record particulars of the certification in the relevant register for the environmental authority; and	19 20 21
(ii) if a PRCP schedule applies for relevant activities carried out in the certified rehabilitated area—record particulars of the certification in the relevant register for the schedule; and	22 23 24 25 26
(iii) give written notice of the decision to the applicant.	27 28
178 Insertion of new s 318ZJA	29
Chapter 5A, part 6, division 1, subdivision 5—	30
<i>insert—</i>	31

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318ZJA	Administering authority may amend PRCP schedule	1 2
(1)	This section applies if—	3
(a)	the administering authority decides to give the progressive certification; and	4 5
(b)	a PRCP schedule applies for relevant activities carried out on the certified rehabilitation area; and	6 7 8
(c)	an amendment of the schedule is required because of the progressive certification.	9 10
(2)	The administering authority may amend the PRCP schedule to the extent necessary because of the progressive certification.	11 12 13
(3)	The administering authority must—	14
(a)	give a copy of the amended PRCP schedule to the holder; and	15 16
(b)	give an information notice about the amendment to the holder; and	17 18
(c)	record the amendment in the relevant register.	19 20
179	Amendment of s 320A (Application of div 2)	21
(1)	Section 320A(2)(a)(ii), ‘and’—	22
	<i>omit, insert—</i>	23
	or	24
(2)	Section 320A(2)(a)—	25
	<i>insert—</i>	26
	(iii) a rehabilitation auditor conducting an audit of a PRCP schedule under chapter 5, part 12; and	27 28 29
(3)	Section 320A(4)—	30

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	<i>insert—</i>	1
	or PRCP schedule	2
184	Amendment of s 326A (Administering authority’s costs of environmental audit or report)	3 4
	Section 326A(2), after ‘environmental authority’—	5
	<i>insert—</i>	6
	or PRCP schedule	7
185	Amendment of s 326H (Action following acceptance of report)	8 9
(1)	Section 326H(1)(a), ‘require’—	10
	<i>omit, insert—</i>	11
	for a report other than a report for an activity to which a PRCP schedule applies—require	12 13
(2)	Section 326H(1)(b), after ‘authority’—	14
	<i>insert—</i>	15
	or PRCP schedule	16
186	Amendment of s 330 (What is a transitional environmental program)	17 18
	Section 330(2)—	19
	<i>omit, insert—</i>	20
(2)	However, a transitional environmental program must not be used to achieve compliance with—	21 22
	(a) an enforceable undertaking; or	23
	(b) a PRCP schedule.	24
187	Amendment of s 358 (When order may be issued)	25
(1)	Section 358(d)(vii) to (xi)—	26

<i>renumber</i> as section 358(d)(viii) to (xii).	1
(2) Section 358(d)—	2
<i>insert</i> —	3
(vii) a PRCP schedule; or	4
188 Insertion of new ch 8, pt 2, div 1A	5
Chapter 8, part 2—	6
<i>insert</i> —	7
Division 1A PRC plans	8
431APRCP schedule required for particular environmentally relevant activities	9 10
The holder of an environmental authority issued for a site-specific application for mining activities relating to a mining lease must not carry out, or allow the carrying out of, an environmentally relevant activity under the authority unless there is a PRCP schedule for the activity.	11 12 13 14 15 16
Maximum penalty—4,500 penalty units.	17
431BContravention of condition of PRCP schedule	18
(1) This section applies to a person who is the holder of, or is acting under, a PRCP schedule.	19 20
(2) The person must not willfully contravene a condition of the PRCP schedule.	21 22
Maximum penalty—6,250 penalty units or 5 years imprisonment.	23 24
(3) The person must not contravene a condition of the PRCP schedule.	25 26
Maximum penalty—4,500 penalty units.	27
(4) In a proceeding for an offence against subsection	28

[s 188]

(2), if the court is not satisfied the defendant is 1
guilty of the offence charged but is satisfied the 2
defendant is guilty of an offence against 3
subsection (3), the court may find the defendant 4
guilty of the offence against subsection (3). 5

**431C Holder of PRCP schedule responsible for 6
ensuring conditions of PRCP schedule 7
complied with 8**

(1) The holder of a PRCP schedule must ensure 9
everyone acting under the schedule complies with 10
the conditions of the schedule. 11

(2) If another person acting under the schedule 12
commits an offence against section 431B, the 13
holder also commits an offence, namely, the 14
offence of failing to ensure the other person 15
complies with the conditions. 16

Maximum penalty—the penalty under section 17
431B(2) or (3) for the contravention of the 18
conditions. 19

(3) Evidence that the other person has been convicted 20
of an offence against section 431B(2) or (3) while 21
acting under the schedule is evidence that the 22
holder committed the offence of failing to ensure 23
the other person complies with the conditions of 24
the schedule. 25

(4) However, it is a defence for the holder to prove— 26

(a) the holder issued appropriate instructions 27
and used all reasonable precautions to 28
ensure compliance with the conditions of 29
the schedule; and 30

(b) the offence was committed without the 31
holder's knowledge; and 32

(c) the holder could not by the exercise of 33
reasonable diligence have stopped the 34
commission of the offence. 35

189	Amendment of s 452 (Entry of place—general)	1
	Section 452(1)(d) and (2)(a), after ‘authority’—	2
	<i>insert—</i>	3
	or PRCP schedule	4
190	Amendment of s 458 (Order to enter land to conduct investigation or conduct work)	5
	(1) Section 458(1)(a)(i), after ‘authority,’—	6
	<i>insert—</i>	7
	PRCP schedule,	8
	(2) Section 458(1)(a)(iii)(A)—	9
	<i>omit, insert—</i>	10
	(A) an accredited ERMP, environmental authority, PRCP schedule, transitional environmental program, site management plan or any conditions of the authority, schedule, program or plan; or	11
	(3) Section 458(2)(c)(ii)—	12
	<i>omit, insert—</i>	13
	(ii) the holder of the PRCP schedule; or	14
	(iii) the transitional environmental program approval holder; and	15
		16
191	Amendment of s 493A (When environmental harm or related acts are unlawful)	17
	Section 493A(2)(d), after ‘authority’—	18
	<i>insert—</i>	19
	or PRCP schedule	20
		21
		22
		23
		24
		25
		26

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192	Amendment of s 520 (Dissatisfied person)	1
(1)	Section 520(1)(c), after ‘authority’—	2
	<i>insert</i> —	3
	or proposed PRC plan accompanying the application	4 5
(2)	Section 520(1)(d)—	6
	<i>omit, insert</i> —	7
	(d) if the decision is about an environmental authority, including financial assurance for the environmental authority, or a PRCP schedule—the holder of the authority or schedule; or	8 9 10 11 12
(3)	Section 520(1)—	13
	<i>insert</i> —	14
	(fa) if the decision is about taking action after receiving an audit report for an audit of a PRCP schedule—the holder of the schedule; or	15 16 17 18
193	Replacement of s 522B (Stay of decision to issue environmental protection order)	19 20
	Section 522B—	21
	<i>omit, insert</i> —	22
	522B Stay of particular decisions if unacceptable risk of environmental harm	23 24
(1)	This section applies to an application under section 522 for a stay of a decision—	25 26
(a)	to ask the scheme manager for a payment of costs and expenses under section 316F; or	27 28
(b)	to make a claim on or realise an EPA assurance under section 316F; or	29 30

	(c) to issue an environmental protection order under section 358; or	1 2
	(2) The Land Court or the Court must refuse the application if satisfied there would be an unacceptable risk of serious or material environmental harm if the stay were granted.	3 4 5 6
	522 Effect of stay of ERC decision	7
	(1) This section applies if an ERC decision is stayed.	8
	(2) Despite the stay the decision remains in effect for section 297 and the <i>Mineral and Energy Resources (Financial Provisioning) Act 2017</i> .	9 10 11
	(3) However, if the holder of the environmental authority in relation to which the ERC decision has been made is required to give a surety under the <i>Mineral and Energy Resources (Financial Provisioning) Act 2017</i> , the holder is only required, during the period of the stay, to give a surety of 75% of the amount required.	12 13 14 15 16 17 18
194	Amendment of s 523 (Review decisions subject to Land Court appeal)	19 20
	Section 523, after ‘makes’—	21
	<i>insert</i> —	22
	a review decision for	23
195	Amendment of s 524 (Right of appeal)	24
	Section 524, after ‘with the’—	25
	<i>insert</i> —	26
	review	27

[s 196]

196	Amendment of s 525 (Appeal period)	1
	Section 525(1), ‘the decision’—	2
	<i>omit, insert</i> —	3
	the review decision	4
197	Insertion of new s 529	5
	After section 528—	6
	<i>insert</i> —	7
	529 Effect of stay on particular decisions	8
	If a review decision relating to an ERC decision is stayed, the decision remains in effect for section 297.	9 10 11
198	Amendment of s 530 (Decision for appeals)	12
	Section 530(1)(a), ‘the decision’—	13
	<i>omit, insert</i> —	14
	the review decision	15
199	Amendment of s 540 (Registers to be kept by administering authority)	16 17
	(1) Section 540(1)(a)—	18
	<i>omit, insert</i> —	19
	(a) for chapter 5, the following—	20
	(i) environmental authorities;	21
	(ii) surrendered environmental authorities;	22
	(iii) suspended or cancelled environmental authorities;	23 24
	(iv) PRC plans;	25
	(v) audit reports of PRCP schedules;	26

(vi) PRCP schedules that are no longer in effect because the environmental authority for carrying out activities on land to which the schedule relates has been cancelled or surrendered;	1 2 3 4 5
(vii) submitted plans of operations;	6
(viii) ERC decisions for environmental authorities;	7 8
(ix) annual returns required under section 316H(3)(b) and any evaluation required under section 316I or 316J.	9 10 11
(2) Section 540(1)(aa), after ‘environmental authority’— <i>insert</i> — or amendment of an environmental authority	12 13 14
(3) Section 540(1)— <i>insert</i> — (ab) application documents for a proposed PRC plan or an amendment of a PRCP schedule, including information requests and responses to information requests;	15 16 17 18 19 20
200 Insertion of new s 550	21
Chapter 12, part 1— <i>insert</i> —	22 23
550 Chief executive may make guidelines for particular matters under ch 5	24 25
(1) The chief executive may make guidelines to provide guidance to persons about matters relating to—	26 27 28
(a) the information required under section 126C(1)(j), 286(d), 298(2)(d), 308(3)(b) or 311(2)(d); or	29 30 31

[s 201]

(b) the methodology mentioned in section 298(2)(c).	1 2	
(2) The guidelines may be amended or replaced by a later guideline made under this section.	3 4	
201 Insertion of new ch 13, pt 27	5	
Chapter 13—	6	
<i>insert—</i>	7	
Part 27	Transitional provisions for Mineral and Energy Resources (Financial Provisioning) Act 2017	8 9 10 11
750 Definitions for part	12	
In this part—	13	
<i>amended Act</i> means this Act as in force after the commencement.	14 15	
<i>amending Act</i> means the <i>Mineral and Energy Resources (Financial Provisioning) Act 2017</i> .	16 17	
<i>mining EA applicant</i> means an applicant for a site-specific application for a mining activity relating to a mining lease, if the application was made under the pre-amended Act, chapter 5, part 2.	18 19 20 21 22	
<i>mining EA holder</i> means—	23	
(a) a person who, on the commencement, is the holder of an environmental authority for a mining activity relating to a mining lease, if a relevant activity for the authority is an ineligible ERA; or	24 25 26 27 28	
(b) a person who becomes the holder of an environmental authority for a mining	29 30	

[s 201]

activity authorised under a mining lease 1
after the commencement, if the holder was, 2
before the authority is issued, a mining EA 3
applicant for the authority. 4

pre-amended Act means this Act as in force 5
before the commencement. 6

**751 Existing applications for environmental 7
authority for mining activities relating to a 8
mining lease 9**

(1) This section applies to a mining EA applicant if, 10
on the commencement, the administering 11
authority has not issued the environmental 12
authority for the application. 13

(2) The pre-amended Act continues to apply in 14
relation to the application as if the amending Act 15
had not commenced. 16

(3) If, after the commencement, an environmental 17
authority is issued to the mining EA applicant for 18
the application, the amended Act applies in 19
relation to the environmental authority on and 20
from the day the authority is issued. 21

(4) However, section 431A does not apply in relation 22
to the environmental authority until the earlier of 23
the following days— 24

(a) the day the applicant fails to comply with a 25
notice given to the applicant under section 26
754; 27

(b) the day a PRCP schedule for the 28
environmental authority is approved. 29

**752 Existing plan of operations for petroleum 30
lease 31**

(1) This section applies to a plan of operations for an 32
environmental authority for petroleum activities 33

[s 201]

relating to a petroleum lease, if the plan was given 1
to the administering authority before the 2
commencement. 3

- (2) On the commencement, the plan of operations 4
continues as a plan of operations under section 5
291. 6

753 Existing plan of operations for mining lease 7

- (1) This section applies if— 8
- (a) before the commencement, a mining EA 9
holder gave a plan of operations to the 10
administering authority for a mining lease 11
under the pre-amended Act; and 12
 - (b) on the commencement, the plan period for 13
the plan under the pre-amended Act, section 14
288(1)(b) has not ended. 15
- (2) Despite the commencement of the amending Act, 16
the pre-amended Act continues to apply in 17
relation to the holder and plan of operations until 18
the earlier of the following days— 19
- (a) the day the plan period for the plan of 20
operations ends; 21
 - (b) the day a PRCP schedule is approved for the 22
holder’s mining lease. 23
- (3) If the plan of operations ends before the day a 24
PRCP schedule is approved for the holder’s 25
mining lease, section 431A does not apply to the 26
holder until the earlier of the following days— 27
- (a) the day the holder fails to give a proposed 28
PRC plan in compliance with a notice given 29
to the holder under section 754; 30
 - (b) the day a PRCP schedule is approved for the 31
holder. 32

-
- 754 Administering authority must give notice requiring holder to apply for PRC plan** 1
2
- (1) The administering authority must, within the 3
period stated in subsection (2), give each mining 4
EA holder a notice stating— 5
- (a) the holder must give the administering 6
authority a proposed PRC plan that 7
complies with sections 126C and 126D for 8
the relevant activities the subject of the 9
holder’s environmental authority; and 10
- (b) the day by which the holder must give the 11
proposed PRC plan. 12
- (2) The notice must be given— 13
- (a) for a mining EA holder whose 14
environmental authority is granted after the 15
commencement—within 3 years after the 16
authority is issued under section 195; or 17
- (b) otherwise—within 3 years after the 18
commencement. 19
- 755 Administering authority must assess proposed PRC plan** 20
21
- (1) The administering authority must assess a 22
proposed PRC plan given to the authority in 23
compliance with a notice given under section 754. 24
- (2) The assessment process under chapter 5, parts 2 to 25
5 of the amended Act apply in relation to the 26
proposed PRC plan as if the PRC plan 27
accompanied an application for an environmental 28
authority for a relevant activity made under 29
section 125(1)(n). 30
- (3) However, the administering authority may 31
exempt the proposed PRC plan from a 32
requirement under section 126C(1)(g) or (h) for 33
land if the administering authority considers the 34

[s 201]

- requirement has, before the commencement, been 1
adequately addressed for the land under— 2
- (a) the holder’s environmental authority; or 3
 - (b) a plan of operations given by the holder to 4
the administering authority; or 5
 - (c) a written agreement between the holder and 6
the administering authority. 7
- (4) Also, the notification stage under chapter 5, part 4 8
does not apply for the assessment process if— 9
- (a) either— 10
 - (i) the EIS process for an EIS for each 11
relevant activity the subject of the 12
proposed PRC plan has been 13
completed; or 14
 - (ii) a proposed post-mining land use for the 15
land the subject of the proposed PRC 16
plan is stated in the holder’s 17
environmental authority or plan of 18
operations; and 19
 - (b) since the EIS process was completed or 20
environmental authority was issued, a 21
post-mining land use or non-use 22
management area for the land has not 23
changed. 24
- (5) Also, the periods mentioned in sections 144(a)(ii), 25
168(1)(b) and 194(2)(a)(ii) or (b)(ii) apply to the 26
administering authority for the assessment 27
process. 28
- (6) In addition to the matters the administering 29
authority must consider in deciding whether to 30
approve the proposed PRC plan under section 31
194B, the authority must also have regard to— 32
- (a) the holder’s environmental authority for the 33
relevant activities the subject of the 34
proposed PRC plan; and 35

-
- (b) to the extent possible, the matters the administering authority would have had regard to if the proposed PRC plan had accompanied an application for the holder's environmental authority.

756 Administering authority may amend environmental authority

- (1) This section applies if the administering authority approves the PRCP schedule for a proposed PRC plan mentioned in section 755.
- (2) The authority may amend the holder's environmental authority for the relevant activities the subject of the schedule—
 - (a) to the extent necessary to remove matters relating to rehabilitation that are dealt with in the schedule; and
 - (b) to make any clerical or formal change resulting from the approval of the schedule.
- (3) If the administering authority amends the environmental authority under this section, the administering authority must—
 - (a) give the holder written notice of the amendment; and
 - (b) issue the amended environmental authority to the holder; and
 - (c) include a copy of the amended environmental authority in the relevant register.

757 Applications for decision about amount and form of financial assurance

- (1) This section applies in relation to a mining EA holder if—

[s 201]

- (a) before the commencement, the holder was required under a condition imposed on the authority under the pre-amended Act, section 292 to give a financial assurance; and
 - (b) on the commencement, the administering authority has not given the holder a notice about the decision under that section.
- (2) If, before the commencement, the holder applied under the pre-amended Act, section 294, for a decision about the amount and form of financial assurance, the pre-amended Act, chapter 5, part 12, division 2, subdivision 2 continues to apply in relation to the environmental authority as if the amending Act had not commenced.
- (3) If the holder had not, before the commencement, applied under the pre-amended Act, section 294, for a decision, the amended Act, section 297 applies in relation to the environmental authority on and from the commencement.

758 When existing condition requiring financial assurance ends

- (1) This section applies if—
- (a) before the commencement, the administering authority imposed a condition on an environmental authority for a resource activity under the pre-amended Act, section 292; and
 - (b) on the commencement, the environmental authority is in force.
- (2) On the day an ERC decision is, or is taken to have been, made for the environmental authority, the condition no longer has effect.
- (3) After the condition stops having effect for an

-
- environmental authority under subsection (2), the administering authority may— 1
2
- (a) amend the environmental authority to remove the condition; and 3
4
- (b) issue the amended environmental authority to the holder. 5
6

759 Claiming on or realising financial assurance started before the commencement 7
8

- (1) This section applies if— 9
- (a) before the commencement, the administering authority gave a written notice under the pre-amended Act, section 299 to an entity who gave a financial assurance; and 10
11
12
13
14
- (b) on the commencement, the administering authority has not decided whether to make a claim on or realise the financial assurance under the pre-amended Act, section 301. 15
16
17
18
- (2) If the financial assurance was given for an environmental authority for a prescribed ERA, the pre-amended Act, chapter 5, part 12, division 2, subdivision 3 continues to apply in relation to the financial assurance, as if the amending Act had not commenced. 19
20
21
22
23
24
- (3) If the financial assurance was given for a small scale mining activity or an environmental authority for a resource activity, the amended Act, chapter 5, part 14, division 3 applies in relation to the financial assurance as if— 25
26
27
28
29
- (a) the notice were a notice given under section 316D; and 30
31
- (b) a written representation about the notice given by the entity before the 32
33

[s 201]

commencement were a representation given	1
under section 316D; and	2
(c) the financial assurance were a scheme	3
assurance.	4
760 Existing applications to amend or discharge	5
financial assurance	6
(1) This section applies if—	7
(a) before the commencement, the holder of an	8
environmental authority applied to amend or	9
discharge a financial assurance under the	10
pre-amended Act, section 302; and	11
(b) on the commencement, the application has	12
not been decided.	13
(2) The pre-amended Act, chapter 5, part 12, division	14
2, subdivision 4 continues to apply in relation to	15
the financial assurance.	16
761 ERC decisions for environmental authorities	17
for resource activities	18
(1) This section applies in relation to an	19
environmental authority for a resource activity in	20
force on the commencement, if—	21
(a) before the commencement, a notice about	22
the amount and form of financial assurance	23
was given to the holder of the authority	24
under the pre-amended Act, section 296; or	25
(b) if section 757 applies to the environmental	26
authority—a notice about the amount and	27
form of financial assurance is given to the	28
holder of the authority for a resource	29
activity.	30
(2) On the relevant day for the environmental	31
authority, an ERC decision is taken to have been	32

-
- made for the resource activity under the amended Act, section 300. 1
2
- (3) For applying the amended Act, chapter 5, part 14— 3
4
- (a) the estimated rehabilitation cost under the ERC decision is taken to be the amount of the financial assurance for the environmental authority decided by the administering authority under the pre-amended Act, section 295; and 5
6
7
8
9
10
- (b) the ERC period for the ERC decision is taken to be the period starting on the relevant day for the environmental authority, and ending on— 11
12
13
14
- (i) if the resource activity relates to a mining lease or petroleum lease—the day the holder’s plan of operations, continued under section 752 or 753, ends; or 15
16
17
18
19
- (ii) if the resource activity relates to a 1923 Act petroleum tenure granted under the *Petroleum Act 1923*—the day that is 3 years after the relevant day; or 20
21
22
23
- (iii) otherwise—the day all resource activities carried out under the environmental authority have ended. 24
25
26
- (4) The administering authority must, as soon as practicable after the relevant day for the environmental authority, comply with section 301 in relation to the ERC decision. 27
28
29
30
- (5) The amended Act, section 297 applies in relation to the environmental authority on and from the relevant day for the authority. 31
32
33
- (6) In this section— 34
relevant day, for an environmental authority, 35

[s 201]

- means— 1
- (a) if, before the commencement, a notice was 2
given to the holder of the authority about the 3
amount and form of financial assurance 4
under the pre-amended Act, section 5
296—the commencement; or 6
- (b) if section 757 applies to the environmental 7
authority—the day a notice of a decision 8
about the amount and form of financial 9
assurance is given to the holder of the 10
authority. 11

762 Application of s 21A of amended Act 12

- (1) This section applies to a small scale mining 13
activity being carried out on the commencement, 14
other than an activity carried out under a 15
prospecting permit. 16
- (2) On the commencement, the prescribed condition 17
mentioned in the amended Act, section 21A(2) 18
applies in relation to carrying out the activity. 19

763 Transfer of funds 20

- On the commencement, the administering 21
authority must— 22
- (a) transfer all EPA assurances for resource 23
activities given in cash and held by the 24
authority to the scheme manager; and 25
- (b) take all necessary steps to transfer any 26
instruments or other forms of financial 27
assurance to the scheme manager. 28

764 Transitional regulation-making power 29

- (1) A regulation (a *transitional regulation*) may 30
make provision of a saving or transitional nature 31

	about any matter—	1
	(a) for which it is necessary to make provision to allow or to facilitate the doing of anything to achieve the transition from the pre-amended Act to the amended Act; and	2 3 4 5
	(b) for which this Act does not provide or sufficiently provide.	6 7
	(2) A transitional regulation may have retrospective operation to a day that is not earlier than the commencement.	8 9 10
	(3) A transitional regulation must declare it is a transitional regulation.	11 12
	(4) This part and any transitional regulation expire 2 years after the commencement.	13 14
202	Amendment of sch 2 (Original decisions)	15
	(1) Schedule 2, part 1, division 3, entries for sections 295(1), 301(1), 305(1) and 306(1)— <i>omit.</i>	16 17 18
	(2) Schedule 2, part 1, division 3— <i>insert—</i>	19 20
275A	decision to amend PRCP schedule for partial surrender of environmental authority	
300	ERC decision for a resource activity	
316F	decision to make a claim on or realise an EPA assurance or ask for a payment under the <i>Mineral and Energy Resources (Financial Provisioning) Act 2017</i>	
318ZJA	decision to amend PRCP schedule for certified rehabilitated area	

<i>omit, insert—</i>	1
313(1)	2
(11) Schedule 2, part 2, division 2, entry for section 306(1), '306(1)'—	3 4
<i>omit, insert—</i>	5
314(1)	6
(12) Schedule 2, part 2, division 2, entry for section 311, '311'—	7
<i>omit, insert—</i>	8
316L	9
(13) Schedule 2, part 2, division 2, entry for section 314(2), '314(2)'—	10 11
<i>omit, insert—</i>	12
316O(2)	13
203 Amendment of sch 4 (Dictionary)	14
(1) Schedule 4, definitions <i>annual notice, conditions, financial assurance, on-site mitigation measure, plan of operations, relevant lease and statement of compliance—</i>	15 16 17
<i>omit.</i>	18
(2) Schedule 4—	19
<i>insert—</i>	20
<i>audit period</i> , for a PRCP schedule, see section 285(1).	21 22
<i>audit report</i> , for a PRCP schedule, see section 285(2)(a).	23 24
<i>conditions</i> , for an environmental authority or PRCP schedule, includes a condition of the authority or schedule that has ended or ceased to have effect, if the condition imposed an obligation that continues to apply after the authority or schedule has ended or ceased to have effect.	25 26 27 28 29 30

[s 203]

<i>environmental record</i> , of a holder of an environmental authority, means the holder's record of complying with a law of the Commonwealth or the State about the protection of the environment or the conservation and sustainable use of natural resources.	1 2 3 4 5 6
<i>EPA assurance</i> see section 316.	7
<i>ERC decision</i> see section 296.	8
<i>ERC period</i> see section 296.	9
<i>estimated rehabilitation cost</i> , for chapter 5, part 14, see section 300(1).	10 11
<i>financial assurance</i> , for an environmental authority for a prescribed ERA, means a financial assurance given for the authority under chapter 5, part 14, division 2.	12 13 14 15
<i>financial assurance guideline</i> means a guideline made by the chief executive under section 550(1)(a) about information mentioned in section 308(3)(b) or 311(2)(d).	16 17 18 19
<i>management milestone</i> , for chapter 5, see section 112.	20 21
<i>minor amendment (PRCP threshold)</i> , for a PRCP schedule, see section 223.	22 23
<i>minor amendment (threshold)</i> , for an environmental authority, see section 223.	24 25
<i>new day</i> , for the anniversary day for an environmental authority, see section 316K(1).	26 27
<i>non-use management area</i> , for chapter 5, see section 112.	28 29
<i>plan of operations</i> see section 289.	30
<i>plan period</i> , for a plan of operations, see section 292(1)(c).	31 32
<i>post-mining land use</i> see section 112.	33

<i>PRC plan</i> see section 112.	1
<i>PRCP schedule</i> see section 112.	2
<i>rehabilitation auditor</i> , for chapter 5, part 12, division 2, means a person who meets the requirements mentioned in section 288(1).	3 4 5
<i>rehabilitation milestone</i> see section 112.	6
<i>rehabilitation planning part</i> , of a PRC plan, see section 126C(2).	7 8
<i>scheme assurance</i> , for chapter 5, part 14, division 3, see section 316.	9 10
<i>scheme fund</i> means the scheme fund established under the <i>Mineral and Energy Resources (Financial Provisioning) Act 2017</i> , section 24.	11 12 13
<i>scheme manager</i> means the scheme manager under the <i>Mineral and Energy Resources (Financial Provisioning) Act 2017</i> .	14 15 16
<i>stable condition</i> see section 111A.	17
<i>statement of compliance</i> —	18
(a) for an environmental authority or draft environmental authority—see section 207(1)(b); or	19 20 21
(b) for a PRCP schedule or proposed PRCP schedule—see section 206A(3).	22 23
(3) Schedule 4, definitions <i>amendment application</i> , <i>major amendment</i> , <i>minor amendment</i> , <i>objector</i> and <i>proposed amendment</i> , after ‘authority’—	24 25 26
<i>insert</i> —	27
or PRCP schedule	28
(4) Schedule 4, definition <i>anniversary day</i> , item 2, ‘part 12, division 3, subdivision 2’—	29 30
<i>omit, insert</i> —	31
part 15, division 3	32

[s 203]

- (5) Schedule 4, definition *application documents*, after
‘authority’— 1
2
insert— 3
 , including a proposed PRC plan 4
- (6) Schedule 4, definition *assessment process*, after
‘application’— 5
6
insert— 7
 , and assessing and approving a proposed PRC
 plan, 8
9
- (7) Schedule 4, definition *environmental authority*, paragraph
(b)— 10
11
omit, insert— 12
 (b) for chapter 5, part 14, division 3, see section
 316. 13
14
- (8) Schedule 4, definition *environmental offence*, paragraph (a),
second dot point, ‘291(3)’— 15
16
omit, insert— 17
 295(3) 18
- (9) Schedule 4, definition *environmental requirement*, paragraph
(e)— 19
20
omit, insert— 21
 (e) a PRCP schedule; or 22
 (f) a condition of an environmental authority or
 PRCP schedule that has ended or ceased to
 have effect, if the condition— 23
24
25
 (i) continues to apply after the authority or
 schedule has ended or ceased to have
 effect; and 26
27
28
 (ii) has not been complied with. 29
- Note*— 30
 See section 207(3) and definition *conditions*. 31

-
- (10) Schedule 4, definition *holder*, item 3, after ‘authority’— 1
insert— 2
or PRC plan 3
- (11) Schedule 4, definition *holder*, item 4A— 4
omit, insert— 5
4A However, if a resource tenure for which a 6
holder has an environmental authority or 7
PRCP schedule ends, the person who was 8
the holder of the tenure under resource 9
legislation immediately before it ended 10
continues to be the holder of the 11
environmental authority or PRCP schedule. 12
- (12) Schedule 4, definition *ineligible ERA*, ‘, for chapter 5,’— 13
omit. 14
- (13) Schedule 4, definition *regulatory requirement*, paragraph 15
(a)(ii)— 16
omit, insert— 17
(ii) approve a proposed PRC plan 18
accompanying an application for an 19
environmental authority; or 20
(iii) impose or amend a condition of an 21
environmental authority, PRCP schedule or 22
approval of a transitional environmental 23
program; or 24
- (14) Schedule 4, definition *relevant activity*, paragraph (c)— 25
omit, insert— 26
(c) for a proposed PRC plan or PRC plan, 27
means the relevant activities to be carried 28
out on land the subject of the plan; or 29
(d) in relation to a company, for chapter 7, part 30
5, division 2, see section 363AA. 31
- (15) Schedule 4, definition *relevant mining activity*— 32
-

[s 203]

- insert—* 1
- (c) a proposed PRC plan or PRC plan—means 2
the mining activity to be carried out on land 3
the subject of the plan. 4
- (16) Schedule 4, definition *relevant mining lease*, ‘or an 5
application for an environmental authority’— 6
- omit, insert—* 7
- , an application for an environmental authority, a 8
proposed PRC plan or PRC plan 9
- (17) Schedule 4, definition *relevant mining tenure*, ‘or an 10
application for an environmental authority’— 11
- omit, insert—* 12
- , an application for an environmental authority, a 13
proposed PRC plan or PRC plan 14
- (18) Schedule 4, definition *relevant resource activity*— 15
- insert—* 16
- (c) a proposed PRC plan or PRC plan— means 17
the relevant activities to be carried out on 18
land the subject of the plan. 19
- (19) Schedule 4, definition *relevant tenure*, ‘or an application’— 20
- omit, insert—* 21
- , an application for an environmental authority, a 22
proposed PRC plan or PRC plan 23
- (20) Schedule 4, definition *submitter*, paragraph (a)— 24
- omit, insert—* 25
- (a) for an application or proposed PRC plan, 26
means an entity who makes a properly made 27
submission about the application or plan; or 28

Division 3	Amendment of Mineral and Energy Resources (Common Provisions) Act 2014	1
		2
		3
204	Act amended	4
	This division amends the <i>Mineral and Energy Resources (Common Provisions) Act 2014</i> .	5
		6
205	Insertion of new s 20A	7
	Chapter 2, part 1—	8
	<i>insert—</i>	9
	20A Failure to pay contribution to scheme fund or give surety prevents registration of prescribed dealing	10
		11
		12
	(1) This section applies if—	13
	(a) the Minister approves a prescribed dealing that is any of the following—	14
		15
	(i) a transfer of a resource authority that authorises the carrying out of a resource activity for an environmental authority mentioned in the <i>Mineral and Energy Resources (Financial Provisioning) Act 2017</i> , section 32(1)(c)(i) or 33(1)(c)(i);	16
		17
		18
		19
		20
		21
		22
	(ii) a transfer of a resource authority that authorises the carrying out of a resource activity for an environmental authority mentioned in the <i>Mineral and Energy Resources (Financial Provisioning) Act 2017</i> , section 53(d);	23
		24
		25
		26
		27
		28
	(iii) a transfer of a small scale mining tenure mentioned in the <i>Mineral and Energy Resources (Financial</i>	29
	<i>Provisioning) Act 2017</i> , section 53(d);	30
		31

[s 206]

	<i>Provisioning) Act 2017</i> , section 53(e);	1
	and	2
	(b) a contribution to the scheme fund is required	3
	to be paid, or a surety required to be given,	4
	for the environmental authority or small	5
	scale mining tenure, under the <i>Mineral and</i>	6
	<i>Energy Resources (Financial Provisioning)</i>	7
	<i>Act 2017</i> .	8
	(2) The prescribed dealing must not be registered	9
	unless the entity that will be the holder of the	10
	resource authority, or small scale mining tenure,	11
	on registration of the prescribed dealing has paid	12
	the contribution to the scheme fund, or given the	13
	surety, under the <i>Mineral and Energy Resources</i>	14
	<i>(Financial Provisioning) Act 2017</i> .	15
Division 4	Amendment of Mineral Resources	16
	Act 1989	17
206	Act amended	18
	This division amends the <i>Mineral Resources Act 1989</i> .	19
207	Amendment of s 123 (Property remaining on former	20
	mining claim may be sold etc.)	21
	Section 123(3)(c)—	22
	<i>omit, insert—</i>	23
	(c) costs and expenses mentioned in the	24
	Environmental Protection Act, section	25
	316B;	26
208	Amendment of s 230 (Plant remaining on former mineral	27
	development licence may be sold etc.)	28
	Section 230(3)(c)—	29

<i>omit, insert—</i>	1
(c) costs and expenses mentioned in the Environmental Protection Act, section 316B;	2 3 4
209 Amendment of s 298 (Mining other minerals or use for other purposes)	5 6
Section 298(10), note, from ‘chapter 5’—	7
<i>omit, insert—</i>	8
chapter 5, part 13.	9
210 Amendment of s 314 (Property remaining on former mining lease may be sold)	10 11
Section 314(3)(c)—	12
<i>omit, insert—</i>	13
(c) costs and expenses mentioned in the Environmental Protection Act, section 316B;	14 15 16
211 Amendment of s 344 (Definitions for pt 4)	17
(1) Section 344—	18
<i>insert—</i>	19
<i>PRCP schedule</i> see the <i>Environmental Protection Act 1994</i> , section 112.	20 21
(2) Section 344, definition <i>final rehabilitation site</i> , paragraph (b), after ‘authority’—	22 23
<i>insert—</i>	24
or PRCP schedule	25

[s 212]

212	Amendment of s 344A (Authorised person to carry out rehabilitation activities)	1 2
	Section 344A(3), after ‘an environmental authority’—	3
	<i>insert—</i>	4
	or PRCP schedule	5
213	Amendment of sch 2 (Dictionary)	6
	Schedule 2—	7
	<i>insert—</i>	8
	PRCP schedule , for chapter 13, part 4, see section 344.	9 10
Division 5	Amendment of Right to Information Act 2009	11 12
214	Act amended	13
	This division amends the <i>Right to Information Act 2009</i> .	14
215	Amendment of sch 1 (Documents to which this Act does not apply)	15 16
	Schedule 1—	17
	<i>insert—</i>	18
	17 Documents under Mineral and Energy Resources (Financial Provisioning) Act 2017	19 20
	A document created, or received, by the scheme manager under the <i>Mineral and Energy Resources (Financial Provisioning) Act 2017</i> , part 3.	21 22 23 24

216	Amendment of sch 2 (Entities to which this Act does not apply)	1
		2
	Schedule 2, part 2—	3
	<i>insert—</i>	4
	23 the scheme manager under the <i>Mineral and Energy Resources (Financial Provisioning) Act 2017</i> in relation to the scheme manager’s functions	5
		6
		7
		8

Schedule 1	Dictionary	1
	section 7	2
<i>abandoned mine</i>	see the <i>Mineral Resources Act 1989</i> , section 344.	3 4
<i>abandoned operating plant</i>	see the <i>Petroleum and Gas (Production and Safety) Act 2004</i> , section 799F.	5 6
<i>acting scheme manager</i>	means an acting scheme manager appointed under section 16.	7 8
<i>administering authority</i>	, for an authority or small scale mining tenure, means the chief executive (environment).	9 10
<i>administration fee</i>	means the administration fee prescribed by regulation under section 61.	11 12
<i>advisory committee</i>	means the advisory committee established under section 83.	13 14
<i>allocation decision</i>	, for an authority, means any of the following for the authority—	15 16
(a)	an initial allocation decision;	17
(b)	a changed holder review decision;	18
(c)	an annual review decision.	19
<i>annual review allocation</i>	see section 38(2)(b)(i).	20
<i>annual review day</i>	, for an authority, see section 41(a).	21
<i>annual review decision</i>	, for an authority, means a decision under section 38 in relation to the authority.	22 23
<i>approved form</i>	means a form approved under section 86.	24
<i>assessment fee</i>	, for a decision of the scheme manager, means the assessment fee for the decision prescribed by regulation under section 60.	25 26 27
<i>authority</i>	see section 8.	28
<i>cash surety account</i>	see section 25(1).	29

<i>changed holder review allocation</i> see section 32(2)(b)(i).	1
<i>changed holder review day</i> , for an authority, see section 36(a).	2 3
<i>changed holder review decision</i> , for an authority, means a decision under section 32 in relation to the authority.	4 5
<i>chief executive (environment)</i> means the chief executive of the department in which the <i>Environmental Protection Act 1994</i> is administered.	6 7 8
<i>chief executive (mineral resources)</i> means the chief executive of the department in which the <i>Mineral Resources Act 1989</i> is administered.	9 10 11
<i>chief executive (petroleum)</i> means the chief executive of the department in which the <i>Petroleum and Gas (Production and Safety) Act 2004</i> is administered.	12 13 14
<i>chief executive (resources)</i> means the chief executive of the department in which the <i>Mineral and Energy Resources (Common Provisions) Act 2014</i> is administered.	15 16 17
<i>confidential information</i> , for part 5, see section 79.	18
<i>contribution</i> means a contribution under part 3, division 2, subdivision 1 to the scheme fund.	19 20
<i>control</i> has the meaning given by the Corporations Act, section 50AA.	21 22
<i>departmental accounts</i> , of the department, means the accounts of the department under the <i>Financial Accountability Act 2009</i> , section 69.	23 24 25
<i>disclose</i> , for part 5, see section 79.	26
<i>environmental authority</i> , for a resource activity, means an environmental authority for the resource activity under the <i>Environmental Protection Act 1994</i> .	27 28 29
<i>ERC period</i> see the <i>Environmental Protection Act 1994</i> , section 296.	30 31
<i>estimated rehabilitation cost</i> , for an authority, see section 8.	32
<i>fund threshold</i> see section 11(1).	33

<i>holder</i> , of an authority or small scale mining tenure, means the holder of the authority or tenure within the meaning of the <i>Environmental Protection Act 1994</i> .	1 2 3
<i>indicative annual review allocation</i> see section 39(1)(a).	4
<i>indicative changed holder allocation</i> see section 34(1)(a).	5
<i>indicative risk category allocation</i> see section 28(1)(a).	6
<i>information</i> , for part 5, see section 79.	7
<i>initial allocation day</i> , for an authority, see section 31(a).	8
<i>initial allocation decision</i> , for an authority, means a decision under section 27 in relation to an authority.	9 10
<i>initial risk category allocation</i> see section 27(1).	11
<i>interested entity</i> , for an authority, see section 34(1).	12
<i>notice</i> means written notice.	13
<i>notice of indicative decision</i> —	14
(a) for part 3, division 1, subdivision 1—see section 28(1); or	15 16
(b) for part 3, division 1, subdivision 2—see section 34(1); or	17 18
(c) for part 3, division 1, subdivision 3—see section 39(1).	19
<i>parent corporation</i> , of a holder, means—	20
(a) a corporation that controls the holder under the Corporations Act, section 50AA; or	21 22
(b) a corporation of which the holder is a subsidiary under the Corporations Act, section 46.	23 24
<i>prescribed ERC amount</i> see section 26(1)(b).	25
<i>prescribed percentage</i> , for an authority, means the percentage prescribed by regulation for the authority.	26 27
<i>rehabilitation activities</i> see the <i>Mineral Resources Act 1989</i> , section 344A.	28 29
<i>relevant holder</i> , for an authority—	30
(a) generally—see section 27(4)(b); or	31

(b) if the scheme manager has changed the relevant holder under section 32 or 38—the relevant holder as changed under section 32 or 38.	1 2 3
remediation activities see the <i>Petroleum and Gas (Production and Safety) Act 2004</i> , section 799G.	4 5
requesting entity —	6
(a) for part 3, division 3, subdivision 1—see section 63; or	7
(b) for part 3, division 3, subdivision 2—see section 66.	8
resource activity see the <i>Environmental Protection Act 1994</i> , section 107.	9 10
resource authority see the <i>Mineral and Energy Resources (Common Provisions) Act 2014</i> , section 10.	11 12
risk category means a category mentioned in section 27(1).	13
scheme see section 4(a).	14
scheme fund see section 24(1).	15
scheme manager means the scheme manager appointed under section 12.	16 17
scheme manager guidelines means the guidelines made by the scheme manager under section 70 and in effect.	18 19
small scale mining tenure see the <i>Environmental Protection Act 1994</i> , section 21A(2).	20 21
surety means a surety under part 3, division 2, subdivision 2.	22
total estimated rehabilitation cost —	23
(a) for an entity, see section 9; or	24
(b) for the State, see section 10.	25
Treasurer means the Minister administering the <i>Financial Accountability Act 2009</i> .	26 27