



Queensland

Land, Explosives and Other Legislation Amendment Bill 2017



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2017

A Bill

for

An Act to amend the *Aboriginal Land Act 1991*, the *Cape York Peninsula Heritage Act 2007*, the *Explosives Act 1999*, the *Explosives Regulation 2017*, the *Foreign Ownership of Land Register Act 1988*, the *Land Act 1994*, the *Land Regulation 2009*, the *Land Title Act 1994*, the *Mineral and Energy Resources (Common Provisions) Act 2014*, the *Mineral Resources Act 1989*, the *Petroleum and Gas (Production and Safety) Act 2004*, the *State Penalties Enforcement Regulation 2014*, the *Torres Strait Islander Land Act 1991* and the legislation mentioned in schedule 1 for particular purposes

[s 1]

The Parliament of Queensland enacts— 1

Part 1 Preliminary 2

Clause 1 Short title 3

This Act may be cited as the *Land, Explosives and Other
Legislation Amendment Act 2017*. 4
5

Clause 2 Commencement 6

(1) Part 6 commences on 1 July 2018. 7

(2) The following provisions commence on 1 January 2019— 8

(a) part 9, division 3; 9

(b) schedule 1, part 2. 10

(3) The following provisions commence on a day to be fixed by
proclamation— 11
12

(a) parts 4 and 5; 13

(b) part 12, division 3; 14

(c) schedule 1, part 3. 15

**Part 2 Amendment of Aboriginal Land
Act 1991** 16
17

Clause 3 Act amended 18

This part amends the *Aboriginal Land Act 1991*. 19

Note— 20

See also the amendments in schedule 1, part 1. 21

Clause 4	Amendment of s 10 (Lands that are transferable lands)	1
	Section 10(1)(h)—	2
	<i>omit.</i>	3
Clause 5	Amendment of s 32B (Definitions for pt 2A)	4
	Section 32B, definition <i>interest holder</i> , paragraph (d), 'registered lease'—	5 6
	<i>omit, insert—</i>	7
	registered sublease	8
Clause 6	Amendment of s 32R (Dwelling on available land)	9
	(1) Section 32R(5)—	10
	<i>omit, insert—</i>	11
	(5) If the dwelling notice states the housing chief executive consents to the applicant making the application, the trustee must decide the price of the dwelling—	12 13 14 15
	(a) by agreement with the housing chief executive; or	16 17
	(b) by using a methodology agreed between the trustee and the housing chief executive.	18 19
	(2) Section 32R(6), 'valuation'—	20
	<i>omit.</i>	21
Clause 7	Amendment of s 32T (Offer to allocate available land)	22
	Section 32T(3), 'value'—	23
	<i>omit, insert—</i>	24
	price	25

[s 8]

Clause 8	Amendment of s 40 (Appointment of grantee to hold land for benefit of Aboriginal people)	1 2
	Section 40(3)—	3
	<i>omit, insert—</i>	4
	(3) However, the Minister may appoint a CATSI corporation that is a registered native title body corporate as the grantee of the land under subsection (2) only if—	5 6 7 8
	(a) under the Commonwealth Native Title Act, a determination has been made that native title exists in relation to all or a part of the land and the CATSI corporation is the registered native title body corporate for the determination; or	9 10 11 12 13 14
	(b) a determination has not been made under the Commonwealth Native Title Act that native title exists in relation to all or a part of the land, but the Minister is satisfied it is appropriate in all the circumstances to appoint the CATSI corporation as the grantee of the land.	15 16 17 18 19 20 21
	<i>Examples of when it is appropriate to appoint the CATSI corporation as the grantee of the land—</i>	22 23
	1 The appointment of the CATSI corporation is supported by consultation with Aboriginal people particularly concerned with the land.	24 25 26
	2 The land is within the external boundaries of an area of land the subject of a native title determination and the CATSI corporation is the registered native title body corporate for the determination.	27 28 29 30 31
	3 An ILUA has been entered into for the land and the CATSI corporation is nominated in the ILUA as the proposed grantee for the land under this Act.	32 33 34 35
	4 Anthropological research supports the CATSI corporation as being the appropriate grantee.	36 37

Clause 9	Amendment of s 93 (Transfer to entity to hold for benefit of Aboriginal people)	1 2
	Section 93(3)(a) and (b)—	3
	<i>omit, insert—</i>	4
	(a) under the Commonwealth Native Title Act, a determination has been made that native title exists in relation to all or a part of the land and the CATSI corporation is the registered native title body corporate for the determination; or	5 6 7 8 9 10
	(b) a determination has not been made under the Commonwealth Native Title Act that native title exists in relation to all or a part of the land, but the Minister is satisfied it is appropriate in all the circumstances for the land to be transferred to the CATSI corporation.	11 12 13 14 15 16 17
	<i>Examples of when it is appropriate for the land to be transferred to the CATSI corporation—</i>	18 19
	1 The transfer to the CATSI corporation is supported by consultation with Aboriginal people particularly concerned with the land.	20 21 22
	2 The land is within the external boundaries of an area of land the subject of a native title determination and the CATSI corporation is the registered native title body corporate for the determination.	23 24 25 26 27
	3 An ILUA has been entered into for the land and the CATSI corporation is nominated in the ILUA as the proposed transferee for the land under this Act.	28 29 30 31
	4 Anthropological research supports the CATSI corporation as being the appropriate transferee.	32 33 34
Clause 10	Amendment of s 104 (Transfer of Aboriginal land)	35
	(1) Section 104(2)—	36

[s 11]

omit. 1

(2) Section 104(3)— 2

renumber as section 104(2). 3

Clause 11 Amendment of s 105 (Application for approval to transfer) 4

(1) Section 105(2)(b), ‘section 106(1)(a), (b) or (c)’— 5

omit, insert— 6

section 106(1)(a) or (b) 7

(2) Section 105(2)(c), ‘the matters mentioned in section 106(1)(c)’— 8
9

omit, insert— 10

each matter mentioned in section 106(1)(c) or (d) 11

that applies to the transfer 12

Clause 12 Amendment of s 106 (Minister’s approval to transfer) 13

(1) Section 106(1)— 14

insert— 15

(ca) if the transferee is a CATSI corporation that 16
is a registered native title body corporate— 17

(i) under the Commonwealth Native Title 18
Act, a determination has been made 19
that native title exists in relation to all 20
or a part of the land and the CATSI 21
corporation is the registered native title 22
body corporate for the determination; 23
or 24

(ii) a determination has not been made 25
under the Commonwealth Native Title 26
Act that native title exists in relation to 27
all or a part of the land, but it is 28
appropriate in all the circumstances for 29

the land to be transferred to the CATSI corporation; and	1 2
<i>Examples of when it is appropriate for the land to be transferred to the CATSI corporation—</i>	3 4
1 The transfer to the CATSI corporation is supported by consultation with Aboriginal people particularly concerned with the land.	5 6 7 8
2 The land is within the external boundaries of an area of land the subject of a native title determination and the CATSI corporation is the registered native title body corporate for the determination.	9 10 11 12 13 14
3 An ILUA has been entered into for the land and the CATSI corporation is nominated in the ILUA as the proposed transferee for the land under this Act.	15 16 17 18
4 Anthropological research supports the CATSI corporation as being the appropriate transferee.	19 20 21
(2) Section 106(1)(ca) and (d)— <i>renumber</i> as section 106(1)(d) and (e).	22 23
(3) Section 106(3), ‘section 104(3)(d)(i)’— <i>omit, insert—</i> section 104(2)(d)(i)	24 25 26
Clause 13 Amendment of s 109 (Transfer of Aboriginal land)	27
(1) Section 109(2)— <i>omit.</i>	28 29
(2) Section 109(3)— <i>renumber</i> as section 109(2).	30 31

[s 14]

Clause 14	Amendment of s 111 (Minister's approval to transfer)	1
	(1) Section 111(1)—	2
	<i>insert—</i>	3
	(ba) if the transferee is a CATSI corporation that is a registered native title body corporate—	4 5
	(i) under the Commonwealth Native Title Act, a determination has been made that native title exists in relation to all or a part of the land and the CATSI corporation is the registered native title body corporate for the determination; or	6 7 8 9 10 11 12
	(ii) a determination has not been made under the Commonwealth Native Title Act that native title exists in relation to all or a part of the land, but it is appropriate in all the circumstances for the land to be transferred to the CATSI corporation; and	13 14 15 16 17 18 19
	<i>Examples of when it is appropriate for the land to be transferred to the CATSI corporation—</i>	20 21
	1 The transfer to the CATSI corporation is supported by consultation with Aboriginal people particularly concerned with the land.	22 23 24 25
	2 The land is within the external boundaries of an area of land the subject of a native title determination and the CATSI corporation is the registered native title body corporate for the determination.	26 27 28 29 30 31
	3 An ILUA has been entered into for the land and the CATSI corporation is nominated in the ILUA as the proposed transferee for the land under this Act.	32 33 34 35
	4 Anthropological research supports the CATSI corporation as being the appropriate transferee.	36 37 38

-
- (2) Section 111(1)(ba) and (c)— 1
renumber as section 111(1)(c) and (d). 2

Clause 15 Amendment of s 128 (Additional conditions and requirements for social housing dwelling) 3
4

- (1) Section 128(2)— 5
omit, insert— 6
- (2) Before the lease is granted, the lessor must decide 7
the price of the dwelling— 8
- (a) by agreement with the housing chief 9
executive; or 10
- (b) by using a methodology agreed between the 11
lessor and the housing chief executive. 12
- (2) Section 128(3), (4)(b) and (6), note, ‘value’— 13
omit, insert— 14
price 15

Clause 16 Amendment of s 288 (Dealing with particular trust property) 16
17

- Section 288(1) and (3), ‘value’— 18
omit, insert— 19
price 20

Clause 17 Amendment of sch 1 (Dictionary) 21

- (1) Schedule 1— 22
insert— 23
- native title determination*, in relation to land, 24
means a determination under the Commonwealth 25
Native Title Act that native title exists in relation 26
to all or a part of the land. 27

[s 18]

- (2) Schedule 1, definition *social housing*, paragraph (b), ‘the value of’— 1
2
omit. 3

Part 3 **Amendment of Cape York Peninsula Heritage Act 2007** 4
5

- Clause 18** **Act amended** 6
This part amends the *Cape York Peninsula Heritage Act 2007*. 7

- Clause 19** **Insertion of new s 27A** 8
After section 27— 9
insert— 10
- 27A Prohibition on, and dealing with applications for, grant of mining interest in relation to particular land** 11
12
13
- (1) This section applies in relation to the following land (the *protected land*)— 14
15
- (a) lot 3 on SP189937; 16
(b) lots 4, 18 and 20 on SP189951; 17
(c) lot 153 on SP288864. 18
- (2) A mining interest may not be granted in relation to the protected land. 19
20
- (3) A person may not apply for the grant of a mining interest in relation to the protected land. 21
22
- (4) If an application for the grant of a mining interest in relation to the protected land was made, but not decided, before the commencement, the application— 23
24
25
26
- (a) is taken to have been withdrawn by the applicant on the commencement; and 27
28

-
- (b) can not be further dealt with. 1
- (5) This section applies despite the provisions of any 2
other Act. 3
- (6) In this section— 4
- grant*, of a mining interest, includes the renewal 5
of a mining interest. 6
- mineral* see the *Mineral Resources Act 1989*, 7
section 6. 8
- mining interest* means a lease, licence, permit, 9
claim or other authority under any of the 10
following— 11
- (a) the *Geothermal Energy Act 2010*; 12
- (b) the *Greenhouse Gas Storage Act 2009*; 13
- (c) the *Mineral Resources Act 1989*; 14
- (d) the *Petroleum Act 1923*; 15
- (e) the *Petroleum and Gas (Production and 16
Safety) Act 2004*; 17
- (f) another Act relating to mining for minerals, 18
petroleum or natural gas. 19
- natural gas* see the *Petroleum Act 1923*, section 20
2. 21
- petroleum* see the *Petroleum and Gas 22
(Production and Safety) Act 2004*, section 10. 23

Part 4 Amendment of Explosives Act 24 1999 25

Clause 20	Act amended	26
	This part amends the <i>Explosives Act 1999</i> .	27
	<i>Note—</i>	28
	See also the amendments in schedule 1, part 3.	29

[s 21]

Clause 21	Replacement of long title	1
	Long title—	2
	<i>omit, insert—</i>	3
	An Act to regulate the handling of and access to explosives, and for other purposes	4
		5
Clause 22	Insertion of new s 2A	6
	After section 2—	7
	<i>insert—</i>	8
	2A Purpose of Act	9
	(1) The purpose of this Act is to regulate the handling of, and access to, explosives to protect public health and safety, property and the environment.	10 11 12
	(2) The purpose is achieved primarily by—	13
	(a) enabling explosives to be declared as authorised explosives or prohibited explosives; and	14 15 16
	(b) requiring an authority for the handling of explosives; and	17 18
	(c) ensuring that persons who hold an authority in relation to a security sensitive explosive also hold a security clearance; and	19 20 21
	(d) ensuring explosives are accessed only by persons—	22 23
	(i) who hold a security clearance; or	24
	(ii) who are under the direct supervision of a person who holds a security clearance; and	25 26 27
	(e) imposing a duty of care and other obligations on persons who handle explosives; and	28 29 30

	(f) enabling investigations and inquiries to be carried out for explosives incidents.	1 2
Clause 23	Amendment of pt 3, hdg (Authorities)	3
	Part 3, heading, after ‘Authorities’—	4
	<i>insert—</i>	5
	and security clearances	6
Clause 24	Insertion of new pt 3, div 1AA	7
	Part 3, before division 1—	8
	<i>insert—</i>	9
	Division 1AA Security clearances	10
	Subdivision 1 Applications for security clearances	11 12
	12A Making applications for security clearances	13
	(1) An individual may apply to the chief inspector for a security clearance.	14 15
	(2) The application must—	16
	(a) be in the approved form; and	17
	(b) be accompanied by the fee prescribed by regulation; and	18 19
	(c) include or be accompanied by the information prescribed by regulation.	20 21
	12B Criteria for deciding applications	22
	(1) The chief inspector may decide to give a security clearance to the applicant only if satisfied the applicant is a suitable person to hold the security	23 24 25

[s 24]

- clearance. 1
- (2) In deciding whether the applicant is a suitable person to hold the security clearance, the chief inspector— 2
- (a) must consider— 5
- (i) the applicant’s criminal history; and 6
- (ii) whether the applicant has, at any time, been named as the respondent in a domestic violence order or police protection notice; and 7
8
9
10
- (iii) whether release conditions have, at any time, been imposed on the applicant under the *Domestic and Family Violence Protection Act 2012*, section 125; and 11
12
13
14
15
- (b) may consider— 16
- (i) the applicant’s mental health; and 17
- (ii) information about the applicant that indicates the applicant is a risk to public safety or it would be contrary to the public interest for the applicant to hold the security clearance; and 18
19
20
21
22
- (iii) anything else relevant to the applicant’s suitability to hold the security clearance. 23
24
25
- (3) The applicant is not a suitable person to hold the security clearance if— 26
27
- (a) the applicant is named as the respondent in a domestic violence order, or police protection notice, that is in force; or 28
29
30
- (b) release conditions have been imposed on the applicant under the *Domestic and Family Violence Protection Act 2012*, section 125 and the release conditions are in force. 31
32
33
34

12C Deciding applications	1
(1) The chief inspector must, after considering the application and any other information obtained in relation to the application, decide to—	2 3 4
(a) give the security clearance; or	5
(b) refuse to give the security clearance.	6
<i>Note—</i>	7
See also section 123AC(3).	8
(2) If the chief inspector decides to give the security clearance, the chief inspector must promptly give the applicant the security clearance.	9 10 11
(3) If the chief inspector decides to refuse to give the security clearance, the chief inspector must promptly give the applicant an information notice for the decision.	12 13 14 15
12D Form of security clearances	16
A security clearance must—	17
(a) be in the approved form; and	18
(b) include a digital photo, and digitised signature, of the holder of the security clearance.	19 20 21
12E Term of security clearances	22
(1) A security clearance is given for the term, of not more than 5 years, stated in the security clearance.	23 24
(2) The security clearance expires at the end of the stated term.	25 26
12F Renewal of security clearances	27
(1) The holder of a security clearance may apply for the renewal of the security clearance.	28 29

[s 24]

(2) The application must be made to the chief inspector before the security clearance expires.	1 2
(3) Sections 12A(2) to 12E apply to the application as if—	3 4
(a) a reference in the sections to an application for a security clearance were a reference to an application to renew a security clearance; and	5 6 7 8
(b) a reference in the sections to the giving of a security clearance were a reference to the renewal of a security clearance; and	9 10 11
(c) a reference in sections 12D and 12E to a security clearance were a reference to a renewed security clearance.	12 13 14
Subdivision 2 Information about applicants and security clearance holders	15 16 17
12G Reports about criminal history and other matters	18 19
(1) This section applies in relation to the following persons—	20 21
(a) an applicant for a security clearance;	22
(b) the holder of a security clearance.	23
(2) The chief inspector may ask the commissioner for a written report about—	24 25
(a) the person's criminal history, including a brief description of the nature of any offence giving rise to a conviction or charge mentioned in the person's criminal history; and	26 27 28 29 30

-
- (b) whether the person has, at any time, been named as the respondent in a domestic violence order or police protection notice; and
- (c) whether release conditions have, at any time, been imposed on the person under the *Domestic and Family Violence Protection Act 2012*, section 125.
- (3) The commissioner must give the report to the chief inspector.
- (4) However, the report is required to contain only information about the matters mentioned in subsection (2)—
- (a) in the commissioner’s possession; or
- (b) to which the commissioner has access.
- 12H Commissioner must give notice of particular matters**
- (1) This section applies if—
- (a) the commissioner reasonably suspects a person is—
- (i) an applicant for a security clearance; or
- (ii) the holder of a security clearance; and
- (b) any of the following events happens after the application is made or during the term of the security clearance—
- (i) the person’s criminal history changes;
- (ii) the person is named as the respondent in a domestic violence order or police protection notice;
- (iii) release conditions are imposed on the person under the *Domestic and Family*

[s 24]

	<i>Violence Protection Act 2012, section</i>	1
	125.	2
(2)	The commissioner must give the chief inspector a written notice about the event.	3 4
(3)	The notice must—	5
(a)	state—	6
(i)	the person’s name and any other name the commissioner believes the person may use or may have used; and	7 8 9
(ii)	the person’s date and place of birth; and	10 11
(b)	if subsection (1)(b)(i) applies—include a brief description of the nature of the offence or alleged offence giving rise to the conviction or charge to which the change relates; and	12 13 14 15 16
(c)	if subsection (1)(b)(ii) or (iii) applies—be accompanied by a copy of the domestic violence order, police protection notice or release conditions.	17 18 19 20
(4)	The chief inspector may confirm the suspicions of the commissioner mentioned in subsection (1)(a).	21 22
(5)	For a person who does not have a criminal history, there is taken to be a change in the person’s criminal history if the person acquires a criminal history.	23 24 25 26
121	Requests for information about mental health	27
(1)	This section applies in relation to the following persons—	28 29
(a)	an applicant for a security clearance;	30
(b)	the holder of a security clearance.	31
(2)	The chief inspector may, by written notice given	32

-
- to the person, ask the person to give the chief inspector further information the chief inspector reasonably needs about the person's mental health to decide whether the person is a suitable person to hold, or to continue to hold, a security clearance. 1
2
3
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6
- (3) Without limiting subsection (2), the chief inspector may ask the person to give the chief inspector a report from a doctor or psychologist about the person's mental health. 7
8
9
10
- (4) The notice must state that the information must be given within the period, of at least 28 days after the notice is given, stated in the notice. 11
12
13
- (5) If the chief inspector is given a report mentioned in subsection (3), the chief inspector may— 14
15
- (a) make information about the person having access to explosives available to the doctor or psychologist who prepared the report; and 16
17
18
19
- (b) ask the doctor or psychologist to give the chief inspector a further report about the person's mental health. 20
21
22
- (6) The chief inspector may make the information available to the doctor or psychologist only if the chief inspector reasonably considers— 23
24
25
- (a) the doctor or psychologist was not aware of the information; and 26
27
- (b) the information may influence the doctor's or psychologist's opinion about the person's mental health. 28
29
30
- (7) If the chief inspector makes the information about the person available to the doctor or psychologist, the chief inspector must advise the person of that fact. 31
32
33
34
- (8) The chief inspector may make the information 35

[s 24]

available to the doctor or psychologist despite any other Act.	1 2
12J Failure to give information about mental health	3
(1) This section applies if an applicant for a security clearance, or the renewal of a security clearance, does not comply with a notice given to the applicant under section 12I(2).	4 5 6 7
(2) The applicant is taken to have withdrawn the application for the security clearance or the renewal of the security clearance.	8 9 10
12K Use of information obtained under s 12G, 12H or 12I	11 12
(1) Information about a person given to the chief inspector under section 12G or 12H may be used only for making a decision—	13 14 15
(a) under section 12B about whether the person is a suitable person to hold a security clearance; or	16 17 18
(b) under section 24 or 25 about—	19
(i) whether to suspend or cancel the person's security clearance on a ground mentioned in section 23A(1)(b) or (c); or	20 21 22 23
(ii) whether to suspend or cancel an authority held by the person on the ground mentioned in section 23(1)(c).	24 25 26
(2) Information about a person given to the chief inspector under section 12I may be used only—	27 28
(a) for making a decision under section 12B about whether the person is a suitable person to hold a security clearance; or	29 30 31

	(b) for making a decision under section 24 or 25 about whether to suspend or cancel the person's security clearance on a ground mentioned in section 23A(1)(c); or	1 2 3 4
	(c) to investigate or prosecute an offence against this Act.	5 6
(3)	Subsection (4) applies if, in making a decision mentioned in subsection (1), the chief inspector is considering information about—	7 8 9
	(a) the commission of an offence by the person; or	10 11
	(b) the alleged or possible commission of an offence by the person.	12 13
(4)	The chief inspector must also consider—	14
	(a) when the offence was committed, is alleged to have been committed or may possibly have been committed; and	15 16 17
	(b) the nature of the offence, or alleged or possible offence, and its relevance to the person holding, or continuing to hold, a security clearance or authority; and	18 19 20 21
	(c) any other matter the chief inspector considers relevant to the decision.	22 23
(5)	This section is subject to section 132.	24
Clause 25	Amendment of s 15 (Inquiries about person's appropriateness)	25 26
(1)	Section 15(2A), from 'inquires' to 'health,'— <i>omit, insert—</i>	27 28
	inquiries about the person's identity, character, physical health	29 30
(2)	Section 15(3)(a)(i) to (iii)— <i>omit, insert—</i>	31 32

[s 25]

- | | | |
|------|---|-----------------------|
| (i) | the person's physical health; and | 1 |
| (ii) | whether the person has stated anything in, or
in relation to, an application for an authority
or the renewal of an authority the person
knows is false or misleading in a material
particular; or | 2
3
4
5
6 |
| (3) | Section 15(3)(b)(i), 'insolvent under administration'—
<i>omit, insert—</i> | 7
8 |
| | an insolvent under administration under the
Corporations Act | 9
10 |
| (4) | Section 15(3)(b)—
<i>insert—</i> | 11
12 |
| | (iv) information that indicates it would be
contrary to the public interest for the
corporation to hold an authority. | 13
14
15 |
| (5) | Section 15(5) and (6)—
<i>omit.</i> | 16
17 |
| (6) | Section 15(8)(a), 'subsection (4)'—
<i>omit, insert—</i> | 18
19 |
| | subsection (5) | 20 |
| (7) | Section 15(8)(c), after 'safety'—
<i>insert—</i> | 21
22 |
| | and security | 23 |
| (8) | Section 15(9), 'subsection (8)(a)'—
<i>omit, insert—</i> | 24
25 |
| | subsection (7)(a) | 26 |
| (9) | Section 15(10)—
<i>omit.</i> | 27
28 |
| (10) | Section 15(2A) to (9)—
<i>renumber</i> as section 15(3) to (8). | 29
30 |

Clause 26	Insertion of new s 15A	1
	After section 15—	2
	<i>insert—</i>	3
	15A Persons who are not appropriate persons	4
	(1) This section applies to a person who is an applicant for, or the holder of, a security sensitive authority.	5 6 7
	(2) The person is not an appropriate person to hold, or to continue to hold, the security sensitive authority if an employee of the person—	8 9 10
	(a) has or will have unsupervised access to an explosive in the course of the employee’s employment; and	11 12 13
	(b) does not hold a security clearance.	14
	(3) For this section, an employee of the person has or will have unsupervised access to an explosive if the employee is or will be able to access the explosive other than in the presence, and under the direct supervision, of a person who holds a security clearance.	15 16 17 18 19 20
Clause 27	Amendment of s 16 (Additional information)	21
	(1) Section 16(1), from ‘or mental’—	22
	<i>omit, insert—</i>	23
	health.	24
	(2) Section 16—	25
	<i>insert—</i>	26
	(1A) Without limiting subsection (1), the chief inspector may ask the person to give the chief inspector a report from a doctor about the person’s physical health.	27 28 29 30
	(3) Section 16(3) to (6)—	31

[s 28]

omit. 1

(4) Section 16(1A) to (8)— 2

renumber as section 16(2) to (5). 3

Clause 28 Insertion of new s 16A 4

After section 16— 5

insert— 6

16A Other information for application 7

The chief inspector may, by written notice given 8
to an applicant for an authority, require the 9
applicant to give any other information the chief 10
inspector reasonably needs to decide the 11
application. 12

Clause 29 Amendment of s 17 (How chief inspector may deal with application) 13
14

(1) Section 17(1)— 15

insert— 16

Note— 17

See also section 123AC(3). 18

(2) Section 17— 19

insert— 20

(1A) If the application is for a security sensitive 21
authority, the chief inspector must refuse to issue 22
the authority unless— 23

(a) if the applicant is an individual—the 24
applicant holds a security clearance; or 25

(b) if the applicant is a listed corporation— 26

(i) the corporation has a responsible 27
person; and 28

-
- (ii) the responsible person holds a security clearance; or 1
2
- (c) if the applicant is a corporation other than a listed corporation—each executive officer of the corporation holds a security clearance; or 3
4
5
6
- (d) if the applicant is a partnership—each partner holds a security clearance. 7
8
- (3) Section 17(1A) to (3)— 9
renumber as section 17(2) to (4). 10

- Clause 30 Insertion of new s 18A** 11
- After section 18— 12
- insert*— 13
- 18A Form of authority** 14
- An authority must— 15
- (a) be in the approved form; and 16
- (b) if the authority is an occupational authority—include a digital photo, and digitised signature, of the holder of the authority. 17
18
19
20

- Clause 31 Amendment of s 20 (Transfer of authority)** 21
- Section 20(1)— 22
- omit, insert*— 23
- (1) A licence, other than an occupational authority, may be transferred with the written approval of the chief inspector. 24
25
26

[s 32]

Clause 32	Amendment of pt 3, div 2, hdg (Suspension and cancellation of authorities)	1 2
	Part 3, division 2, heading, after ‘authorities’—	3
	<i>insert</i> —	4
	and security clearances	5
Clause 33	Insertion of new pt 3, div 2, sdiv 1, hdg	6
	Before section 23—	7
	<i>insert</i> —	8
	Subdivision 1 Suspensions and cancellations generally	9 10
Clause 34	Amendment of s 23 (Grounds for suspension or cancellation)	11 12
	(1) Section 23, heading, ‘suspension or cancellation’—	13
	<i>omit, insert</i> —	14
	suspending or cancelling authorities	15
	(2) Section 23(c), ‘has committed’—	16
	<i>omit, insert</i> —	17
	is convicted of or charged with	18
	(3) Section 23(f)—	19
	<i>omit, insert</i> —	20
	(f) the level of safety under which an activity is carried out under the authority, is inadequate for ensuring the safety of a person;	21 22 23
	(g) the measures used at a place at which an activity is carried out under the authority are inadequate for keeping an explosive at the place secure from access by a person who should not have access to the explosive;	24 25 26 27 28

-
- (h) the holder of the authority has not complied with section 33(2); 1
2
- (i) if the holder of the authority is an individual—the holder’s security clearance has expired, or been cancelled, suspended or surrendered; 3
4
5
6
- (j) if the holder of the authority is a listed corporation— 7
8
- (i) there is not a responsible person for the corporation; or 9
10
- (ii) the security clearance held by the responsible person for the corporation has expired, or been cancelled, suspended or surrendered; 11
12
13
14
- (k) if the holder of the authority is a corporation other than a listed corporation—the security clearance held by an executive officer of the corporation has expired, or been cancelled, suspended or surrendered; 15
16
17
18
19
- (l) if the holder of the authority is a partnership—the security clearance held by a partner has expired, or been cancelled, suspended or surrendered. 20
21
22
23
- (4) Section 23— 24
insert— 25
- (2) However, subsection (1)(i) to (l) applies only if the authority is a security sensitive authority. 26
27

- Clause 35** **Insertion of new s 23A** 28
- After section 23— 29
- insert—* 30

[s 35]

23A Grounds for suspending or cancelling security clearances	1 2
(1) Each of the following is a ground for the suspension or cancellation of a security clearance—	3 4 5
(a) the security clearance was obtained because of incorrect or misleading information;	6 7
(b) the holder of the security clearance is, in Queensland or elsewhere, convicted of or charged with a relevant offence;	8 9 10
(c) the holder of the security clearance is no longer a suitable person to continue to hold the security clearance.	11 12 13
(2) In deciding whether the holder of a security clearance is no longer a suitable person to continue to hold the security clearance, the chief inspector may have regard to the matters mentioned in section 12B(2).	14 15 16 17 18
(3) In this section—	19
<i>relevant offence</i> means an offence—	20
(a) involving a prescribed activity; or	21
(b) involving violence or threatened violence; or	22 23
(c) involving the use, carriage, discharge or possession of a firearm; or	24 25
(d) relating to the misuse of drugs; or	26
(e) involving breaking and entering into premises, burglary, robbery, stealing or receiving stolen property; or	27 28 29
(f) involving fraud, the fabrication of evidence, perjury or the making of a false declaration or statement.	30 31 32

Clause 36	Amendment of s 24 (Procedure for suspension or cancellation)	1 2
(1)	Section 24(1), (3) and (7), after ‘authority’— <i>insert</i> — or security clearance	3 4 5
(2)	Section 24(2), (4), (5) and (6), ‘authority holder’— <i>omit, insert</i> — holder of the authority or security clearance	6 7 8
(3)	Section 24(2)(d), ‘authority’— <i>omit, insert</i> — authority or security clearance—	9 10 11
(4)	Section 24(5), ‘authority,’— <i>omit, insert</i> — authority or security clearance,	12 13 14
Clause 37	Amendment of s 25 (Procedure for urgent suspension or cancellation of authority)	15 16
(1)	Section 25, heading, ‘authority’— <i>omit, insert</i> — authorities and security clearances	17 18 19
(2)	Section 25(1)(b) and (2), after ‘an authority’— <i>insert</i> — or security clearance	20 21 22
(3)	Section 25(2), (3) and (4), ‘authority holder’— <i>omit, insert</i> — holder of the authority or security clearance	23 24 25

[s 38]

Clause 38	Insertion of new pt 3, div 2, sdiv 2	1
	After section 25—	2
	<i>insert—</i>	3
	Subdivision 2 Immediate suspensions and cancellations	4 5
	25A Immediate suspension in particular circumstances	6 7
	(1) This section applies to the holder of an authority or security clearance if—	8 9
	(a) the holder is named as the respondent in—	10
	(i) a temporary protection order; or	11
	(ii) a police protection notice; or	12
	(b) release conditions are imposed on the holder under the <i>Domestic and Family Violence Protection Act 2012</i> , section 125.	13 14 15
	(2) The authority or security clearance is suspended—	16 17
	(a) if the holder is named as the respondent in a temporary protection order and is present in court when the order is made—while the order is in force; or	18 19 20 21
	(b) if release conditions are imposed on the holder—while the release conditions are in force; or	22 23 24
	(c) otherwise—from when the holder is served with the temporary protection order or police protection notice until the order or notice is no longer in force.	25 26 27 28
	(3) In this section—	29
	<i>temporary protection order</i> means—	30

-
- (a) a temporary protection order under the *Domestic and Family Violence Protection Act 2012*; or
 - (b) an interstate domestic violence order corresponding to a temporary protection order mentioned in paragraph (a).

25B Immediate cancellation if protection order made

- (1) This section applies to the holder of an authority or security clearance if the holder is named as the respondent in a protection order.
- (2) The authority or security clearance is cancelled—
 - (a) if the holder is present in court when the protection order is made—when the order is made; or
 - (b) otherwise—when the holder is served with the protection order.
- (3) In this section—

protection order means—

 - (a) a protection order under the *Domestic and Family Violence Protection Act 2012*; or
 - (b) an interstate domestic violence order corresponding to a protection order mentioned in paragraph (a).

- Clause 39** **Insertion of new pt 3, div 2, sdiv 3, hdg**
- Before section 26—
- insert—*
- Subdivision 3** **Provisions about suspended and cancelled**

[s 40]

	authorities and security clearances	1
		2
Clause 40	Amendment of s 26 (Return of authority)	3
	(1) Section 26, heading, ‘authority’—	4
	<i>omit, insert—</i>	5
	authorities and security clearances	6
	(2) Section 26(1), after ‘authority’—	7
	<i>insert—</i>	8
	or security clearance	9
	(3) Section 26(2), after ‘suspended authority’—	10
	<i>insert—</i>	11
	or security clearance	12
	(4) Section 26(2), ‘authority holder’—	13
	<i>omit, insert—</i>	14
	holder of the authority or security clearance	15
Clause 41	Insertion of new s 26A	16
	Part 3, division 2, subdivision 3—	17
	<i>insert—</i>	18
	26A Surrender of explosives	19
	(1) This section applies to a person whose authority is suspended or cancelled under this division.	20 21
	(2) The person must immediately arrange with an inspector to give to an inspector any explosives the person has, as soon as practicable, but no later than 1 day, after the suspension or cancellation takes effect, unless the person has a reasonable excuse.	22 23 24 25 26 27
	Maximum penalty—40 penalty units.	28

	(3) The person must comply with the arrangement under subsection (2), unless the person has a reasonable excuse.	1 2 3
	Maximum penalty—100 penalty units.	4
Clause 42	Amendment of pt 3, div 3, hdg (Other provisions about authorities)	5 6
	Part 3, division 3, heading, after ‘authorities’—	7
	<i>insert—</i>	8
	and security clearances	9
Clause 43	Amendment of s 27 (Replacement of authority)	10
	(1) Section 27, heading, ‘authority’—	11
	<i>omit, insert—</i>	12
	authorities and security clearances	13
	(2) Section 27(1), ‘An authority holder’—	14
	<i>omit, insert—</i>	15
	The holder of an authority or security clearance	16
	(3) Section 27(1), after ‘destroyed authority’—	17
	<i>insert—</i>	18
	or security clearance	19
	(4) Section 27(2) and (3), after ‘authority’—	20
	<i>insert—</i>	21
	or security clearance	22
	(5) Section 27(4), ‘the authority,’—	23
	<i>omit, insert—</i>	24
	the authority or security clearance,	25
	(6) Section 27(4), ‘authority holder’—	26
	<i>omit, insert—</i>	27

[s 44]

	holder of the authority or security clearance	1
Clause 44	Amendment of s 28 (Amendment of authority on application)	2
		3
(1)	Section 28(2), before paragraph (a)—	4
	<i>insert—</i>	5
	(aa) be made in the approved form; and	6
(2)	Section 28(2)(aa) to (b)—	7
	<i>renumber</i> as section 28(2)(a) to (c).	8
Clause 45	Insertion of new s 30A	9
	After section 30—	10
	<i>insert—</i>	11
	30A Reporting loss, destruction or theft of authorities and security clearances	12
		13
(1)	This section applies if an authority or security clearance is lost, destroyed or stolen.	14
		15
(2)	The holder of the authority or security clearance must immediately notify the chief inspector or an authorised officer, as required by subsection (3), about the loss, destruction or theft.	16
		17
		18
		19
	Maximum penalty—50 penalty units.	20
(3)	The notification may be given—	21
	(a) by written notice in the approved form; or	22
	(b) orally.	23
(4)	If the notification is given orally, the holder of the authority or security clearance must also give the chief inspector or an authorised officer notice in the approved form within 7 days after the loss, destruction or theft.	24
		25
		26
		27
		28
	Maximum penalty—50 penalty units.	29

Clause 46	Amendment of s 31 (Surrender of authority)	1
(1)	Section 31, heading, ‘authority’—	2
	<i>omit, insert—</i>	3
	authorities and security clearances	4
(2)	Section 31(1), ‘An authority holder’—	5
	<i>omit, insert—</i>	6
	The holder of an authority or security clearance	7
(3)	Section 31(1), after ‘the authority’—	8
	<i>insert—</i>	9
	or security clearance	10
(4)	Section 31(2) and (3), after ‘authority’—	11
	<i>insert—</i>	12
	or security clearance	13
Clause 47	Amendment of s 32 (General duty of care)	14
(1)	Section 32—	15
	<i>insert—</i>	16
	(1A) Without limiting subsection (1), the duty includes	17
	taking reasonable precautions and using	18
	reasonable care to ensure the explosives are kept	19
	secure from access by a person who should not	20
	have access to the explosives.	21
(2)	Section 32(1A) and (2)—	22
	<i>renumber</i> as section 32(2) and (3).	23
Clause 48	Replacement of s 33 (Employer’s obligation about employees)	24
	Section 33—	25
	<i>omit, insert—</i>	26
		27

[s 49]

33 Employers' obligations about employees	1
(1) An employer must not allow an employee to have access to an explosive unless—	2 3
(a) the employee is the age prescribed by regulation; and	4 5
(b) for an employer who holds a security sensitive authority—	6 7
(i) the employee holds a security clearance; or	8 9
(ii) the access is within the course of the employee's employment and in the presence, and under the direct supervision, of a person who holds a security clearance.	10 11 12 13 14
Maximum penalty—50 penalty units.	15
(2) Before an employer asks or allows an employee to carry out an activity involving the handling of explosives, the employer must be reasonably satisfied the employee has the qualifications, experience and expertise prescribed by regulation for the carrying out of the activity.	16 17 18 19 20 21
<i>Note—</i>	22
See also section 23(1)(h).	23

Clause 49 Amendment of s 38 (Explosive to be manufactured under authority)	24 25
(1) Section 38(2)(a)—	26
<i>omit, insert—</i>	27
(a) manufacturing an explosive if—	28
(i) the explosive is not more than the amount prescribed by regulation or, if an amount is not prescribed, 50g; and	29 30 31

	(ii) the person is manufacturing and using the explosive in a laboratory that is part of an educational or research facility under the direct supervision of a competent adult; and	1 2 3 4 5
	(iii) the explosive is for use in a chemical experiment by the person; or	6 7
(2)	Section 38— <i>insert—</i>	8 9
	(5) In this section— <i>competent adult</i> means an adult with sufficient knowledge and experience to identify hazards and risks associated with manufacturing and using explosives.	10 11 12 13 14
Clause 50	Amendment of s 40, hdg (Safety at factories)	15
	Section 40, heading, after ‘Safety’— <i>insert—</i>	16 17
	and security	18
Clause 51	Amendment of s 46 (Government magazines)	19
	Section 46— <i>insert—</i>	20 21
	(3) If a lease is registered under the <i>Land Act 1994</i> or the <i>Land Title Act 1994</i> for a place, or part of a place, declared to be a government magazine, the place or part stops being a government magazine on the registration of the lease.	22 23 24 25 26
Clause 52	Amendment of s 48, hdg (Safety at magazines)	27
	Section 48, heading, after ‘Safety’—	28

[s 53]

insert— 1
and security 2

Clause 53 Insertion of new s 51A 3

After section 51— 4

insert— 5

51A Regulation may be made about particular matters 6
7

(1) A regulation may— 8

(a) make provision about the recognition of 9
laws of other jurisdictions about 10
transporting explosives, things done under 11
those laws and giving effect to those things; 12
or 13

(b) provide that the chief inspector may make a 14
decision (a *determination*) under the 15
regulation about the safe and secure 16
transport of an explosive. 17

(2) Without limiting subsection (1)(b), the regulation 18
may prescribe— 19

(a) the process for making a determination, 20
including the process for making and 21
deciding an application for an administrative 22
determination; or 23

(b) the effect a determination has on a provision 24
of the regulation about the transport of 25
explosives; or 26

(c) the process for amending, suspending or 27
cancelling an administrative determination; 28
or 29

(d) the information about a determination that 30
must be kept publicly available. 31

(3) In this section— 32

administrative determination means a
determination made on the application of a person
that applies to—
(a) the person; or
(b) the person and other persons named in the
application.

Clause 54 Replacement of ss 55 and 56

Sections 55 and 56—

omit, insert—

55 Meaning of *relevant person*

A *relevant person*, for explosives involved in an
explosives incident, means—

- (a) if a person other than the holder of the
authority for the explosives was in custody
or control of the explosives at the time of the
incident—that person; or
(b) otherwise—the holder of the authority for
the explosives.

56 Notification of explosives incident

(1) The relevant person for explosives involved in an
explosives incident must immediately after the
incident notify the chief inspector of the
incident—

- (a) by giving the chief inspector a notice in the
approved form; or
(b) orally.

Maximum penalty—170 penalty units.

(2) If the relevant person notifies the chief inspector
orally under subsection (1), the person must also
give the chief inspector the notice in the approved

[s 55]

	form within 48 hours after the incident.	1
	Maximum penalty—50 penalty units.	2
	56A Isolation of site of explosives incident	3
	(1) This section applies if an inspector reasonably believes it is necessary to preserve evidence after an explosives incident happens.	4 5 6
	(2) The inspector may isolate the site of the explosives incident to prevent interference with the site.	7 8 9
	(3) Also, the inspector may, by written notice given to the relevant person for the explosives or orally, require the relevant person to do the following—	10 11 12
	(a) mark the boundaries of the site by signs or other means in a way that—	13 14
	(i) identifies the site as the site of an explosives incident; and	15 16
	(ii) prohibits entry to the site;	17
	(b) remain at the site for a reasonable stated time.	18 19
	(4) If the requirement is given orally under subsection (3), the chief inspector must also, as soon as practicable, give the relevant person a written notice confirming the requirement.	20 21 22 23
	(5) The relevant person must comply with the requirement.	24 25
	Maximum penalty for subsection (5)—200 penalty units.	26 27
Clause 55	Amendment of s 58 (Investigation by chief inspector or authority holder)	28 29
	(1) Section 58(1)(b)—	30

<i>insert—</i>	1
(iii) give the report to the chief inspector.	2
(2) Section 58—	3
<i>insert—</i>	4
(1A) After receiving a report under subsection (1)(b)(iii), the chief inspector may, by written notice given to the authority holder, require the authority holder to—	5 6 7 8
(a) carry out further investigations; or	9
(b) give the chief inspector further information about the explosives incident.	10 11
(3) Section 58(2), ‘The notice given under subsection (1)(b)’—	12
<i>omit, insert—</i>	13
A notice given under subsection (1)(b) or (2)	14
(4) Section 58(3), ‘the notice’—	15
<i>omit, insert—</i>	16
a notice given under subsection (1)(b) or (2)	17
(5) Section 58(4), ‘subsection (4)’—	18
<i>omit, insert—</i>	19
subsection (5)	20
(6) Section 58(1A) to (4)—	21
<i>renumber</i> as section 58(2) to (5).	22
Clause 56	
Amendment of s 59 (Person must answer question about explosives incident)	23 24
(1) Section 59(2), ‘Maximum penalty’—	25
<i>omit, insert—</i>	26
Maximum penalty for subsection (2)	27
(2) Section 59(2)—	28

[s 57]

insert—

1

Note—

2

See also sections 59A and 59B in relation to
self-incrimination.

3

4

(3) Section 59(3)—

5

omit.

6

Clause 57 Insertion of new ss 59A and 59B

7

After section 59—

8

insert—

9

**59A Abrogation of privilege against
self-incrimination**

10

11

(1) This section applies if a person is required to
answer a question under section 59.

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13

(2) The person is not excused from answering the
question on the ground the answer to the question
may tend to incriminate the person or expose the
person to a penalty.

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17

(3) However, the answer to a question given by an
individual, and other evidence directly or
indirectly derived from the answer is not
admissible as evidence against the individual in
civil or criminal proceedings other than
proceedings arising out of the false or misleading
nature of the answer.

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59B Warning to be given by inspector

25

(1) Before requiring a person to answer a question
under section 59, an inspector must—

26

27

(a) warn the person that failure to answer the
question without reasonable excuse would
constitute an offence; and

28

29

30

	(b) warn the person about the effect of section 59A.	1 2
	(2) It is not an offence for an individual to refuse to answer a question put by the inspector on the ground the question might tend to incriminate the individual, unless the individual was first given the warning mentioned in subsection (1)(b).	3 4 5 6 7
	(3) Nothing in this section prevents an inspector from obtaining and using evidence given to the inspector voluntarily by a person.	8 9 10
Clause 58	Amendment of s 60 (Minister may establish board of inquiry)	11 12
	Section 60(3), from ‘had’—	13
	<i>omit, insert—</i>	14
	, the chief inspector or the holder of an authority has previously inquired into or investigated the incident.	15 16 17
Clause 59	Replacement of s 61 (Membership of board of inquiry)	18
	Section 61—	19
	<i>omit, insert—</i>	20
	61 Membership of board of inquiry	21
	(1) A board of inquiry is constituted by the following members appointed by the Minister—	22 23
	(a) a magistrate or an appropriately qualified lawyer;	24 25
	(b) either—	26
	(i) the chief inspector; or	27
	(ii) an appropriately qualified person who has knowledge of or experience in explosives;	28 29 30

[s 60]

	(c) if, having regard to the nature of the serious explosives incident, the Minister considers it appropriate for the board of inquiry to include persons with special knowledge relevant to the incident—not more than 3 persons with appropriate special knowledge.	1 2 3 4 5 6
	(2) The member of the board of inquiry appointed under subsection (1)(a) is the chairperson of the board.	7 8 9
	(3) A member of a board of inquiry who is not an inspector is taken, for the inquiry, to have the powers of an inspector.	10 11 12
Clause 60	Insertion of new ss 62A and 62B	13
	After section 62—	14
	<i>insert—</i>	15
	62A Conditions of appointment	16
	(1) A member of the board of inquiry is entitled to be paid the remuneration and allowances decided by the Minister.	17 18 19
	(2) A member holds office on the other conditions decided by the Minister.	20 21
	62B Chief executive to arrange for services of staff for board of inquiry	22 23
	As soon as practicable after the board of inquiry is established, the chief executive must, in consultation with the chairperson of the board, arrange for the services of public service employees employed in the department, or other persons, to be made available to the board for the conduct of the inquiry.	24 25 26 27 28 29 30

Clause 61	Amendment of s 63 (Procedure)	1
	Section 63(4)—	2
	<i>omit.</i>	3
Clause 62	Amendment of s 72 (Offences by witnesses)	4
(1)	Section 72(2)—	5
	<i>insert—</i>	6
	<i>Note—</i>	7
	See also sections 74A and 74B in relation to self-incrimination.	8 9
(2)	Section 72(3)—	10
	<i>omit.</i>	11
Clause 63	Insertion of new ss 74A and 74B	12
	After section 74—	13
	<i>insert—</i>	14
	74A Abrogation of privilege against self-incrimination	15 16
(1)	A person is not excused from answering a question or producing a document or thing under this division on the ground the answer to the question or the document or thing may tend to incriminate the person or expose the person to a penalty.	17 18 19 20 21 22
(2)	However, the answer to a question or a document or thing given by an individual, and other evidence directly or indirectly derived from the answer, document or thing is not admissible as evidence against the individual in civil or criminal proceedings other than proceedings arising out of the false or misleading nature of the answer, document or thing.	23 24 25 26 27 28 29 30

[s 64]

74B Warning to be given by board of inquiry	1
(1) Before requiring a person to answer a question or produce a document or thing under this division, the board of inquiry must—	2 3 4
(a) warn the person that failure to comply with the requirement without reasonable excuse constitutes an offence; and	5 6 7
(b) warn the person about the effect of section 74A.	8 9
(2) It is not an offence for an individual to refuse to answer a question put by the board or produce a document or thing to the board under this division on the ground the question, document or thing might tend to incriminate the individual, unless the individual was first given the warning mentioned in subsection (1)(b).	10 11 12 13 14 15 16
(3) Nothing in this section prevents the board from obtaining and using evidence given to the board voluntarily by a person.	17 18 19

Clause 64	Amendment of s 75 (Contempt of board)	20
(1)	Section 75— <i>insert—</i>	21 22
	(ba) impede or obstruct the board in the exercise of its powers; or	23 24
(2)	Section 75, penalty— <i>omit, insert—</i>	25 26
	Maximum penalty—200 penalty units.	27
(3)	Section 75(ba) to (d)— <i>renumber</i> as section 75(c) to (e).	28 29

Clause 65	Replacement of s 80A (Function of inspector)	1
	Section 80A—	2
	<i>omit, insert—</i>	3
	80A Functions of inspectors	4
	(1) An inspector has the following functions—	5
	(a) to investigate and enforce compliance with this Act;	6 7
	(b) to inspect and monitor the handling of, and access to, explosives by holders of authorities and other persons;	8 9 10
	(c) to audit systems for safety and security required by regulation;	11 12
	(d) to give advice and help to others, including applicants for authorities, holders of authorities, government entities, the public and other persons in dangerous situations involving explosives;	13 14 15 16 17
	(e) to recover and dispose of explosives for the health and safety of the public;	18 19
	(f) to give advice and make recommendations to the chief inspector about—	20 21
	(i) applications for authorities and security clearances; and	22 23
	(ii) the investigation and enforcement of compliance with this Act; and	24 25
	(iii) other matters about explosives as required by the chief inspector;	26 27
	(g) to collect information about explosives incidents for reporting to the chief inspector or the department and recording statistics;	28 29 30
	(h) to liaise with persons from the explosives industry for promoting and improving the safe and secure handling of explosives.	31 32 33

[s 66]

	(2) In this section—	1
	<i>government entity</i> see the <i>Public Service Act 2008</i> , section 24.	2 3
Clause 66	Insertion of new ss 90A–90C	4
	After section 90—	5
	<i>insert</i> —	6
	90A Power to secure seized thing	7
	(1) Having seized a thing under this subdivision, an inspector may—	8 9
	(a) leave it at the place it was seized (the <i>place of seizure</i>) and take reasonable action to restrict access to it; or	10 11 12
	(b) move it from the place of seizure.	13
	(2) For subsection (1)(a), the inspector may, for example—	14 15
	(a) seal the thing, or entrance to the place of seizure, and mark the thing or place to show access to the thing or place is restricted; or	16 17 18
	(b) for equipment—make it inoperable.	19
	<i>Example</i> —	20
	make it inoperable by dismantling it or removing a component without which the equipment can not be used	21 22 23
	90B Powers to support seizure	24
	(1) To enable a thing to be seized, an inspector may require a person the inspector reasonably believes is in control of the thing or a place of seizure for the thing—	25 26 27 28
	(a) to both—	29

-
- (i) take it to a stated reasonable place by a stated reasonable time; and
- (ii) if necessary, remain in control of it at the stated place for a reasonable time; or
- (b) to do an act mentioned in section 90A(2)(a) or (b) or anything else an inspector could do under section 90A(1)(a).
- (2) The requirement—
- (a) must be made by written notice; or
- (b) if for any reason it is not practicable to give written notice, may be made orally and confirmed by written notice as soon as practicable.
- (3) A person must comply with a requirement made of the person under subsection (1) unless the person has a reasonable excuse.
- Maximum penalty for subsection (3)—100 penalty units.

90C Offence to interfere

- (1) If access to a seized thing is restricted under section 90A, a person must not tamper with the thing or with anything used to restrict access to the thing without—
- (a) an inspector's approval; or
- (b) a reasonable excuse.
- Maximum penalty—100 penalty units.
- (2) If access to a place is restricted under section 90A, a person must not enter the place in contravention of the restriction or tamper with anything used to restrict access to the place without—
- (a) an inspector's approval; or

[s 67]

	(b) a reasonable excuse.	1
	Maximum penalty—100 penalty units.	2
Clause 67	Amendment of s 93 (Access to seized things)	3
	Section 93—	4
	<i>insert—</i>	5
	(3) For this section, if an inspector has, under section 90B(1)(a), required a person to move a thing from the place of seizure, the inspector may require the person to return the thing to the place of seizure.	6 7 8 9
	(4) The person must return the thing at the person's expense.	10 11
Clause 68	Amendment of s 94 (Forfeiture of seized things)	12
	(1) Section 94(1), from 'A seized thing' to 'the thing'—	13
	<i>omit, insert—</i>	14
	The chief inspector may decide a seized thing is forfeited to the State if an inspector or an authorised officer	15 16 17
	(2) Section 94(2)(a) and (b), after 'the inspector'—	18
	<i>insert—</i>	19
	or authorised officer	20
Clause 69	Amendment of s 97 (Power to require attendance of persons before an inspector to answer questions)	21 22
	Section 97(1)(b), 'safety and health'—	23
	<i>omit, insert—</i>	24
	health, safety or security	25

Clause 70	Replacement of s 99 (False or misleading statements to inspector)	1 2
	Section 99—	3
	<i>omit, insert—</i>	4
	99 False or misleading information	5
	(1) A person must not, in relation to the administration of this Act, give an inspector or authorised officer information the person knows is false or misleading in a material particular.	6 7 8 9
	Maximum penalty—20 penalty units.	10
	(2) Subsection (1) does not apply to a person if the person, when giving information in a document—	11 12
	(a) tells the inspector or authorised officer, to the best of the person’s ability, how the document is false or misleading; and	13 14 15
	(b) if the person has, or can reasonably obtain, the correct information—gives the correct information.	16 17 18
	99A Person not to encourage or influence refusal to answer questions	19 20
	(1) A person must not encourage or influence, or attempt to encourage or influence, another person to refuse to answer questions asked of the person by an inspector or authorised officer.	21 22 23 24
	Maximum penalty—40 penalty units.	25
	(2) To remove any doubt, it is declared that subsection (1) does not apply to the provision of legal advice to a person by a lawyer.	26 27 28
Clause 71	Omission of s 101 (False or misleading documents to inspector)	29 30
	Section 101—	31

[s 72]

omit.

1

Clause 72	Amendment of pt 6, div 2, sdiv 6, hdg (General enforcement offence)	2 3
	Part 6, division 2, subdivision 6, heading, ‘enforcement offence’—	4 5
	<i>omit, insert</i> —	6
	offences	7
Clause 73	Insertion of new s 105AA	8
	Part 6, division 2, subdivision 6—	9
	<i>insert</i> —	10
	105AA Impersonating inspectors or authorised officers	11 12
	A person must not pretend to be an inspector or an authorised officer.	13 14
	Maximum penalty—100 penalty units.	15
Clause 74	Insertion of new pt 6, div 2, sdiv 7	16
	Part 6, division 2—	17
	<i>insert</i> —	18
	Subdivision 7 Additional power of chief inspector	19 20
	105A Definition for subdivision	21
	In this subdivision—	22
	Public Safety Preservation Act declaration	23
	means an emergency under the <i>Public Safety Preservation Act 1986</i> .	24 25

105B Power to direct action in emergency	1
(1) This section applies if—	2
(a) the chief inspector reasonably believes there is a dangerous situation; and	3 4
(b) the dangerous situation is happening within, or partly within—	5 6
(i) an area for which a disaster situation is in force under the <i>Disaster Management Act 2003</i> ; or	7 8 9
(ii) an area for which a Public Safety Preservation Act declaration is in force.	10 11
(2) The chief inspector may direct an inspector to take any of the following actions the chief inspector reasonably believes necessary to prevent, remove or minimise the danger—	12 13 14 15
(a) give an explosive to another person;	16
(b) purchase an explosive;	17
(c) give equipment used in connection with explosives to another person;	18 19
(d) give advice about explosives to another person;	20 21
(e) use an explosive.	22
(3) An inspector directed by the chief inspector under subsection (2) to take an action is authorised to take that action.	23 24 25
105C Relationship to Public Safety Preservation Act 1986	26 27
(1) A commander, for a Public Safety Preservation Act declaration, may give directions about the circumstances in which the power under section 105B may be exercised by the chief inspector during the period the declaration is in force.	28 29 30 31 32

[s 75]

	<i>Note—</i>	1
	See the <i>Disaster Management Act 2003</i> , section 9, for the relationship between section 105B and that Act.	2 3
(2)	However, the commander must not give directions about the way in which the power may be exercised.	4 5 6
(3)	A direction under subsection (1) may be given only if it is necessary for effective management of the situation for which the Public Safety Preservation Act declaration is in force.	7 8 9 10
(4)	In this section—	11
	<i>CBR emergency</i> see the <i>Public Safety Preservation Act 1986</i> , section 12.	12 13
	<i>commander</i> , for a Public Safety Preservation Act declaration, means—	14 15
	(a) for an emergency situation declared under the <i>Public Safety Preservation Act 1986</i> , section 5—the emergency commander who declared the existence of the emergency situation; or	16 17 18 19 20
	(b) for a terrorist emergency—a terrorist emergency commander, terrorist emergency forward commander or TERC commander for the terrorist emergency under the <i>Public Safety Preservation Act 1986</i> ;	21 22 23 24 25
	(c) for a CBR emergency—a CBRE commander for the CBR emergency under the <i>Public Safety Preservation Act 1986</i> .	26 27 28
	<i>terrorist emergency</i> see the <i>Public Safety Preservation Act 1986</i> , schedule.	29 30
Clause 75	Insertion of new pt 6, div 2A	31
	Part 6—	32
	<i>insert—</i>	33

Division 2A	Authorised officers	1
105D	Appointments	2
	The chief inspector may, by instrument in writing, appoint a public service employee as an authorised officer.	3 4 5
105E	Appointment conditions and limit on powers	6
(1)	An authorised officer holds office on the conditions stated in—	7 8
(a)	the officer’s instrument of appointment; or	9
(b)	a signed notice given to the officer; or	10
(c)	a regulation.	11
(2)	The instrument of appointment, a signed notice given to the authorised officer or a regulation may limit the officer’s powers.	12 13 14
(3)	An authorised officer is subject to the directions of the Minister and the chief inspector.	15 16
(4)	In this section—	17
	<i>signed notice</i> means a notice signed by the chief inspector.	18 19
105F	Functions of authorised officers	20
	An authorised officer has the following functions—	21 22
(a)	to investigate and enforce compliance with this Act;	23 24
(b)	to inspect and monitor the handling of, and access to, explosives by holders of authorities and other persons;	25 26 27

[s 75]

- (c) to give advice about the handling of, and access to, explosives to protect public safety, property and the environment; 1
2
3
- (d) to recover and dispose of explosives to protect public health and safety; 4
5
- (e) to make recommendations to the chief inspector about— 6
7
 - (i) applications for security clearances and authorities; or 8
9
 - (ii) the investigation and enforcement of compliance with this Act; or 10
11
 - (iii) other matters about explosives as required by the chief inspector. 12
13

105G Authorised officer's identity card 14

- (1) The chief inspector must give each authorised officer an identity card. 15
16
- (2) The identity card must— 17
 - (a) contain a recent photo of the authorised officer; and 18
19
 - (b) be signed by the authorised officer; and 20
 - (c) identify the person as an authorised officer under this Act; and 21
22
 - (d) state an expiry date for the card. 23
- (3) A person who stops being an authorised officer must return the person's identity card to the chief inspector as soon as possible (but within 21 days) after the person stops being an authorised officer, unless the person has a reasonable excuse. 24
25
26
27
28
Maximum penalty—20 penalty units. 29
- (4) This section does not prevent the giving of a single identity card to a person for this Act and other Acts or for other purposes. 30
31
32

Clause 76	Amendment of s 111 (Application for external review)	1
(1)	Section 111—	2
	<i>insert—</i>	3
	(1A) An applicant for a security clearance may apply, as provided under the QCAT Act, for an external review of the chief inspector’s decision to refuse to give the security clearance.	4 5 6 7
(2)	Section 111(4)(d)—	8
	<i>omit.</i>	9
(3)	Section 111(4)(e) and (f)—	10
	<i>renumber</i> as section 111(4)(d) and (e).	11
(4)	Section 111—	12
	<i>insert—</i>	13
	(4A) The holder of a security clearance may apply, as provided under the QCAT Act, for an external review of any of the following decisions of the chief inspector—	14 15 16 17
	(a) a decision to suspend or cancel the security clearance;	18 19
	(b) a decision to refuse to renew the security clearance;	20 21
	(c) a decision to refuse to replace the security clearance.	22 23
(5)	Section 111(1A) to (5)—	24
	<i>renumber</i> as section 111(2) to (7).	25
Clause 77	Insertion of new pt 8, div 1A	26
	Part 8—	27
	<i>insert—</i>	28
	Division 1A Biometric information	29

[s 77]

123AA Application of division

- 1
- (1) This division applies if a person makes any of the 2
following applications (each a *relevant* 3
application)— 4
- (a) an application under section 12A for a 5
security clearance; 6
- (b) an application under section 12F to renew a 7
security clearance; 8
- (c) an application under section 14 for an 9
occupational authority; 10
- (d) an application under section 22 to renew an 11
occupational authority; 12
- (e) an application under section 27 to replace an 13
occupational authority or security clearance; 14
- (f) an application under section 28 to amend an 15
occupational authority. 16
- (2) Also, this division applies if an occupational 17
authority held by a person is amended under 18
section 29. 19

123AB Definitions for division

- 20
- In this division— 21
- biometric information*, for a person, means— 22
- (a) a digital photo of the person; and 23
- (b) the person's digitised signature. 24
- destroy*, in relation to biometric information, 25
includes— 26
- (a) delete an electronic copy of the information; 27
and 28
- (b) end the way in which the information may 29
be accessed electronically. 30
- relevant application* see section 123AA(1). 31

take, in relation to biometric information, 1
includes obtain biometric information. 2

**123AC Taking biometric information for use under 3
this Act 4**

- (1) The person must allow the chief inspector to take 5
and keep for use under this Act the person's 6
biometric information. 7
- (2) If the person does not comply with subsection (1), 8
the chief inspector must, if the person is an 9
applicant for a relevant application, refuse the 10
application. 11

123AD Using biometric information 12

- (1) The chief inspector may use the person's 13
biometric information— 14
- (a) if the biometric information is taken in 15
relation to a relevant application—to help 16
identify the person for assessing and 17
deciding the application; or 18
- (b) to reproduce the biometric information on 19
an occupational authority or security 20
clearance given to the person; or 21
- (c) in an investigation by the chief inspector of 22
an explosives incident under part 5, division 23
1, if the chief inspector reasonably suspects 24
the person was involved in the incident; or 25
- (d) in an investigation of, or proceeding for, an 26
offence against this Act alleged to have been 27
committed by the person. 28
- (2) Also, a board of inquiry established under part 5, 29
division 2 for a serious explosives incident may 30
use the person's biometric information for its 31
inquiry into the incident, if the board reasonably 32
suspects the person was involved in the incident. 33

[s 78]

123AE Biometric information must be destroyed if relevant application refused or withdrawn	1
	2
(1) This section applies if—	3
(a) the person’s relevant application is withdrawn; or	4
	5
(b) the chief inspector decides to refuse the person’s relevant application.	6
	7
(2) The chief inspector must, as soon as practicable after the relevant application is withdrawn or refused, destroy the person’s biometric information kept by the chief inspector.	8
	9
	10
	11
123AF When biometric information must be destroyed if authority or security clearance given	12
	13
	14
(1) This section applies if the chief inspector—	15
(a) gives the person an occupational authority or security clearance; or	16
	17
(b) amends the person’s occupational authority under section 29.	18
	19
(2) The chief inspector must destroy the person’s biometric information kept by the chief inspector as soon as practicable after the later of the following days—	20
	21
	22
	23
(a) the day the occupational authority or security clearance expires;	24
	25
(b) if the biometric information is relevant to an investigation, inquiry or proceeding mentioned in section 123AD—the day the investigation, inquiry or proceeding ends.	26
	27
	28
	29

Clause 78	Amendment of s 123A (Treatment of partnerships)	30
	Section 123A(2)(a), ‘sections 15’—	31

omit, insert— 1
sections 15, 15A 2

Clause 79	Amendment of s 126 (Disclosure by doctors and psychologists of certain information)	3
		4
	Section 126(1)—	5
	<i>omit, insert—</i>	6
	(1) This section applies if—	7
	(a) a doctor or psychologist is of the opinion a patient is not a suitable person to hold, or to continue to hold, a security clearance—	8 9 10
	(i) because of the patient’s mental condition; or	11 12
	(ii) because the patient may be a danger to the patient or another person; or	13 14
	(b) a doctor is of the opinion a patient is not an appropriate person to hold, or to continue to hold, an authority or to have access to explosives—	15 16 17 18
	(i) because of the patient’s physical condition; or	19 20
	(ii) because the patient may be a danger to the patient or another person.	21 22

Clause 80	Insertion of new s 126AA	23
	After section 126—	24
	<i>insert—</i>	25
	126AA Effect of appeals against domestic violence orders	26 27
	(1) This section applies if—	28
	(a) a person is named as the respondent in a domestic violence order; and	29 30

[s 81]

(b)	the person appeals against the decision to make the domestic violence order under—	1 2
(i)	the <i>Domestic and Family Violence Protection Act 2012</i> , section 164; or	3 4
(ii)	a law of another State or New Zealand that provides for the same matter as that section; and	5 6 7
(c)	the decision to make the domestic violence order is set aside under—	8 9
(i)	the <i>Domestic and Family Violence Protection Act 2012</i> , section 169; or	10 11
(ii)	a law of another State or New Zealand that provides for the same matter as that section.	12 13 14
(2)	For this Act, the domestic violence order is taken not to have been made.	15 16
(3)	Subsection (4) applies if, before the decision to make the domestic violence order is set aside, the chief inspector decides to refuse to give the person a security clearance, or to refuse to renew the person’s security clearance, on the ground the person is not a suitable person to hold the security clearance because the person is named as the respondent in the domestic violence order.	17 18 19 20 21 22 23 24
(4)	Subsection (2) does not affect the validity of the chief inspector’s decision.	25 26
Clause 81	Amendment of s 126A (Protection from reprisal)	27
(1)	Section 126A(1)(a) and (b), ‘explosives safety issue’— <i>omit, insert—</i> explosives issue	28 29 30
(2)	Section 126A(7), definition <i>explosives safety issue</i> — <i>omit, insert—</i>	31 32

	<i>explosives issue</i> means an issue about—	1
	(a) the safety or health of a person while handling an explosive; or	2 3
	(b) the security of an explosive from access by a person who should not have access to the explosive.	4 5 6
Clause 82	Amendment of s 126C (Public statements)	7
	(1) Section 126C(2)(c), after ‘inspectors’—	8
	<i>insert</i> —	9
	or authorised officers	10
	(2) Section 126C(2)(d)—	11
	<i>omit, insert</i> —	12
	(d) the suspension or cancellation of an authority or security clearance under this Act.	13 14 15
Clause 83	Insertion of new s 126D	16
	After section 126C—	17
	<i>insert</i> —	18
	126D Chief inspector may issue safety and security alerts	19 20
	(1) If the chief inspector believes there is a specific issue in relation to the safety or security of explosives, the chief inspector may issue an explosives alert to particular persons or to the general public about the issue.	21 22 23 24 25
	(2) The explosives alert is advisory only and may recommend that the persons or the general public do or not do something.	26 27 28
	(3) An explosives alert is issued by—	29

[s 84]

	(a) if the alert is to particular persons—giving the persons a written notice; or	1 2
	(b) if the alert is to the general public—publishing a notice on the department’s website; or	3 4 5
	(c) if a person gives the chief inspector a unique electronic address for the person—by using electronic communication to send the alert to the address.	6 7 8 9
(4)	In this section—	10
	communication network means a network—	11
	(a) capable of electronic communication; and	12
	(b) designed to enable a user of the network to communicate with a specific person or a group of people.	13 14 15
	<i>Examples—</i>	16
	a telephone network or computer network	17
	unique electronic address , for a person, means a fixed designation on a communication network assigned to the person for the person to receive information.	18 19 20 21
	<i>Examples—</i>	22
	an email address, mobile phone number or user account	23
Clause 84	Replacement of s 130 (Delegation by chief inspector)	24
	Section 130—	25
	<i>omit, insert—</i>	26
	130 Delegation by chief inspector	27
	(1) The chief inspector may delegate the chief inspector’s powers under this Act to an inspector or authorised officer.	28 29 30
	(2) However, the chief inspector may not delegate the chief inspector’s power under section 105B.	31 32

Clause 85	Amendment of s 132 (Disclosure of information)	1
	(1) Section 132(1)(c)—	2
	<i>omit, insert—</i>	3
	(c) in an investigation or a proceeding under this Act	4
	or a report about the investigation or proceeding;	5
	or	6
	(2) Section 132(2), ‘an officer or authority’—	7
	<i>omit, insert—</i>	8
	a chief executive of a department or the head of a	9
	public service office under the <i>Public Service Act</i>	10
	<i>2008</i>	11
Clause 86	Insertion of new s 132A	12
	After section 132—	13
	<i>insert—</i>	14
	132A Additional requirements for disclosure to	15
	department	16
	A person given information under section	17
	132(2)—	18
	(a) must not give it to another person unless	19
	authorised, in writing, by the chief inspector	20
	to do so; and	21
	(b) must ensure the information is used only for	22
	the purpose for which it was given under	23
	that section.	24
Clause 87	Amendment of s 133 (Evidentiary provision)	25
	(1) Section 133(1), ‘or the former Act’—	26
	<i>omit.</i>	27
	(2) Section 133(2), after ‘inspector’—	28
	<i>insert—</i>	29

[s 88]

- or an authorised officer 1
- (3) Section 133(2)(b), after ‘power’— 2
insert— 3
or the authorised officer’s power 4
- (4) Section 133(3), ‘or an inspector’— 5
omit, insert— 6
, an inspector or an authorised officer 7
- (5) Section 133(4)(a)— 8
insert— 9
(ia) a security clearance or a copy of a security 10
clearance; or 11
- (6) Section 133(4)(a)(ii), after ‘order,’— 12
insert— 13
determination, 14
- (7) Section 133(4)(a)(ia) to (v)— 15
renumber as section 133(4)(a)(ii) to (vi). 16
- (8) Section 133(4)(b), from ‘holder of’— 17
omit, insert— 18
holder of— 19
(i) an authority or a stated authority; or 20
(ii) a security clearance or a stated security 21
clearance; 22
- (9) Section 133(4)(c) and (d), ‘authority’— 23
omit, insert— 24
authority, security clearance or determination 25
- Clause 88 Insertion of new ss 133A and 133B** 26
After section 133— 27

insert—

133A Expert reports

- (1) This section applies to a proceeding under this Act, other than a proceeding under part 7.
- (2) An expert report is admissible in evidence.
- (3) However, if the person making the report (the *expert*) does not attend to give oral evidence in the proceeding, the report is admissible only with the court's leave.
- (4) In deciding whether to grant leave, the court must have regard to—
- (a) the content of the report; and
 - (b) the reason the expert is not attending to give oral evidence; and
 - (c) the risk the admission in evidence or exclusion from evidence of the expert report will result in unfairness to a party, in particular having regard to the party's ability to dispute the content of the report if the expert does not give oral evidence; and
 - (d) any other relevant circumstance.
- (5) An expert report admitted in evidence is evidence of any fact or opinion stated in the report of which the expert could have given oral evidence.
- (6) In this section—
- expert report* means a report made by a person that deals entirely or mainly with issues on which the person is qualified to give expert evidence, but does not include an analyst's report.

133B Analysts' reports

- (1) This section applies to a proceeding under this Act, other than a proceeding under part 7.

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	(2) The production by a party to the proceeding of a signed analyst's report stating any of the following matters is evidence of the matters—	1 2 3
	(a) the analyst's qualifications;	4
	(b) the analyst took, or received from a stated person, the sample mentioned in the report;	5 6
	(c) the analyst analysed the sample on a stated day, or during a stated period, at a stated place;	7 8 9
	(d) the results of the analysis.	10
Clause 89	Amendment of s 135 (Regulation-making power)	11
	(1) Section 135(2)—	12
	<i>insert—</i>	13
	(da) the appointment of a person to be the manager of a government magazine and the functions and powers of the manager;	14 15 16
	(2) Section 135(2)(da) to (j)—	17
	<i>renumber</i> as section 135(2)(e) to (k).	18
Clause 90	Insertion of new pt 10, div 6	19
	Part 10—	20
	<i>insert—</i>	21
	Division 6	Transitional provisions for
		Land, Explosives and
		Other Legislation
		Amendment Act 2017
		22 23 24 25
	148 Definitions for division	26
	In this division—	27

amendment Act means the *Land, Explosives and Other Legislation Amendment Act 2017*. 1
2

existing application see section 149(1). 3

former, in relation to a provision, means as in 4
force immediately before the provision was 5
amended or repealed by the amendment Act. 6

**149 Existing applications for or to renew 7
authorities 8**

- (1) This section applies in relation to the following 9
applications (each an *existing application*)— 10
- (a) an application for an authority made, but not 11
decided, before the commencement; 12
 - (b) an application to renew an authority made, 13
but not decided, before the commencement. 14
- (2) Former part 3, division 1 continues to apply in 15
relation to the application as if the amendment 16
Act had not commenced. 17
- (3) To remove any doubt, it is declared that— 18
- (a) for deciding the application, section 15A 19
does not apply to the applicant; and 20
 - (b) former sections 15 and 16 continue to apply 21
in relation to the applicant and an employee 22
of the applicant until the application is 23
decided. 24

**150 Particular authority holders taken to hold 25
security clearances 26**

- (1) This section applies in relation to a security 27
sensitive authority that— 28
- (a) was in effect immediately before the 29
commencement; or 30

[s 90]

- (b) is given after the commencement for an existing application. 1
2
- (2) If the holder of the security sensitive authority is an individual, the holder is, on the relevant day, taken to be the holder of a security clearance. 3
4
5
- (3) If the holder of the security sensitive authority is a corporation other than a listed corporation, each executive officer of the corporation is taken, on the relevant day, to be the holder of a security clearance. 6
7
8
9
10
- (4) If the holder of the security sensitive authority is a partnership, each partner is taken, on the relevant day, to be the holder of a security clearance. 11
12
13
14
- (5) Subsections (6) and (7) apply if the holder of the security sensitive authority is a listed corporation. 15
16
- (6) Within 2 months after the relevant day, the listed corporation must, by written notice given to the chief inspector, nominate an executive officer or employee of the corporation as the responsible person for the corporation for matters relating to explosives. 17
18
19
20
21
22
- Maximum penalty—50 penalty units. 23
- (7) On the day the nomination is received by the chief inspector, the responsible person for the listed corporation is taken to be the holder of a security clearance. 24
25
26
27
- (8) Despite section 12E, a security clearance mentioned in subsection (2), (3), (4) or (7) expires on the earlier of the following— 28
29
30
- (a) the day the security sensitive authority expires or is cancelled or surrendered or, if the authority is renewed, the day the renewed authority expires or is cancelled or surrendered; 31
32
33
34
35

(b) the day that is 5 years after the security clearance takes effect.	1 2
(9) In this section—	3
<i>relevant day</i> means—	4
(a) in relation to an authority that was in effect immediately before the commencement—the day this section commences; or	5 6 7 8
(b) in relation to an authority given after the commencement for an existing application—the day the authority takes effect.	9 10 11 12
151 Application of s 15A to particular persons	13
(1) This section applies in relation to the holder of a security sensitive authority—	14 15
(a) that was in effect immediately before the commencement; or	16 17
(b) that is given after the commencement for an existing application; or	18 19
(c) mentioned in paragraph (a) or (b) that is renewed after the commencement.	20 21
(2) Section 15A does not apply in relation to a person employed by the holder of the authority immediately before the commencement during the period—	22 23 24 25
(a) starting on the commencement; and	26
(b) ending on the day that is 2 years after the commencement.	27 28
152 Application of s 33 to particular persons	29
Section 33(1)(b) does not apply in relation to a person employed by the holder of a security	30 31

[s 91]

sensitive authority immediately before the commencement during the period— 1
2
(a) starting on the commencement; and 3
(b) ending on the day that is 2 years after the commencement. 4
5

153 Application of explosives incident provisions 6

For an explosives incident that happened before the commencement, former sections 55, 56 and 58 apply to the incident. 7
8
9

Clause 91 Amendment of sch 2 (Dictionary) 10

(1) Schedule 2, definitions *boat*, *dangerous situation*, *domestic violence order* and *vehicle*— 11
12
omit. 13

(2) Schedule 2— 14
insert— 15

authorised officer means a person who is appointed as an authorised officer under this Act. 16
17

biometric information, for a person, for part 8, division 1A, see section 123AB. 18
19

blasting explosive means an explosive used for blasting or producing a similar effect. 20
21

Examples of a blasting explosive— 22

- a booster within the meaning of AS 2187.0—1998 (Explosives—Storage, transport and use, Part 0: Terminology) 23
24
25
- a cartridge, plug or stick within the meaning of AS 2187.0—1998 (Explosives—Storage, transport and use, Part 0: Terminology) 26
27
28
- a detonator 29
- a detonating cord 30

-
- an explosive that consists of a mixture of ammonium nitrate and fuel oil in a proportion that achieves blasting
 - TNT
- charge**, for an offence, means a charge in any form, including, for example, the following—
- (a) a charge on an arrest;
 - (b) a notice to appear served under the *Police Powers and Responsibilities Act 2000*, section 382;
 - (c) a complaint under the *Justices Act 1886*;
 - (d) a charge by a court under the *Justices Act 1886*, section 42(1A) or another provision of an Act;
 - (e) an indictment.
- criminal history**, of a person—
- (a) means the person’s criminal history within the meaning of the *Criminal Law (Rehabilitation of Offenders) Act 1986*; and
 - (b) despite sections 6, 8 and 9 of that Act, includes a conviction of the person to which any of the sections applies; and
 - (c) despite section 5 of that Act, includes a charge made against the person for an offence, unless the charge has been dealt with by a court, or withdrawn or otherwise discontinued.
- dangerous situation** means a situation that is likely to result in the death of or injury to a person, damage to property or harm to the environment if action is not taken to prevent, remove or minimise the danger.
- destroy**, in relation to biometric information, for part 8, division 1A, see section 123AB.

[s 91]

determination see section 51A(1)(b).	1
digital photo , of a person, means the person's facial image encoded in a digital form.	2 3
digitised signature , of a person, means the person's signature encoded in a digital form.	4 5
domestic violence order means—	6
(a) a domestic violence order under the <i>Domestic and Family Violence Protection Act 2012</i> ; or	7 8 9
(b) an interstate domestic violence order.	10
firework means an explosive containing a pyrotechnic substance used for producing a visual or aural effect for the purposes of entertainment.	11 12 13
handle , an explosive, includes—	14
(a) bring the explosive into the State from another country or send the explosive from the State to another country; and	15 16 17
(b) manufacture, possess, sell, store, transport or use the explosive.	18 19
interstate domestic violence order means an interstate order or registered foreign order under the <i>Domestic and Family Violence Protection Act 2012</i> , part 6, whether or not the order is a recognised interstate order under that Act.	20 21 22 23 24
listed corporation see the Corporations Act, section 9.	25 26
occupational authority means an authority prescribed by regulation that is held by an individual.	27 28 29
place includes the following—	30
(a) premises;	31
(b) vacant land;	32

-
- (c) a place in Queensland waters; 1
- (d) a place held under more than 1 title or by
more than 1 owner; 2
3
- (e) the land or water on which a building or
structure, or a group of buildings or
structures, is situated. 4
5
6
- place of seizure*** see section 90A(1)(a). 7
- police protection notice*** means— 8
- (a) a police protection notice under the
*Domestic and Family Violence Protection
Act 2012*; or 9
10
11
- (b) an interstate domestic violence order given
by a police officer. 12
13
- premises*** includes the following— 14
- (a) a building or other structure; 15
- (b) a part of a building or other structure; 16
- (c) a caravan or vehicle; 17
- (d) a cave or tent; 18
- (e) premises held under more than 1 title or by
more than 1 owner. 19
20
- prescribed activity*** means an activity that is, or is
associated with, the handling of explosives. 21
22
- propellant powder*** means an explosive, used to
launch or propel a device, that is— 23
24
- (a) a dry explosive containing potassium or
sodium nitrate, charcoal and sulfur that,
under normal conditions, burns rather than
explodes; or 25
26
27
28
- (b) a granular powder containing— 29
- (i) nitrocellulose and other ingredients; or 30

[s 91]

(ii) nitrocellulose, nitroglycerine and other ingredients.	1 2
Public Safety Preservation Act declaration see section 105A.	3 4
pyrotechnic substance means a substance used to produce an effect by heat, light, sound, gas or smoke as a result of an exothermic chemical reaction that does not rely on oxygen from an external source to sustain the reaction.	5 6 7 8 9
release conditions see the <i>Domestic and Family Violence Protection Act 2012</i> , section 125(2).	10 11
relevant application , for part 8, division 1A, see section 123AA(1).	12 13
relevant person , for explosives involved in an explosives incident, see section 55.	14 15
responsible person , for a listed corporation, means an executive officer or employee of the corporation who is nominated, by written notice given to the chief inspector, by the corporation as the responsible person for the corporation for matters relating to explosives.	16 17 18 19 20 21
security clearance means a security clearance under part 3, division 1AA.	22 23
security sensitive authority means an authority in relation to a security sensitive explosive.	24 25
security sensitive explosive means—	26
(a) ammunition, other than small arms ammunition, that contains an explosive; or	27 28
(b) a blasting explosive; or	29
(c) a firework, other than a firework prescribed by regulation; or	30 31
(d) a propellant powder; or	32

-
- (e) a pyrotechnic substance used in a firework; 1
or 2
- (f) another explosive prescribed by regulation 3
that— 4
- (i) if used, could cause the death of a 5
person or serious personal injury; or 6
- (ii) could be readily adapted for use in a 7
device that, if used, could cause the 8
death of a person or serious personal 9
injury. 10
- small arms ammunition*** means— 11
- (a) ammunition for— 12
- (i) a shotgun; or 13
- (ii) another firearm with a calibre of no 14
more than 25.4mm; or 15
- (b) primers (cap type) used for reloading the 16
ammunition. 17
- take***, in relation to biometric information, for part 18
8, division 1A, see section 123AB. 19
- vehicle*** includes any thing capable of transporting 20
people or things by road, rail, air or water, 21
including a hovercraft, and it does not matter how 22
the thing is moved or propelled. 23
- (3) Schedule 2, definition *explosives incident*— 24
insert— 25
- (aa) the attempted theft of an explosive or 26
another incident that threatens the security 27
of an explosive from access by a person who 28
should not have access to the explosive; 29
- (4) Schedule 2, definition *explosives incident*, paragraph (e), 30
'paragraphs (a) to (d)'— 31
omit, insert— 32

[s 92]

paragraphs (a) to (e)	1
(5) Schedule 2, definition <i>explosives incident</i> , paragraphs (aa) to (e)—	2
<i>renumber</i> as paragraphs (b) to (f).	3
	4
(6) Schedule 2, definition <i>official</i> —	5
<i>insert</i> —	6
(g) an authorised officer.	7
(7) Schedule 2, definition <i>unlawfully enter</i> , paragraph (a)—	8
<i>omit, insert</i> —	9
(a) without the permission of—	10
(i) the holder of an authority in relation to the explosives factory or magazine; or	11
	12
(ii) the person in charge of the explosives factory or magazine; or	13
	14
(iii) another person prescribed by regulation; or	15
	16

Part 5	Amendment of Explosives Regulation 2017	17
		18

Clause 92	Regulation amended	19
	This part amends the <i>Explosives Regulation 2017</i> .	20
	<i>Note</i> —	21
	See also the amendments in schedule 1, part 3.	22

Clause 93	Insertion of new s 8A	23
	After section 8—	24
	<i>insert</i> —	25

	8A Security sensitive explosives—Act, sch 2	1
	(1) For schedule 2 of the Act, definition <i>security sensitive explosive</i> , paragraph (c), an unrestricted firework is prescribed.	2 3 4
	(2) For schedule 2 of the Act, definition <i>security sensitive explosive</i> , paragraph (f), security sensitive ammonium nitrate is prescribed.	5 6 7
Clause 94	Amendment of s 9 (Alternative safety measures)	8
	Section 9, after ‘safety’—	9
	<i>insert—</i>	10
	and security	11
Clause 95	Insertion of new pts 2A and 2B	12
	After section 18—	13
	<i>insert—</i>	14
	Part 2A	15
	Obligations of employers generally	16
	18A Age of employees—Act, s 33	17
	For section 33(1)(a) of the Act, the following ages are prescribed—	18 19
	(a) for an employee who is employed to drive a vehicle or boat that is transporting explosives—21 years or more;	20 21 22
	(b) otherwise—18 years or more.	23
	Part 2B	24
	Security clearances	

[s 95]

18B Notification requirements for security clearance holders	1 2
(1) This section applies if any of the following events (each a <i>notifiable event</i>) happens during the term of a security clearance—	3 4 5
(a) the holder of the security clearance is, in Queensland or elsewhere, convicted of or charged with a relevant offence;	6 7 8
(b) the holder of the security clearance is named as the respondent in a domestic violence order or police protection notice;	9 10 11
(c) release conditions are imposed on the holder of the security clearance under the <i>Domestic and Family Violence Protection Act 2012</i> , section 125;	12 13 14 15
(d) the holder of the security clearance becomes aware of another change in circumstances that affects the holder's suitability to continue to hold the security clearance;	16 17 18 19
<i>Example for paragraph (d)—</i>	20
a change in the holder's mental health	21
(e) the name or address of the holder of the security clearance changes.	22 23
(2) The holder of the security clearance must, as soon as practicable after the holder becomes aware the notifiable event has happened, give the chief inspector a notice about the event, unless the holder has a reasonable excuse.	24 25 26 27 28
Maximum penalty—	29
(a) for a notifiable event mentioned in subsection (1)(d)—50 penalty units; or	30 31
(b) for a notifiable event mentioned in subsection (1)(e)—20 penalty units; or	32 33
(c) otherwise—200 penalty units.	34

Clause 96	Amendment of s 19 (Authorities that may be issued—Act, s 13)	1
	Section 19, after ninth dot point—	2
	<i>insert</i> —	3
	• explosives driver licence	4
Clause 97	Insertion of new s 23A	5
	Part 3, division 1—	6
	<i>insert</i> —	7
	23A Occupational authorities—Act, sch 2	8
	For schedule 2 of the Act, definition <i>occupational authority</i> , each of the following authorities is prescribed—	9
	(a) an explosives driver licence;	10
	(b) a fireworks operator licence;	11
	(c) a shotfirer licence;	12
	(d) a licence to use explosives;	13
	(e) a licence to collect ammunition.	14
Clause 98	Amendment of s 31 (Licence to transport explosives)	15
	Section 31(1)—	16
	<i>omit, insert</i> —	17
	(1) A licence to transport explosives authorises the holder of the licence to—	18
	(a) operate a business of transporting the explosives stated in the licence in the way stated in the licence; and	19
	(b) possess the explosives for the purpose of operating a business of transporting the explosives under the licence.	20

[s 99]

Clause 99	Insertion of new s 31A	1
	After section 31—	2
	<i>insert—</i>	3
	31A Explosives driver licence	4
	An explosives driver licence authorises the holder	5
	of the licence to transport explosives by driving a	6
	vehicle that, under a licence to transport	7
	explosives, is a vehicle in which explosives of that	8
	class may be transported.	9
Clause 100	Insertion of new s 36A	10
	Part 3, division 3—	11
	<i>insert—</i>	12
	36A Explosives driver licence	13
	(1) A person is an appropriate person for the issue of	14
	an explosives driver licence if—	15
	(a) the person—	16
	(i) is 21 years or more; and	17
	(ii) holds a valid driver licence; and	18
	(iii) has, within the 3 year period ending on	19
	the day the application for the licence	20
	is made, been assessed by a registered	21
	training organisation as having attained	22
	the specific competencies in the	23
	transporting of explosives contained in	24
	the industry training packages	25
	approved by the chief inspector and	26
	published on the department’s website;	27
	and	28
	(b) the chief inspector is reasonably satisfied	29
	the person—	30
	(i) is physically able to drive a vehicle	31
	transporting explosives; and	32

	(ii) is suitable having regard to the person's driving history; and	1 2
	(iii) is, in all the circumstances, an appropriate person for the issue of an explosives driver licence.	3 4 5
	(2) In this section—	6
	<i>valid</i> , in relation to a driver licence, means—	7
	(a) the licence has not expired; and	8
	(b) the licence has not been cancelled or suspended; and	9 10
	(c) the person is not disqualified, by order of an Australian court, from holding or obtaining a driver licence.	11 12 13
Clause 101	Amendment of s 37 (Shotfirer licence)	14
	Section 37(1)(d)(ii), from 'safe handling procedures'—	15
	<i>omit, insert—</i>	16
	the procedures and methods for safely and securely handling the explosive;	17 18
Clause 102	Amendment of s 39 (Fireworks operator licence)	19
	Section 39(1)(d)(ii), from 'safe handling procedures'—	20
	<i>omit, insert—</i>	21
	the procedures and methods for safely and securely handling the firework;	22 23
Clause 103	Amendment of s 40 (Other authorities)	24
	Section 40, 'sections 37'—	25
	<i>omit, insert—</i>	26
	sections 36A	27

[s 104]

Clause 104	Amendment of s 43 (Notification requirements for all authority holders)	1 2
(1)	Section 43(1)(a), example, ‘or mental’— <i>omit.</i>	3 4
(2)	Section 43(1)(b) and (c)— <i>omit.</i>	5 6
(3)	Section 43(1)(e)— <i>omit, insert—</i>	7 8
	(e) if the holder of the authority is a corporation—	9 10
	(i) there is a change to the corporation’s executive officers; or	11 12
	(ii) the corporation becomes an externally administered corporation;	13 14
	(f) if the holder of the authority is a corporation other than a listed corporation—there is a change to the corporation’s shareholders;	15 16 17
	(g) if the authority is not a security sensitive authority or the holder of the authority is a corporation—the holder is, in Queensland or elsewhere, convicted of or charged with an offence involving a prescribed activity.	18 19 20 21 22
(4)	Section 43(1)(d) to (g)— <i>renumber</i> as section 43(1)(b) to (e).	23 24
(5)	Section 43(2), from ‘becoming’ to ‘unless’— <i>omit, insert—</i>	25 26
	the holder becomes aware the prescribed event has happened, give the chief inspector a notice about the event, unless	27 28 29
(6)	Section 43(2), penalty, paragraph (a)— <i>omit, insert—</i>	30 31

-
- (a) for a prescribed event mentioned in subsection (1)(b)(i) or (ii)—20 penalty units; or
- (7) Section 43(3), definition *listed corporation*—
omit.

Clause 105 Insertion of new s 43A

After section 43—
insert—

43A Notification requirements for holders of security sensitive authorities

(1) This section applies if any of the following events (each a *prescribed event*) happens during the term of a security sensitive authority—

(a) if the holder of the authority is a listed corporation—

(i) the responsible person for the corporation stops being employed or engaged by the corporation; or

(ii) the responsible person for the corporation is, in Queensland or elsewhere, convicted of or charged with a relevant offence; or

(iii) the responsible person for the corporation is named as the respondent in a domestic violence order or police protection notice; or

(iv) release conditions are imposed on the responsible person for the corporation under the *Domestic and Family Violence Protection Act 2012*, section 125;

(b) if the holder of the authority is a corporation other than a listed corporation—

[s 106]

	(i)	an executive officer of the corporation is, in Queensland or elsewhere, convicted of or charged with a relevant offence; or	1 2 3 4
	(ii)	an executive officer of the corporation is named as the respondent in a domestic violence order or police protection notice; or	5 6 7 8
	(iii)	release conditions are imposed on an executive officer of the corporation under the <i>Domestic and Family Violence Protection Act 2012</i> , section 125.	9 10 11 12 13
	(2)	The holder of the security sensitive authority must, as soon as practicable after the holder becomes aware the prescribed event has happened, give the chief inspector a notice about the event, unless the holder has a reasonable excuse.	14 15 16 17 18 19
		Maximum penalty—200 penalty units.	20
Clause 106		Omission of s 46 (Requirement to have and give effect to safety management system)	21 22
		Section 46—	23
		<i>omit.</i>	24
Clause 107		Insertion of new pt 3, div 5A	25
		Part 3—	26
		<i>insert—</i>	27
		Division 5A Safety and security requirements	28 29

46 Definitions for division	1
In this division—	2
<i>emergency event</i> includes the following—	3
(a) an explosion;	4
(b) a fire;	5
(c) a security breach at a place at which an activity is carried out under a prescribed authority;	6 7 8
(d) an event that requires a response to a security threat;	9 10
(e) a flood;	11
(f) a cyclone.	12
<i>Examples of an event for paragraph (d)—</i>	13
a security lockdown or an attack relating to national security	14 15
<i>national counter terrorism alert level</i> means the current level of alert for Australia of a terrorist act being carried out as published by the Commonwealth Government.	16 17 18 19
<i>prescribed authority</i> means the following—	20
(a) a licence to import explosives;	21
(b) a licence to export explosives;	22
(c) a licence to manufacture explosives;	23
(d) a licence to sell explosives;	24
(e) a licence to store explosives;	25
(f) a licence to transport explosives;	26
(g) a licence to use explosives;	27
(h) a shotfirer licence;	28
(i) a fireworks contractor licence.	29
<i>safety and security management system</i> means a	30

[s 107]

document that sets out a system that incorporates risk management elements and practices to— 1
2
(a) protect the safety and health of persons who 3
may be affected by activities carried out 4
under the prescribed authority; and 5
(b) ensure explosives handled under the 6
authority are kept securely so that the 7
explosives cannot be accessed by persons 8
who should not have access. 9

**46A Requirement for safety and security 10
management system 11**

(1) This section applies to the holder of a prescribed 12
authority if 1 or more employees of the holder 13
carry out activities under the authority. 14

(2) The holder of the authority must have and give 15
effect to a safety and security management system 16
that complies with subsections (3) and (4). 17

Maximum penalty—100 penalty units. 18

(3) For subsection (2), the safety and security 19
management system is to relate to— 20

(a) if a place is stated in the prescribed authority 21
as a place at which an activity may be 22
carried out under the authority—the place; 23
or 24

Examples of a place for paragraph (a)— 25

- an explosives factory 26
- premises where explosives are stored 27

(b) if an activity is carried out under the 28
prescribed authority other than at a place 29
mentioned in paragraph (a)—the activity. 30

Examples of an activity for paragraph (b)— 31

- blasting activities carried out under a 32
prescribed authority at various locations 33

-
- transporting explosives 1
- (4) The safety and security management system must 2
include the following— 3
- (a) a description of the holder’s safety and 4
security policy; 5
 - (b) details of the organisational structure of the 6
holder’s operations, including details of the 7
personnel responsible for performing all the 8
functions provided for under the system; 9
 - (c) a system procedure for each matter stated in 10
schedule 3, part 1; 11
 - (d) an operational procedure for each matter 12
stated in schedule 3, part 2 that applies to 13
the place or activity to which the system 14
applies; 15
 - (e) a security plan that complies with section 16
46C; 17
 - (f) an emergency response plan to manage risk 18
to the safety and health of persons and the 19
security of explosives in an emergency 20
event; and 21
 - (g) a process for ongoing consultation with 22
employees and contractors of the holder 23
who are engaged in carrying out activities 24
under the prescribed authority, at least once 25
in each month, about safety and security in 26
relation to the activities. 27

**46B Safety and security requirements under other 28
legislation 29**

To remove any doubt, it is declared that the safety 30
and security management system may be part of a 31
safety and security management system (however 32
called) required under another Act. 33

[s 107]

<i>Example—</i>	1
The safety and security management system may be part	2
of a safety and health management system for a coal	3
mine required under the <i>Coal Mining Safety and Health</i>	4
<i>Act 1999.</i>	5

46C Contents of security plan 6

A security plan must—	7
(a) identify security risks for explosives that	8
may affect an individual, property and	9
information kept by the holder of a	10
prescribed authority about explosives; and	11
(b) adopt processes that deal with identified	12
security risks for explosives activities, that	13
ensure—	14
(i) the explosives are kept securely; and	15
(ii) records are kept that are sufficient to	16
allow the inspector to assess whether	17
the plan has been complied with; and	18
(iii) methods are used that identify when	19
explosives have been accessed and	20
identify access to explosives by a	21
person who should not have access to	22
explosives; and	23
(iv) the chain of possession of the	24
explosives can be traced from the	25
holder of the authority to the holder of	26
another prescribed authority; and	27
(v) the explosives are delivered to a person	28
authorised in the security plan to have	29
access to the explosives and to receive	30
the explosives; and	31
(vi) records are kept that identify the	32
persons who, in the scope of their	33

employment, are allowed unsupervised	1
access to explosives.	2
46D Requirement to review security plan	3
The holder of the prescribed authority must	4
review the security plan—	5
(a) annually; and	6
(b) if any of the following happens—	7
(i) a change in the national counter	8
terrorism alert level or level of risk;	9
(ii) there is a loss of explosives;	10
(iii) there is unauthorised entry, or	11
attempted unauthorised entry, to the	12
place where the explosives are stored;	13
(iv) an explosives stock discrepancy cannot	14
be reconciled with records kept by the	15
holder;	16
(v) an explosive has been stolen;	17
(vi) an explosive has been fraudulently	18
obtained;	19
(vii) an explosive or an explosive facility	20
has been intentionally damaged;	21
(viii) information kept by the holder in	22
relation to explosives has been lost or	23
stolen;	24
(ix) an explosive has been accessed by a	25
person who should not have access to	26
the explosive;	27
(x) an explosive has been sold and has not	28
been delivered by the expected delivery	29
day.	30
Maximum penalty—100 penalty units.	31

[s 108]

Clause 108	Amendment of s 54 (Condition of explosives)	1
	Section 54(a), after ‘safe’—	2
	<i>insert</i> —	3
	and secure	4
Clause 109	Amendment of s 65 (Requirements for handling explosives at port)	5
	Section 65(1)(b)(ii), after ‘safety’—	6
	<i>insert</i> —	7
	and security	8
Clause 110	Amendment of s 66 (Port authority or port operator to prepare explosives limits document)	10
	Section 66(a), after ‘safely’—	11
	<i>insert</i> —	12
	and securely	13
Clause 111	Omission of s 70 (Prescribed amount of explosive—Act, s 38)	14
	Section 70—	15
	<i>omit.</i>	16
Clause 112	Amendment of s 71 (Prescribed explosives and conditions—Act, s 38)	17
	(1) Section 71(1)(a)—	18
	<i>omit, insert</i> —	19
	(a) an explosive that—	20
	(i) consists of a mixture of ammonium nitrate and fuel oil in a proportion that achieves blasting; and	21
		22
		23
		24
		25
		26

	(ii) may include a dye colouring agent;	1
(2)	Section 71(2)(b), ‘for ANFO—ANFO’—	2
	<i>omit, insert—</i>	3
	for an explosive mentioned in subsection	4
	(1)(a)—the explosive	5
(3)	Section 71(2)(b), after ‘safety’—	6
	<i>insert—</i>	7
	and security	8
Clause 113	Amendment of s 73 (Manufacturing explosives)	9
	Section 73, after ‘safety’—	10
	<i>insert—</i>	11
	and security	12
Clause 114	Amendment of s 76 (Persons to whom explosives may be supplied)	13
	Section 76, penalty—	14
	<i>omit, insert—</i>	15
	Maximum penalty—100 penalty units.	16
Clause 115	Amendment of s 79 (Person must comply with instructions and procedures)	17
	Section 79(b), after ‘safety’—	18
	<i>insert—</i>	19
	and security	20
Clause 116	Amendment of s 81 (Prohibited conduct)	21
	Section 81(a)(i), ‘safety’—	22
	<i>omit, insert—</i>	23

[s 117]

	safely and securely handling explosives	1
Clause 117	Amendment of s 83 (Persons to whom explosives may be sold)	2
	Section 83—	3
	<i>insert—</i>	4
	(f) an inspector to whom a direction has been given by the chief inspector under section 105B of the Act to purchase the explosive.	5
		6
		7
		8
Clause 118	Omission of s 86 (Employer’s obligations about employees engaged in selling explosives—Act, s 33)	9
	Section 86—	10
	<i>omit.</i>	11
		12
Clause 119	Amendment of s 88 (Restriction on holder of licence selling security sensitive explosive to new client)	13
	Section 88—	14
	<i>insert—</i>	15
	(8) This section does not apply if the person to whom the explosives are proposed to be sold is an inspector to whom a direction has been given by the chief inspector under section 105B of the Act to purchase the explosives.	16
		17
		18
		19
		20
		21
Clause 120	Amendment of s 89 (Restriction on holder of licence selling security sensitive explosive to existing client)	22
	Section 89—	23
	<i>insert—</i>	24
	(8) This section does not apply if the person to whom the explosives are proposed to be sold is an inspector to whom a direction has been given by	25
		26
		27
		28

	the chief inspector under section 105B of the Act to purchase the explosives.	1 2
Clause 121	Omission of s 92 (Security plan obligations of holder of licence to sell explosives)	3 4
	Section 92—	5
	<i>omit.</i>	6
Clause 122	Amendment of s 105 (Requirements for storing explosives)	7 8
	Section 105(1)(d), after ‘safety’—	9
	<i>insert—</i>	10
	or security	11
Clause 123	Amendment of s 114 (Duties)	12
	(1) Section 114—	13
	<i>insert—</i>	14
	(ca) ensure explosives at the magazine are secure from access by a person who should not have access to the explosives; and	15 16 17
	(2) Section 114(ca) to (f)—	18
	<i>renumber</i> as section 114(d) to (g).	19
Clause 124	Amendment of s 115 (Powers)	20
	(1) Section 115, heading—	21
	<i>omit, insert—</i>	22
	115 Powers to inspect, take samples of and repackage explosives	23 24
	(2) Section 115(1), ‘subsections (2) and (3)’—	25
	<i>omit, insert—</i>	26

[s 125]

	this section	1
(3)	Section 115—	2
	<i>insert—</i>	3
	(2A) The manager may inspect the explosive to decide whether the explosive is in a secure condition for storage and transport.	4 5 6
(4)	Section 115(3)(b)(ii), after ‘safe’—	7
	<i>insert—</i>	8
	and secure	9
(5)	Section 115(2A) and (3)—	10
	<i>renumber</i> as section 115(3) and (4).	11
Clause 125	Insertion of new s 115A	12
	Part 8, division 4, subdivision 2—	13
	<i>insert—</i>	14
	115A Manager may authorise magazine employees to give instructions	15 16
	(1) The manager of a government magazine may, by notice given to a magazine employee, authorise the employee to give instructions to other persons at the magazine, including other magazine employees, that are necessary to ensure compliance with the Act.	17 18 19 20 21 22
	(2) The notice must state—	23
	(a) the name of the magazine employee to whom the authorisation is given; and	24 25
	(b) the day the authorisation is given; and	26
	(c) any conditions to which the authorisation is subject.	27 28
	(3) The manager of the government magazine may authorise the magazine employee to give	29 30

instructions under subsection (1) only if the 1
manager is satisfied the employee is appropriately 2
qualified to give the instructions. 3

Clause 126 Replacement of s 116 (Entry to government magazine) 4

Section 116— 5

omit, insert— 6

116 Entry to government magazines 7

For schedule 2 of the Act, definition *unlawfully* 8
enter, paragraph (a)(iii), the following persons are 9
prescribed— 10

(a) the manager of the magazine; 11

(b) an inspector. 12

116A Entry to areas within government magazines 13

(1) The manager of a government magazine or an 14
inspector may direct a person not to enter an area 15
within a government magazine if the manager or 16
inspector considers the direction is reasonably 17
necessary to ensure— 18

(a) the safety of the person or another person; or 19

(b) the security of an explosive at the magazine 20
from access by a person who should not 21
have access to the explosive. 22

(2) A person given a direction under subsection (1) 23
must comply with the direction. 24

Maximum penalty—50 penalty units. 25

(3) The manager of a government magazine or an 26
inspector may take reasonable steps to remove a 27
person from an area within a government 28
magazine if the person entered the area in 29
contravention of a direction given to the person 30
under subsection (1). 31

[s 127]

Clause 127	Amendment of s 118 (How manager must deal with request)	1 2
(1)	Section 118(2)(g)(ii), after ‘safe’— <i>insert—</i>	3 4
	and secure	5
(2)	Section 118(4), after ‘safely’— <i>insert—</i>	6 7
	and securely	8
Clause 128	Amendment of s 119 (Requirements for storing explosive)	9 10
	Section 119(1)(d)(ii), after ‘safe’— <i>insert—</i>	11 12
	and secure	13
Clause 129	Amendment of s 129 (Person must comply with instructions and procedures)	14 15
(1)	Section 129(a)— <i>omit, insert—</i>	16 17
	(a) the lawful instructions of—	18
	(i) a prescribed person; or	19
	(ii) for a government magazine—a person authorised under section 115A to give instructions to another person at the government magazine; and	20 21 22 23
(2)	Section 129(b), after ‘safety’— <i>insert—</i>	24 25
	and security	26
(3)	Section 129(c), from ‘approved’ to ‘the magazine’— <i>omit, insert—</i>	27 28

	in relation to explosives approved by the chief inspector for the magazine	1 2
(4)	Section 129— <i>insert—</i>	3 4
	(2) For subsection (1)(a), a lawful instruction does not include a direction given to a person under section 116A(1).	5 6 7
Clause 130	Amendment of s 131 (Prohibited conduct)	8
	Section 131(a)(i), ‘safety’— <i>omit, insert—</i>	9 10
	safely and securely storing explosives	11
Clause 131	Amendment of s 133 (Explosives exempt from s 50(1) of Act)	12 13
	Section 133— <i>insert—</i>	14 15
	(c) an explosive on board a boat, the owner or master of which is subject to the <i>Transport Operations (Marine Safety) Regulation 2016</i> , section 88(1) or (2), for the explosive.	16 17 18 19
Clause 132	Amendment of s 134 (Requirements for consignors and consignees of particular explosives)	20 21
	Section 134— <i>insert—</i>	22 23
	(3) However, the person is not required to comply with a provision of the Australian dangerous goods code, or the Australian explosives code, if—	24 25 26 27

[s 133]

	(a)	a determination applying to the person states that the determination applies for this section instead of the provision; and	1 2 3
	(b)	the person complies with the determination.	4
Clause 133		Amendment of s 135 (Explosives that may be transported under s 50(3) of Act)	5 6
	(1)	Section 135(1)— <i>omit.</i>	7 8
	(2)	Section 135(2) and (3)— <i>renumber</i> as section 135(1) and (2).	9 10
Clause 134		Amendment of s 136 (Conditions for transporting explosives under s 50(3) of Act)	11 12
	(1)	Section 136, after ‘safety’— <i>insert</i> — and security	13 14 15
	(2)	Section 136(2), ‘section 135(2)(a) or (b)’— <i>omit, insert</i> — section 135(1)(a) or (b)	16 17 18
	(3)	Section 136(3), ‘section 135(2)(c)’— <i>omit, insert</i> — section 135(1)(c)	19 20 21
	(4)	Section 136— <i>insert</i> — (3A) However, a person mentioned in subsection (2) or (3) is not required to comply with a provision of the Australian dangerous goods code, or the Australian explosives code, if—	22 23 24 25 26 27

-
- (a) a determination applying to the person states that the determination applies for this section instead of the provision; and
- (b) the person complies with the determination.
- (5) Section 136(4)(f)(iii), after ‘safely’—
insert—
or securely
- (6) Section 136(3A) and (4)—
renumber as section 136(4) and (5).

Clause 135 Amendment of s 137 (General requirements for transporting explosives)

- Section 137—
insert—
- (3) Also, a person mentioned in subsection (1) is not required to comply with a provision of the Australian dangerous goods code, or the Australian explosives code, if—
- (a) a determination applying to the person states that the determination applies for this section instead of the provision; and
- (b) the person complies with the determination.

Clause 136 Insertion of new s 138A

- Part 9, division 3—
insert—
- 138ALicence must be available for inspection**
- The holder of an explosives driver licence must, unless the holder has a reasonable excuse—

[s 137]

	(a) have the licence available for inspection	1
	when driving a vehicle to transport	2
	explosives; and	3
	(b) if asked by an inspector, produce the licence	4
	for inspection by the inspector.	5
	Maximum penalty—20 penalty units.	6
Clause 137	Amendment of s 140 (Person must comply with instructions, notices and procedures)	7
	Section 140(b), after ‘safety’—	8
	<i>insert—</i>	9
	and security	10
Clause 138	Amendment of s 142 (Prohibited conduct)	11
	(1) Section 142(a)(i), ‘safety’—	12
	<i>omit, insert—</i>	13
	safely and securely handling explosives	14
	(2) Section 142(a)(iii), after ‘safety’—	15
	<i>insert—</i>	16
	and security	17
Clause 139	Amendment of s 143 (Application of division)	18
	Section 143, after ‘authority’—	19
	<i>insert—</i>	20
	, other than an explosives driver licence,	21
Clause 140	Insertion of new pt 9, divs 6 and 7	22
	Part 9—	23
	<i>insert—</i>	24
		25

Division 6	Competent authority	1
145A	Chief inspector is competent authority—Act, s 51A	2 3
	For section 51A(1)(a) of the Act, the chief inspector is the competent authority for this part.	4 5
Division 7	Determinations	6
Subdivision 1	Making and effect of determinations	7 8
145B	Competent authority may make determinations—Act, s 51A	9 10
(1)	For section 51A(1)(b) of the Act, the competent authority may make a determination about the safe and secure transport of an explosive.	11 12 13
(2)	A determination under subsection (1) must be made by notice.	14 15
	<i>Note—</i>	16
	A notice under subsection (2) is declared to be subordinate legislation under the <i>Statutory Instruments Regulation 2012</i> , section 2(3) and schedule 1.	17 18 19
(3)	Subsection (2) does not apply to an administrative determination.	20 21
145C	Offences relating to determinations	22
(1)	If a determination permits the doing of something subject to a condition, a person to whom the determination applies must, if the person does the thing, comply with the condition.	23 24 25 26
	Maximum penalty—40 penalty units.	27

[s 140]

- (2) If a determination prohibits the doing of something, a person to whom the determination applies must not do the thing. 1
2
3
Maximum penalty—100 penalty units. 4
- (3) If a determination requires the doing of something, a person to whom the determination applies must do the thing. 5
6
7
Maximum penalty—100 penalty units. 8
- (4) It is a defence to a prosecution for an offence against this section that the person did not know, and could not reasonably have been expected to know, of the determination, or that the determination applied to the person. 9
10
11
12
13

Subdivision 2 Administrative determinations 14 15

145D Applications for administrative determinations or amendments 16 17

- (1) A person may apply to the competent authority for— 18
19
(a) an administrative determination; or 20
(b) an amendment of an administrative determination. 21
22
- (2) The application must— 23
(a) be in the approved form; and 24
(b) if the application is for an amendment of an administrative determination—be accompanied by the determination. 25
26
27
- (3) The competent authority may, by notice given to the applicant, ask the applicant to give to the competent authority the additional information reasonably necessary to decide the application. 28
29
30
31

-
- 145E Deciding applications** 1
- (1) The competent authority must, after considering 2
the application, decide— 3
- (a) to make the administrative determination, or 4
amendment, with or without conditions; or 5
- (b) to refuse to make the administrative 6
determination or amendment. 7
- (2) The competent authority must not make the 8
administrative determination or amendment 9
unless satisfied the determination or amendment 10
ensures the safe and secure transport of the 11
explosive the subject of the determination. 12
- 145F Notice of decision** 13
- (1) If the competent authority decides to make an 14
administrative determination or amendment, the 15
competent authority must give the administrative 16
determination or amended administrative 17
determination to— 18
- (a) the applicant; and 19
- (b) any other person to whom the determination 20
applies. 21
- (2) If the competent authority refuses to make the 22
administrative determination or amendment, or 23
makes the administrative determination or 24
amendment subject to conditions, the competent 25
authority must give an information notice for the 26
decision to— 27
- (a) the applicant; and 28
- (b) any other person— 29
- (i) to whom the determination applies; or 30
- (ii) who is named in the application as a 31
person to whom the determination is to 32
apply. 33

[s 140]

145G Form and term of administrative determinations	1 2
(1) An administrative determination must—	3
(a) be in writing; and	4
(b) state—	5
(i) the person to whom the administrative determination applies; and	6 7
(ii) the explosive to which the administrative determination relates; and	8 9 10
(iii) the provisions of this part, and of the Australian dangerous goods code or the Australian explosives code, to which the administrative determination relates; and	11 12 13 14 15
(iv) any conditions to which the administrative determination is subject; and	16 17 18
(v) the term of the administrative determination.	19 20
(2) At the end of the stated term, the administrative determination expires.	21 22
145H Replacement administrative determinations	23
The competent authority must give the holder of an administrative determination a replacement administrative determination if—	24 25 26
(a) the administrative determination is amended under section 145K; or	27 28
(b) the competent authority is satisfied the determination has been defaced, destroyed, lost or stolen.	29 30 31

145I Grounds for amending, suspending or cancelling administrative determinations	1 2
Each of the following is a ground for amending, suspending or cancelling an administrative determination—	3 4 5
(a) the administrative determination was made because of incorrect or misleading information;	6 7 8
(b) the holder of the administrative determination—	9 10
(i) contravenes a condition of the determination; or	11 12
(ii) is convicted of or charged with an offence against the Act or an Act of another State about explosives or another offence involving the use of explosives;	13 14 15 16 17
(c) public safety has been endangered, or is likely to be endangered, because of the administrative determination;	18 19 20
(d) a change in circumstances happened after the administrative determination was made and, had the changed circumstances existed when the determination was made, the determination would not have been made;	21 22 23 24 25
(e) the amendment, suspension or cancellation is otherwise necessary in the public interest.	26 27
145J Notice of proposed action	28
(1) This section applies if the competent authority considers there is a ground to amend, suspend or cancel an administrative determination (the <i>proposed action</i>).	29 30 31 32
(2) Before taking the proposed action, the competent authority must give the holder of the	33 34

[s 140]

administrative determination a notice that states—	1 2
(a) the proposed action; and	3
(b) the grounds for the proposed action; and	4
(c) if the proposed action is to amend the administrative determination—the proposed amendment; and	5 6 7
(d) if the proposed action is to suspend the administrative determination—the proposed period of the suspension; and	8 9 10
(e) that the holder may show, within a stated reasonable period (the <i>submission period</i>) of at least 28 days after the notice is given to the holder, why the proposed action should not be taken.	11 12 13 14 15
(3) This section does not apply in relation to—	16
(a) the amendment or cancellation of an administrative determination asked for by the holder of the determination; or	17 18 19
(b) the amendment of an administrative determination—	20 21
(i) for a formal or clerical reason; or	22
(ii) in another way that does not adversely affect the interests of the holder of the determination.	23 24 25
145K Amending, suspending or cancelling administrative determinations generally	26 27
(1) If, after considering any written representations made within the submission period, the competent authority still considers a ground exists to take the proposed action, the competent authority may—	28 29 30 31 32

-
- (a) if the proposed action was to amend the administrative determination—amend the determination; or
- (b) if the proposed action was to suspend the administrative determination for a stated period—suspend the determination for no longer than the stated period; or
- (c) if the proposed action was to cancel the administrative determination—
- (i) amend the administrative determination; or
- (ii) suspend the administrative determination for a period; or
- (iii) cancel the administrative determination.
- (2) The competent authority must give the holder of the administrative determination a notice about the decision (a *decision notice*).
- (3) If the competent authority decides to amend, suspend or cancel the administrative determination, the decision notice must be an information notice for the decision.
- (4) The decision takes effect on the day the decision notice is given to the holder or, if a later day is stated in the notice, the later day.

145L Suspension on conditions

- (1) This section applies if—
- (a) an administrative determination is suspended under section 145K(1)(c)(ii); and
- (b) the grounds for taking action under that section are capable of being remedied by the holder of the administrative determination.
- (2) The suspension may be on condition that—

[s 140]

- (a) the holder remedy the grounds to the competent authority's reasonable satisfaction within a reasonable time before the period of the suspension ends; and
- (b) if the holder does not remedy the grounds under paragraph (a), the competent authority may cancel the administrative determination under section 145M.
- (3) If a condition is imposed under subsection (2), the decision notice must state that the administrative determination may be cancelled under section 145M if the holder does not comply with the condition.
- 145M Cancellation for failure to take remedial action**
- (1) This section applies if the competent authority—
- (a) suspends an administrative determination on the condition mentioned in section 145L(2); and
- (b) reasonably believes the holder of the administrative determination has not complied with the condition.
- (2) The competent authority may, by information notice given to the holder, cancel the administrative determination.
- (3) The cancellation takes effect on the day the information notice is given to the holder or, if a later day is stated in the notice, the later day.
- 145N Immediate suspension of administrative determinations**
- (1) This section applies if the competent authority considers it necessary in the public interest to immediately suspend an administrative

-
- determination. 1
- (2) The competent authority may immediately 2
suspend the administrative determination without 3
giving notice of the proposed suspension under 4
section 145J(2). 5
- (3) However, the competent authority must 6
immediately inform the holder of the 7
administrative determination about the decision 8
by giving the holder an information notice for the 9
decision. 10
- (4) The suspension— 11
- (a) takes effect on the day the information 12
notice is given to the holder of the 13
administrative determination or, if a later 14
day is stated in the notice, the later day; and 15
- (b) ends on the earlier of the following— 16
- (i) the day the competent authority, after 17
complying with sections 145J(2) and 18
145K(1), gives the holder a decision 19
notice; 20
- (ii) the day that is 56 days after the day the 21
information notice is given to the 22
holder under subsection (3). 23

Subdivision 3 Register of determinations 24

1450 Register of determinations—Act, s 51A 25

- (1) For section 51A(2)(d) of the Act, the competent 26
authority must keep a register of determinations. 27
- (2) The register must include the following 28
information for each determination— 29
- (a) the day the determination was made; 30

[s 141]

	(b) the explosive the subject of the determination;	1 2
	(c) the provisions of this part, and of the Australian dangerous goods code or the Australian explosives code, to which the determination relates;	3 4 5 6
	(d) whether the determination is an administrative determination and, if so, the provisions of the determination;	7 8 9
	(e) if the determination is amended—the day the amendment was made and details of the amendment;	10 11 12
	(f) if the determination is suspended—the period of the suspension;	13 14
	(g) if the determination is cancelled—the day it was cancelled.	15 16
	(3) The register must be kept in the way decided by the competent authority.	17 18
	(4) The competent authority must ensure the register is available for inspection by the public, including, for example, by ensuring there is reasonable access to—	19 20 21 22
	(a) copies of information in the register; or	23
	(b) a computer terminal to inspect the register.	24
Clause 141	Amendment of s 147 (Employer’s obligations about employees engaged in using explosives)	25 26
	(1) Section 147(2)(a) and (e)— <i>omit.</i>	27 28
	(2) Section 147(2)(b) to (d)— <i>renumber</i> as section 147(2)(a) to (c).	29 30

Clause 142	Amendment of s 152 (Use of blasting explosives)	1
	Section 152(a)(ii), after ‘safety’—	2
	<i>insert</i> —	3
	and security	4
Clause 143	Amendment of s 160 (Meaning of <i>organise</i> fireworks display)	5
	Section 160(b), ‘safety requirements’—	6
	<i>omit, insert</i> —	7
	safety and security requirements	8
Clause 144	Amendment of s 162 (Meaning of <i>safety requirements</i> for fireworks displays)	10
	(1) Section 162, ‘safety requirements’—	11
	<i>omit, insert</i> —	12
	safety and security requirements	13
	(2) Section 162(a)(ii), ‘alternative safety measures’—	14
	<i>omit, insert</i> —	15
	alternative safety and security measures	16
Clause 145	Amendment of s 166 (Prohibition on allowing unsafe fireworks display to be staged)	18
	(1) Section 166, heading—	19
	<i>omit, insert</i> —	20
	166 Display hosts’ obligations about safety and security of fireworks displays	21
	(2) Section 166, ‘safety requirements’—	22
	<i>omit, insert</i> —	23
	safety and security requirements	24
		25
		26

[s 146]

Clause 146	Amendment of s 168 (Fireworks contractor’s obligations about safety of fireworks display)	1 2
(1)	Section 168, heading, after ‘safety’— <i>insert</i> — and security	3 4 5
(2)	Section 168, ‘safety requirements’— <i>omit, insert</i> — safety and security requirements	6 7 8
Clause 147	Amendment of s 184 (Application for external review)	9
(1)	Section 184(2), definition <i>reviewable decision</i> — <i>insert</i> — (fa) a decision under section 145E to refuse to make or amend an administrative determination; (fb) a decision under section 145E to make or amend an administrative determination subject to conditions; (fc) a decision under section 145K, 145M or 145N to amend, suspend or cancel an administrative determination;	10 11 12 13 14 15 16 17 18 19 20
(2)	Section 184(2), definition <i>reviewable decision</i> , paragraphs (fa) to (g)— <i>renumber</i> as paragraphs (g) to (j).	21 22 23
Clause 148	Amendment of s 185 (Period for keeping records)	24
	Section 185, after ‘safety’— <i>insert</i> — and security	25 26 27

Clause 149	Insertion of new pt 14, div 1, hdg	1
	Before section 193—	2
	<i>insert—</i>	3
	Division 1	4
	Transitional provisions for	4
	SL No. 150 of 2017	5
Clause 150	Amendment of s 193 (Definitions for part)	6
	Section 193, ‘part’—	7
	<i>omit, insert—</i>	8
	division	9
Clause 151	Insertion of new pt 14, div 2	10
	After section 209—	11
	<i>insert—</i>	12
	Division 2	13
	Transitional provisions for	13
	Land, Explosives and	14
	Other Legislation	15
	Amendment Act 2017	16
	210 Existing licence to transport explosives	17
	(1) This section applies to a licence to transport	18
	explosives in force immediately before the	19
	commencement.	20
	(2) From the commencement—	21
	(a) the licence is taken to authorise the authority	22
	holder to operate a business of transporting	23
	the explosives stated in the licence in the	24
	vehicles stated in the licence; and	25

[s 152]

	(b) the licence does not authorise the authority holder to drive a vehicle to transport explosives.	1 2 3
	211 Employees of holder of licence to transport explosives	4 5
	(1) This section applies to a person who—	6
	(a) on the commencement, is an employee of the holder of a licence to transport explosives; and	7 8 9
	(b) is employed to drive a vehicle, stated in the licence as a vehicle to transport explosives, to transport explosives.	10 11 12
	(2) From the commencement, the person is taken to be the holder of an explosives driver licence.	13 14
	(3) This section stops having effect on the day that is 1 year after the commencement.	15 16
Clause 152	Amendment of sch 3 (Matters to be included in safety management system)	17 18
	(1) Schedule 3, heading, ‘safety management system’— <i>omit, insert—</i> safety and security management system	19 20 21
	(2) Schedule 3, part 1, item 1— <i>omit, insert—</i> 1 Establishing and maintaining an explosives safety management system to deal with hazard and risk identification, risk assessment and risk control.	22 23 24 25 26 27
	(3) Schedule 3, part 1, item 6— <i>insert—</i>	28 29

	(l) alternative safety and security measures used.	1 2
	(4) Schedule 3, part 1, item 9— <i>omit.</i>	3 4
Clause 153	Amendment of sch 7 (Dictionary)	5
	(1) Schedule 7, definitions <i>alternative safety measures, ANFO, blasting explosive, firework, handle, propellant powder, pyrotechnic substance, safety management system, safety requirements, security sensitive explosive and small arms ammunition—</i> <i>omit.</i>	6 7 8 9 10 11
	(2) Schedule 7— <i>insert—</i>	12 13
	<i>administrative determination</i> see section 51A(3) of the Act.	14 15
	<i>alternative safety and security measures</i> see section 9(2).	16 17
	<i>decision notice</i> see section 145K(2).	18
	<i>emergency event</i> , for part 3, division 5A, see section 46.	19 20
	<i>holder</i> , of an administrative determination, means a person to whom the determination applies.	21 22
	<i>national counter terrorism alert level</i> , for part 3, division 5A, see section 46.	23 24
	<i>prescribed authority</i> , for part 3, division 5A, see section 46.	25 26
	<i>proposed action</i> see section 145J(1).	27
	<i>relevant offence</i> see section 23A(3) of the Act.	28
	<i>safety and security management system</i> , for part 3, division 5A, see section 46.	29 30

[s 154]

safety and security requirements, for a fireworks display, see section 162. 1
2
submission period see section 145J(2)(e). 3

Part 6 **Amendment of Foreign Ownership of Land Register Act 1988** 4
5
6

Clause 154 Act amended 7
This part amends the *Foreign Ownership of Land Register Act 1988*. 8
9

Clause 155 Amendment of s 4 (Interpretation) 10
(1) Section 4(2)— 11
omit, insert— 12
(2) For the purposes of this Act, the time of acquisition of an interest in land is taken to be— 13
14
(a) if the interest is acquired as the result of the granting of a lease of unallocated State land—the time when the lease commences; 15
16
or 17
18
(b) if the interest is acquired under an agreement—the time of entry into possession of the interest; or 19
20
21
(c) otherwise—the time when the event that gave rise to the acquisition occurred. 22
23
(2) Section 4(4)— 24
omit. 25

Clause 156 Omission of ss 5–10 26
Sections 5 to 10— 27

omit.

1

Clause 157 Replacement of s 11 (Register)

2

Section 11—

3

omit, insert—

4

11 Register

5

(1) The registrar must maintain a register called the Foreign Ownership of Land Register.

6

7

(2) The register may be kept in the form the registrar considers appropriate including, for example, in electronic form.

8

9

10

(3) A prescribed form lodged with the registrar forms part of the register.

11

12

(4) The registrar may do the following things in relation to the register—

13

14

(a) make a copy, in a way approved by the Minister for this section, of any part of the register;

15

16

17

(b) move particulars recorded in a particular part of the register to another part;

18

19

(c) delete particulars recorded in a particular part of the register if the registrar is satisfied the particulars have been accurately recorded in another part;

20

21

22

23

(d) destroy a prescribed form if a copy of the prescribed form has been made under paragraph (a).

24

25

26

(5) A copy of a part of the register made under subsection (4)(a) and certified by the registrar as an accurate copy of that part of the register forms part of the register.

27

28

29

30

(6) A copy of a prescribed form made under subsection (4)(a) and certified by the registrar as

31

32

[s 158]

	an accurate copy of the prescribed form is	1
	admissible as evidence of the prescribed form and	2
	the things in it.	3
Clause 158	Omission of s 12 (Accurately completed prescribed forms)	4
	Section 12—	5
	<i>omit.</i>	6
Clause 159	Amendment of s 14 (Access to information in register)	8
	(1) Section 14(1), from ‘Subject’ to ‘and upon’—	9
	<i>omit, insert—</i>	10
	A person may, on payment of the prescribed fee	11
	and during the hours and on	12
	(2) Section 14(1)(c), ‘upon the giving of’—	13
	<i>omit, insert—</i>	14
	on giving	15
	(3) Section 14(2)—	16
	<i>omit.</i>	17
Clause 160	Omission of s 17 (Disclosure of present interest)	18
	Section 17—	19
	<i>omit.</i>	20
Clause 161	Replacement of ss 18–21	21
	Sections 18 to 21—	22
	<i>omit, insert—</i>	23
	18 Disclosure of acquisition	24
	(1) A foreign person who acquires the legal estate of	25
	an interest in land must complete and lodge with	26

the registrar a notification of ownership in relation	1
to the interest not later than 90 days after the day	2
of the acquisition.	3
(2) However, a foreign person is not required to	4
comply with subsection (1) if the legal estate of	5
the interest in land is vested in the person as	6
personal representative of a deceased person.	7
(3) Also, a person beneficially entitled to an interest	8
in land because of the death of a person is not	9
required to comply with subsection (1) until all	10
documents resulting in the interest vesting in the	11
person have been lodged with the relevant	12
registering authority.	13
18A Disclosure of disposal of interest	14
(1) Subsection (2) applies if—	15
(a) the legal estate of an interest in land is	16
registered in the register, or recorded in the	17
records of a relevant registering authority, in	18
the name of a foreign person; and	19
(b) the foreign person disposes of the interest.	20
(2) The foreign person must complete and lodge with	21
the registrar a notification, in the prescribed form,	22
in relation to the disposal not later than 90 days	23
after the day on which the disposal takes place.	24
19 Notification of ceasing to be a foreign person	25
(1) Subsection (2) applies if—	26
(a) the legal estate of an interest in land is	27
registered in the register, or recorded in the	28
records of a relevant registering authority, in	29
the name of a foreign person; and	30
(b) the person ceases to be a foreign person.	31
(2) The person must complete, and lodge with the	32

[s 162]

	registrar, a notification, in the prescribed form, in relation to the cessation not later than 90 days after the day on which the person ceases to be a foreign person.	1 2 3 4
	Maximum penalty—20 penalty units.	5
	20 Notification of becoming a foreign person	6
	(1) Subsection (2) applies if—	7
	(a) the legal estate of an interest in land is registered in the register, or recorded in the records of a relevant registering authority, in the name of a person; and	8 9 10 11
	(b) the person becomes a foreign person.	12
	(2) The person must complete, and lodge with the registrar, a notification of ownership in relation to the interest not later than 90 days after the day on which the person becomes a foreign person.	13 14 15 16
Clause 162	Amendment of s 23 (Registrar may enter information)	17
	Section 23(a) and (b), ‘or trustee notification of ownership’— <i>omit.</i>	18 19
Clause 163	Amendment of s 24 (Offence not to comply with s 22)	20
	(1) Section 24(2), ‘shall’— <i>omit, insert—</i> must	21 22 23
	(2) Section 24(7), ‘Where’— <i>omit, insert—</i> If	24 25 26
	(3) Section 24(8), ‘Where a court makes an order under subsection (7), it shall’—	27 28

	<i>omit, insert—</i>	1
	If a court makes an order under subsection (7), the court must	2 3
(4)	Section 24(11), from ‘When’ to ‘shall’—	4
	<i>omit, insert—</i>	5
	If a person is convicted of an offence under subsection (1) and the court makes an order under subsection (7), the person must	6 7 8
Clause 164	Amendment of s 25 (False or misleading statements)	9
(1)	Section 25(1) and (2), ‘shall’—	10
	<i>omit, insert—</i>	11
	must	12
(2)	Section 25(3), from ‘shall not’ to ‘or trustee notification of ownership’—	13 14
	<i>omit, insert—</i>	15
	must not, in giving the registrar information by completing a notification of ownership	16 17
(3)	Section 25(6), ‘ownership, trustee notification of’—	18
	<i>omit.</i>	19
Clause 165	Omission of pt 5 (Forfeiture and restraint)	20
	Part 5—	21
	<i>omit.</i>	22
Clause 166	Replacement of ss 41–42	23
	Sections 41 to 42—	24
	<i>omit, insert—</i>	25

- 41 Searches** 1
- (1) An officer responsible for keeping or maintaining records available to be searched by the public must allow the registrar, or a person authorised by the registrar, to search the records and make copies of or take extracts from a relevant record, free of charge. 2
3
4
5
6
7
- (2) In this section— 8
- relevant record* means— 9
- (a) a document of title; or 10
- (b) a document or other record relating to— 11
- (i) the acquisition or disposal of an interest in land; or 12
13
- (ii) another matter in which the registrar is or may, for the purposes of this Act, be interested. 14
15
16
- 42 Service of documents** 17
- (1) This section applies if— 18
- (a) a document is required or permitted under this Act to be served on a corporation; and 19
20
- (b) the corporation is not likely to receive the document if it is served in a way provided for under the *Acts Interpretation Act 1954*, part 10. 21
22
23
24
- (2) The document may be served on the corporation by— 25
26
- (a) delivering it personally to each of 2 directors of the corporation who reside in the State; or 27
28
- (b) sending it by post to each of 2 directors of the corporation who reside in the State at the address of the directors last known to the person serving the document; or 29
30
31
32

	(c) by sending it electronically to the email address of the corporation in accordance with the <i>Electronic Transactions (Queensland) Act 2001</i> .	1 2 3 4
	(3) In this section—	5
	<i>registered office</i> , of a corporation, means—	6
	(a) its registered office under the Corporations Act; or	7 8
	(b) if paragraph (a) does not apply—	9
	(i) its principal place of business in the State; or	10 11
	(ii) if subparagraph (i) does not apply—its principal place of business in Australia.	12 13
Clause 167	Amendment of s 43 (Evidentiary provisions)	14
	Section 43(c)(ii), ‘of the’—	15
	<i>omit, insert—</i>	16
	the	17
Clause 168	Insertion of new s 44B	18
	After section 44A—	19
	<i>insert—</i>	20
	44B Particular trustees to give information about beneficiaries	21 22
	(1) This section applies to a person who holds an interest, other than the legal estate, in land as trustee for another person (a <i>beneficiary</i>).	23 24 25
	(2) The person must, for the purposes of this Act, on request of a legal estate trustee for the land, give the legal estate trustee the following details for each beneficiary—	26 27 28 29

[s 169]

	(a) the beneficiary's name;	1	
	(b) the beneficiary's usual place of residence;	2	
	(c) details of the interest held for the beneficiary;	3 4	
	(d) whether or not the beneficiary is a foreign person.	5 6	
	(3) In this section—	7	
	<i>legal estate trustee</i> , in relation to land mentioned in subsection (1), means a person who holds the legal estate of an interest in the land.	8 9 10	
Clause 169	Insertion of new pt 7	11	
	After part 6—	12	
	<i>insert</i> —	13	
	Part 7	Transitional provisions for Land, Explosives and Other Legislation Amendment Act 2017	14 15 16 17
	46 Definitions for part	18	
	In this part—	19	
	<i>amended</i> , in relation to a section, means as in force from the commencement.	20 21	
	<i>amended Act</i> means the Act as in force from the commencement.	22 23	
	<i>previous</i> , in relation to a section, means as in force immediately before the commencement.	24 25	
	<i>previous Act</i> means the Act as in force immediately before the commencement.	26 27	
	<i>repealed</i> , in relation to a section, means as in force immediately before its repeal.	28 29	

47	Declarations under repealed section 6(2) continued in force	1 2
(1)	This section applies to a person—	3
(a)	in relation to whom the Minister made a declaration under repealed section 6(2) in relation to a particular interest; and	4 5 6
(b)	who, immediately before the commencement, was not a foreign person in relation to the interest because of the declaration; and	7 8 9 10
(c)	who, at the commencement, would otherwise be a foreign person under the amended Act.	11 12 13
(2)	The declaration continues in force for the person in relation to the particular interest.	14 15
(3)	While the declaration continues in force, the person is taken not to be a foreign person in relation to the interest.	16 17 18
(4)	The person must notify the registrar of any change in the circumstances on which the declaration was based as soon as practicable after the change happens.	19 20 21 22
(5)	The Minister may cancel the declaration if satisfied that, because of a change in the circumstances on which the declaration was based, it is no longer appropriate for the person to be taken not to be a foreign person.	23 24 25 26 27
48	Applications for declarations under s 6(4)	28
(1)	This section applies to an application under repealed section 6(4) made, but not decided, before the commencement.	29 30 31
(2)	The application is taken to be withdrawn.	32

49	Obligation to notify under repealed s 17	1
	continued	2
(1)	Despite its repeal, repealed section 17 continues to apply to a person in relation to the legal estate of an interest in land if, immediately before the commencement, the person had not complied with a requirement under the section to lodge a notification of ownership in relation to the interest.	3 4 5 6 7 8 9
(2)	For the purpose of subsection (1), a reference in repealed section 17(3) to a trustee notification of ownership is taken to be a reference to a notification of ownership.	10 11 12 13
50	Obligation to notify under repealed s 18	14
	continued	15
(1)	Despite its repeal, repealed section 18 continues to apply to a person who acquired an interest in land before the commencement if, immediately before the commencement, the person had not complied with a requirement under the section to lodge a notification of ownership in relation to the interest.	16 17 18 19 20 21 22
(2)	For the purpose of subsection (1), a reference in repealed section 18(3) to a trustee notification of ownership is taken to be a reference to a notification of ownership.	23 24 25 26
51	Application of s 19 to particular persons	27
(1)	This section applies if—	28
(a)	at the commencement, the legal estate of an interest in land is registered in the register, or recorded in the records of a relevant registering authority, in a person’s name; and	29 30 31 32 33

(b)	on the commencement, the person ceases to be a foreign person in relation to the interest.	1 2 3
(2)	Section 19 applies to the foreign person as if a reference in section 19(2) to the day on which the person ceases to be a foreign person were a reference to the day on which the person becomes aware the person ceased to be a foreign person under the amended Act.	4 5 6 7 8 9
52	Application of s 20 to particular persons	10
(1)	This section applies if—	11
(a)	immediately before the commencement, the legal estate of an interest in land was recorded in the records of a registering authority in the name of a person who was not a foreign person under the unamended Act; and	12 13 14 15 16 17
(b)	on the commencement, the person is a foreign person in relation to the interest.	18 19
(2)	Section 20 applies to the person as if a reference in section 20(2) to the day on which the person becomes a foreign person were a reference to the day on which the person becomes aware the person is a foreign person under the amended Act.	20 21 22 23 24
Clause 170	Amendment of sch 1 (Dictionary)	25
(1)	Schedule 1, definitions <i>corporation</i> , <i>foreign corporation</i> , <i>foreign natural person</i> , <i>foreign person</i> , <i>foreign trust</i> , <i>last accounting date</i> , <i>officer</i> , <i>share</i> and <i>year of income</i> — <i>omit.</i>	26 27 28 29
(2)	Schedule 1— <i>insert—</i> <i>corporation</i> see the Corporations Act, section	30 31 32

[s 171]

	57A.	1
	<i>foreign person</i> see the <i>Duties Act 2001</i> , section 234.	2 3
	<i>foreign trust</i> see the <i>Duties Act 2001</i> , section 237.	4
	<i>notification of ownership</i> means a notice in the approved form about an interest in land held by a foreign person.	5 6 7
	<i>unallocated State land</i> see the <i>Land Act 1994</i> .	8
	<i>voting power</i> see the <i>Foreign Acquisitions and Takeovers Act 1975</i> (Cwlth), section 22.	9 10
Part 7	Amendment of Land Act 1994	11
Clause 171	Act amended	12
	This part amends the <i>Land Act 1994</i> .	13
	<i>Note—</i>	14
	See also the amendments in schedule 1, part 1.	15
Clause 172	Insertion of new ch 4, pt 3, div 2, sdiv 1AA	16
	Chapter 4, part 3, division 2, before subdivision 1—	17
	<i>insert—</i>	18
	Subdivision 1AA Improvements reports and notices and related matters	19 20 21
	156 Lessee must give improvements report and other information	22 23
	(1) This section applies if, before the relevant day—	24
	(a) a lessee of a term lease has not made a renewal application; or	25 26

-
- (b) if the lessee has made a renewal application—the application has been refused. 1
2
3
- (2) The lessee must, within 1 month after the relevant day, give the Minister a report (an *improvements report*) that states the following information for each building or other structure on the lease land— 4
5
6
7
8
- (a) the nature of the building or structure; 9
- (b) the condition of the building or structure; 10
- (c) the location of the building or structure; 11
- (d) whether the lessee proposes to remove the building or structure before the lease expires. 12
13
14
- (3) The improvements report may also include representations about why the Minister should not give the lessee an improvements notice requiring the lessee to take action under section 156A. 15
16
17
18
- (4) The Minister may also, by notice given to the lessee, require the lessee, within a stated reasonable period, to— 19
20
21
- (a) give the Minister information, or further information, about a building or other structure on the lease land; or 22
23
24
- (b) give the Minister a report, prepared by a person with a stated qualification or expertise and at the lessee's expense, about the condition of the buildings and other structures on the lease land. 25
26
27
28
29
- (5) If the lessee fails to comply with a requirement made under subsection (4)(b)— 30
31
- (a) the Minister may obtain the report; and 32

[s 172]

- (b) the cost of obtaining the report may be recovered from the lessee as a debt due to the State. 1
2
3
- (6) In this section— 4
relevant day, in relation to a lease, means the day that is— 5
6
 - (a) for a lease that has a term of 5 years or more—1 year before the expiry of the lease; 7
or 8
9
 - (b) otherwise—6 months before the expiry of the lease. 10
11

156A Minister may give improvements notice 12

- (1) The Minister may, before the relevant day, give the lessee a notice (an *improvements notice*) requiring the lessee, within a stated period after the lease expires, to— 13
14
15
16
 - (a) carry out repairs to bring a stated building or another structure on the lease land into a good and substantial state of repair; or 17
18
19
 - (b) remove a stated building or another structure from the lease land; or 20
21
 - (c) remediate the lease land to the reasonable standard stated in the notice. 22
23
- (2) For subsection (1), the stated period must be a reasonable period, of not less than 3 months, having regard to the nature of the action required under the improvements notice. 24
25
26
27
- (3) An improvements notice may require the repair of a building or another structure only if the Minister is satisfied the building or structure is not in a good and substantial state of repair. 28
29
30
31
- (4) An improvements notice may require the removal of a building or another structure only if the 32
33

-
- Minister is satisfied— 1
- (a) 1 or more of the following applies for the 2
building or structure— 3
- (i) the building or structure is not 4
consistent with the purpose for which 5
the lease was originally issued or, if the 6
purpose has been changed under 7
section 154, the purpose of the lease as 8
changed; 9
- (ii) the presence of the building or 10
structure on the lease land may 11
substantially hinder options for the 12
future use or allocation of the land; 13
- (iii) the presence of the building or 14
structure on the lease land, or the 15
condition of the building or structure, is 16
likely to create a substantial liability 17
for the State; 18
- (iv) the building or structure is not in a 19
good and substantial state of repair and 20
it is not practicable to bring the 21
building or structure into a good and 22
substantial state of repair; and 23
- (b) the lease is not subject to a condition 24
requiring the building or structure to remain 25
on the lease land or prohibiting its removal. 26
- (5) An improvements notice may require the 27
remediation of the lease land only if the Minister 28
is satisfied— 29
- (a) the land has been affected by a building or 30
another structure on the land; or 31
- (b) the land has been, or is likely to be, affected 32
by the removal of a building or another 33
structure from the land. 34
- (6) In deciding whether to give the lessee an 35
-

[s 172]

- improvements notice, the Minister must consider any representations included in an improvements report given by the lessee. 1
2
3
- (7) The improvements notice must be accompanied by or include an information notice about the decision to give the improvements notice. 4
5
6
- (8) The Minister may also give the lessee an improvements notice after the relevant day, but not later than 6 months after the lease expires, if the lessee— 7
8
9
10
- (a) fails to give the Minister an improvements report under section 156; or 11
12
- (b) gives the Minister an improvements report that is false or misleading in a material particular; or 13
14
15
- (c) fails to comply with a requirement made under section 156(4)(a) or (b). 16
17
- (9) In this section— 18
- relevant day*, in relation to a lease, means the day that is— 19
20
- (a) for a lease that has a term of 5 years or more—6 months before the expiry of the lease; or 21
22
23
- (b) otherwise—4 months before the expiry of the lease. 24
25
- 156B Person must comply with improvements notice** 26
27
- (1) A person to whom an improvements notice is given (the *recipient*) must comply with the notice. 28
29
- Note—* 30
- See section 156C for the consequences of failing to comply with the notice. 31
32
- (2) For taking action to comply with the 33

-
- improvements notice, the recipient, or another person (the *contractor*) taking the action for the recipient, may enter the land to which the notice applies only—
- (a) with the consent of the Minister; or
 - (b) if the recipient or contractor has given the Minister a notice about the proposed entry at least 5 business days before the entry.
- (3) The notice under subsection (2)(b) must inform the Minister about—
- (a) the intention to enter the land; and
 - (b) the purpose of the entry; and
 - (c) the days and times the entry is to be made.
- (4) In taking the action, the recipient or contractor must take all reasonable steps to ensure the recipient or contractor does as little damage as is practicable in the circumstances.
- (5) If a person incurs loss or damage because of action taken by the recipient or contractor, the person is entitled to be paid by the recipient or contractor the reasonable compensation because of the loss or damage that is—
- (a) agreed between the recipient or contractor and the person; or
 - (b) failing agreement, decided by a court having jurisdiction for the recovery of amounts up to the amount of compensation claimed.
- (6) The court may make an order about costs it considers just.

156C Noncompliance with improvements notice 30

- (1) This section applies if a person to whom an improvements notice is given fails to comply with the notice. 31
32
33

[s 173]

	(2) The State may—	1
	(a) take the action required under the improvements notice; and	2 3
	(b) recover from the person the reasonable costs of taking the action as a debt due to the State.	4 5 6
	(3) For subsection (2)(b) the costs of removing a building or other structure include costs reasonably incurred in disposing of the building or structure or part of it.	7 8 9 10
	<i>Examples of disposal costs—</i>	11
	transport costs, dump fees, storage costs, costs of sale	12
Clause 173	Amendment of s 157 (Expiry of lease)	13
	Section 157(2), after ‘Subject to’—	14
	<i>insert—</i>	15
	subdivision 1AA and	16
Clause 174	Amendment of s 164 (What is a <i>rolling term lease</i>)	17
	(1) Section 164(1)(a), ‘(a <i>tourism lease</i>)’—	18
	<i>omit.</i>	19
	(2) Section 164(3)—	20
	<i>insert—</i>	21
	<i>tourism lease</i> means a term lease, or a perpetual lease, for tourism purposes for land on a regulated island.	22 23 24
Clause 175	Amendment of s 164A (Approval of lease as a rolling term lease)	25 26
	Section 164A(1)—	27
	<i>omit, insert—</i>	28

-
- (1) The Minister may approve a lease as a rolling term lease as mentioned in section 164(1)(b)(ii) only if improvements on the lease land facilitate the tourism purposes of the tourism lease mentioned in section 164(1)(b)(i).

Clause 176 Insertion of new ss 180B and 180C

After section 180A—

insert—

180B Chief executive may require report and other information

- (1) This section applies if a permittee makes an application under section 180A(5) to surrender the permit.
- (2) The chief executive may, by notice given to the permittee, require the permittee, within a stated reasonable period, to give the chief executive a report that states the following information for each building or other structure on the permit land—
- (a) the nature of the building or structure;
 - (b) the condition of the building or structure;
 - (c) the location of the building or structure;
 - (d) whether, if the permit is surrendered, the permittee proposes to apply under section 180H(1) to remove the building or structure.
- (3) The chief executive may also, by notice given to the permittee, require the permittee, within a stated reasonable period, to—
- (a) give the chief executive information, or further information, about a building or other structure on the permit land; or
 - (b) give the chief executive a report, prepared by a person with a stated qualification or

[s 176]

- expertise and at the permittee's expense, 1
about the condition of the buildings and 2
other structures on the permit land. 3
- (4) If the permittee fails to comply with a requirement 4
made under subsection (3)(b)— 5
- (a) the chief executive may obtain the report; 6
and 7
- (b) the cost of obtaining the report may be 8
recovered from the permittee as a debt due 9
to the State. 10
- 180C Chief executive may require improvements 11
report and other information 12**
- (1) The chief executive may, at any time before a 13
permit is cancelled, by notice given to the 14
permittee, require the permittee, within a stated 15
reasonable period, to give the chief executive a 16
report (an *improvements report*) that states the 17
following information for each building or other 18
structure on the permit land— 19
- (a) the nature of the building or structure; 20
- (b) the condition of the building or structure; 21
- (c) the location of the building or structure; 22
- (d) whether, if the permit is cancelled, the 23
permittee proposes to apply under section 24
180H(1) to remove the building or structure. 25
- (2) The permittee must comply with the notice. 26
- (3) The improvements report may include 27
representations about why the chief executive 28
should not give the permittee an improvements 29
notice requiring the permittee to take action under 30
section 180I. 31
- (4) The chief executive may also, by notice given to 32
the permittee, require the permittee, within a 33

	stated reasonable period, to—	1
	(a) give the chief executive information, or further information, about a building or other structure on the permit land; or	2 3 4
	(b) give the chief executive a report, prepared by a person with a stated qualification or expertise and at the permittee's expense, about the condition of the buildings and other structures on the permit land.	5 6 7 8 9
(5)	If the permittee fails to comply with a requirement made under subsection (4)(b)—	10 11
	(a) the chief executive may obtain the report; and	12 13
	(b) the cost of obtaining the report may be recovered from the permittee as a debt due to the State.	14 15 16
Clause 177	Amendment of s 180H (Dealing with improvements)	17
	Section 180H(1), after 'may'—	18
	<i>insert—</i>	19
	, within 14 days after the permit is cancelled or surrendered,	20 21
Clause 178	Insertion of new ss 180I–180K	22
	Chapter 4, part 4—	23
	<i>insert—</i>	24
	180I Chief executive may give improvements notice	25 26
	(1) The chief executive may, within 3 months after a permit is cancelled, give the person who, immediately before the cancellation, was the permittee for the permit a notice (an <i>improvements notice</i>) requiring the person,	27 28 29 30 31

[s 178]

- within a stated period, to— 1
- (a) carry out repairs to bring a stated building or 2
another structure on the relevant land into a 3
good and substantial state of repair; or 4
 - (b) remove a stated building or another structure 5
from the relevant land; or 6
 - (c) remediate the relevant land to the reasonable 7
standard stated in the notice. 8
- (2) For subsection (1), the stated period must be a 9
reasonable period, of not less than 3 months, 10
having regard to the nature of the action required 11
under the improvements notice. 12
- (3) An improvements notice may require the repair of 13
a building or another structure only if the chief 14
executive is satisfied the building or structure is 15
not in a good and substantial state of repair. 16
- (4) An improvements notice may require the removal 17
of a building or another structure only if the chief 18
executive is satisfied— 19
- (a) 1 or more of the following applies for the 20
building or structure— 21
 - (i) the building or structure is not 22
consistent with the purpose for which 23
the permit was issued; 24
 - (ii) the presence of the building or 25
structure on the relevant land may 26
substantially hinder options for the 27
future use or allocation of the land; 28
 - (iii) the presence of the building or 29
structure on the relevant land, or the 30
condition of the building or structure, is 31
likely to be a substantial liability for 32
the State; 33
 - (iv) the building or structure is not in a 34
good and substantial state of repair and 35

-
- it is not practicable to bring the building or structure into a good and substantial state of repair; and
- (b) the permit was not subject to a condition requiring the building or structure to remain on the relevant land or prohibiting its removal.
- (5) An improvements notice may require the remediation of the relevant land only if the chief executive is satisfied—
- (a) the land has been affected by a building or another structure on the land; or
- (b) the land has been, or is likely to be, affected by the removal of a building or another structure from the land.
- (6) In deciding whether to give the person an improvements notice, the chief executive must consider any representations included in an improvements report given by the person.
- (7) The improvements notice must be accompanied by or include an information notice about the decision to give the improvements notice.
- (8) In this section—
- relevant land*, in relation to a permit that has been cancelled, means the land that was subject to the permit before its cancellation.

180J Person must comply with improvements notice

- (1) A person to whom an improvements notice is given (the *recipient*) must comply with the notice.
- Note—*
- See section 180K for the consequences of failing to comply with the notice.

[s 178]

- (2) For taking action to comply with the improvements notice, the recipient, or another person (the *contractor*) taking the action for the recipient, may enter the land to which the notice applies only—
- (a) with the consent of the chief executive; or
 - (b) if the recipient or contractor has given the chief executive a notice about the proposed entry at least 5 business days before the entry.
- (3) The notice under subsection (2)(b) must inform the chief executive about—
- (a) the intention to enter the land; and
 - (b) the purpose of the entry; and
 - (c) the days and times the entry is to be made.
- (4) In taking the action, the recipient or contractor must take all reasonable steps to ensure the recipient or contractor does as little damage as is practicable in the circumstances.
- (5) If a person incurs loss or damage because of action taken by the recipient or contractor, the person is entitled to be paid by the recipient or contractor the reasonable compensation because of the loss or damage that is—
- (a) agreed between the recipient or contractor and the person; or
 - (b) failing agreement, decided by a court having jurisdiction for the recovery of amounts up to the amount of compensation claimed.
- (6) The court may make an order about costs it considers just.

180K Noncompliance with improvements notice

- (1) This section applies if a person to whom an

improvements notice is given fails to comply with the notice.	1 2
(2) The State may—	3
(a) take the action required under the improvements notice; and	4 5
(b) recover from the person the reasonable costs of taking the action as a debt due to the State.	6 7 8
(3) For subsection (2)(b) the costs of removing a building or other structure include costs reasonably incurred in disposing of the building or structure or part of it.	9 10 11 12
<i>Examples of disposal costs—</i>	13
transport costs, dump fees, storage costs, costs of sale	14
Clause 179 Insertion of new s 199B	15
After section 199A—	16
<i>insert—</i>	17
199B Conditions relating to buildings and structures	18 19
All leases and permits are subject to the conditions that the lessee or permittee—	20 21
(a) must keep all buildings and other structures on the lease land or permit land in a good and substantial state of repair; and	22 23 24
(b) must not erect on the lease land or permit land a building or other structure that is not consistent with—	25 26 27
(i) for a lease—the purpose for which the lease was originally issued or, if the purpose is changed under section 154, the purpose of the lease as changed; or	28 29 30 31

[s 180]

	(ii) for a permit—the purpose for which the permit was issued.	1 2
Clause 180	Amendment of s 214 (Minister’s power to give remedial action notice)	3 4
	(1) Section 214—	5
	<i>insert—</i>	6
	(2A) If the notice relates to a lease and is given on the ground the Minister is satisfied the lessee has breached a condition of the lease applying under section 199B, the remedial action may require the lessee to—	7 8 9 10 11
	(a) for the breach of a condition applying under section 199B(a)—carry out repairs to bring a stated building or structure into a good and substantial state of repair; or	12 13 14 15
	(b) for the breach of a condition applying under section 199B(b)(i) or (ii)—remove or demolish a stated building or structure.	16 17 18
	(2) Section 214(2A) to (4)—	19
	<i>renumber</i> as section 214(3) to (5).	20
Clause 181	Insertion of new s 214G	21
	Chapter 5, part 2, division 5—	22
	<i>insert—</i>	23
	214G Noncompliance with particular remedial action notice	24 25
	(1) This section applies if a lessee fails to comply with a remedial action notice requiring the lessee to take remedial action mentioned in section 214(3)(a) or (b) in relation to a stated building or another structure, whether or not the lessee has been convicted of an offence against section	26 27 28 29 30 31

214D(1) for the noncompliance.	1
(2) The State may—	2
(a) take the remedial action required under the remedial action notice; or	3 4
(b) if the remedial action required is the repair of a building or another structure—remove or demolish the building or structure if it would not be in the public interest for the State to carry out the repairs to the building or structure.	5 6 7 8 9 10
(3) Also, the State may recover from the person the reasonable costs of taking the action under subsection (2)(a) or (b) as a debt due to the State.	11 12 13
(4) Further, the Minister may decide whether it is appropriate in the circumstances to forfeit the lease.	14 15 16
(5) Without limiting subsection (4), the Minister may decide it is appropriate to forfeit the lease if—	17 18
(a) the action required under the remedial action notice is the removal or demolition of a stated building or another structure; and	19 20 21
(b) the building or structure is integral to the purpose for which the lease has been issued or, if the purpose has been changed under section 154, the purpose as changed.	22 23 24 25
Clause 182 Insertion of new ch 5, pt 2, div 6	26
Chapter 5, part 2—	27
<i>insert—</i>	28
Division 6 Compliance notices	29

[s 182]

214H Authorised officer may give compliance notice to permittee	1
	2
(1) This section applies if an authorised officer reasonably believes a permittee is breaching, or has breached, a condition of the person's permit.	3 4 5
(2) The authorised officer may give the permittee a notice (a <i>compliance notice</i>) requiring the permittee to remedy the breach, including by refraining from doing an act.	6 7 8 9
(3) The compliance notice must be accompanied by or include an information notice about the decision to give the compliance notice.	10 11 12
(4) However, if it is not practicable to comply with subsection (3), the authorised officer must give the permittee the information notice as soon as practicable after the compliance notice is given.	13 14 15 16
214I Requirements for compliance notice	17
(1) A compliance notice must state the following matters—	18 19
(a) that the authorised officer reasonably believes the permittee to whom the notice is given is breaching, or has breached, a condition of the person's permit;	20 21 22 23
(b) the condition the authorised officer believes is being, or has been, breached;	24 25
(c) the nature of the breach;	26
(d) the reasonable steps the permittee must take to remedy the breach;	27 28
(e) the reasonable period within which the permittee must take the steps to remedy the breach.	29 30 31
(2) If the compliance notice requires the permittee to carry out work, it must also give details of the	32 33

work involved.	1
(3) If the compliance notice requires the permittee to refrain from doing an act, it must also state—	2 3
(a) the period for which the requirement applies; or	4 5
(b) that the requirement applies until further notice.	6 7
214J Failure to comply with compliance notice	8
(1) A person to whom a compliance notice is given must comply with the notice unless the person has a reasonable excuse.	9 10 11
Maximum penalty—400 penalty units.	12
(2) If a person is convicted of an offence against subsection (1), the court may, as well as imposing a penalty for the offence, make—	13 14 15
(a) an order (a <i>compliance order</i>) that the person comply with all or part of the compliance notice within a stated period; and	16 17 18 19
(b) any other orders the court considers appropriate.	20 21
(3) Without limiting subsection (2)(b), if the compliance notice requires the person to remove a thing from the land to which the person’s permit relates, the court may order that the thing be forfeited to the State if the person fails to remove the thing within the period stated in the compliance order.	22 23 24 25 26 27 28
214K State may take action and recover costs	29
(1) This section applies if a person subject to a compliance order does not comply with the order within the period stated in the order.	30 31 32

[s 182]

- | | |
|---|-------------|
| (2) The State may— | 1 |
| (a) take the action required under the compliance order; and | 2
3 |
| (b) recover from the person the reasonable costs of taking the action as a debt due to the State. | 4
5
6 |

214L How forfeited property may be dealt with 7

- | | |
|--|----------------------|
| (1) This section applies if a thing is forfeited to the State because of a person's noncompliance with a compliance order. | 8
9
10 |
| (2) The chief executive may deal with the thing as the chief executive considers appropriate, including, for example, by destroying it, giving it away or otherwise disposing of it. | 11
12
13
14 |
| (3) However, the chief executive must not deal with the thing in a way that could prejudice the outcome of an appeal against the making of the compliance order. | 15
16
17
18 |
| (4) The State may recover from the person the reasonable costs of disposing of the thing as a debt due to the State. | 19
20
21 |
| <i>Examples of the costs of disposing of a thing—</i> | 22 |
| transport costs, dump fees, storage costs, costs of sale | 23 |
| (5) If the chief executive sells the thing or any part of it, the amount for which the thing or part is sold must be offset against— | 24
25
26 |
| (a) the amount the State may otherwise recover under subsection (4); and | 27
28 |
| (b) any amount the State may otherwise recover under section 214K for doing a thing required under the compliance order. | 29
30
31 |
| (6) If the amount for which the thing or part is sold is greater than the total of the amounts mentioned in | 32
33 |

subsection (5)(a) and (b), the chief executive
must, after deducting the total of those amounts,
make reasonable efforts to return the proceeds of
the sale to the person.

Clause 183 Amendment of s 234 (When lease may be forfeited)

(1) Section 234(b)—

omit, insert—

(b) if the lessee breaches a condition of the
lease, other than—

(i) a condition of the lease applying under
section 199B(a) or (b); or

(ii) a condition that the lessee comply with
a land management agreement for the
lease; or

Note—

A breach of a condition mentioned in
subparagraph (i) or (ii) may be dealt with by a
remedial action notice.

(ba) if the lessee fails to comply with a remedial
action notice requiring the lessee to take
remedial action to remedy a breach of a
condition of the lease applying under
section 199B(a) or (b); or

(2) Section 234(ba) to (d)—

renumber as section 234(c) to (e).

Clause 184 Insertion of new s 242A

After section 242—

insert—

**242A Minister may require improvements report
and other information**

(1) This section applies if the Minister has given a

[s 184]

- lessee a notice under section 235(1) or 238(3). 1
- (2) The Minister may, by notice given to the lessee, 2
require the lessee to give the Minister, within a 3
stated reasonable period, a report (an 4
improvements report) that states the following 5
information for each building or other structure on 6
the lease land— 7
- (a) the nature of the building or structure; 8
- (b) the condition of the building or structure; 9
- (c) the location of the building or structure; 10
- (d) whether, if the lease is forfeited, the lessee 11
proposes to apply under section 243(1A) to 12
remove the building or structure. 13
- (3) The lessee must comply with the notice. 14
- (4) The improvements report may include 15
representations about why the Minister should not 16
give the lessee an improvements notice requiring 17
the lessee to take action under section 244. 18
- (5) The Minister may also, by notice given to the 19
lessee, require the lessee, within a stated 20
reasonable period, to— 21
- (a) give the Minister information, or further 22
information, about a building or other 23
structure on the lease land; or 24
- (b) give the Minister a report, prepared by a 25
person with a stated qualification or 26
expertise and at the lessee's expense, about 27
the condition of the buildings and other 28
structures on the lease land. 29
- (6) If the lessee fails to comply with a requirement 30
made under subsection (5)(b)— 31
- (a) the Minister may obtain the report; and 32

	(b) the cost of obtaining the report may be recovered from the lessee as a debt due to the State.	1 2 3
Clause 185	Amendment of s 243 (Improvements on forfeited lease)	4
	Section 243(1A), after ‘may’—	5
	<i>insert—</i>	6
	, within 14 days after the lease is forfeited,	7
Clause 186	Insertion of new ss 244–244B	8
	After section 243—	9
	<i>insert—</i>	10
	244 Minister may give improvements notice	11
	(1) The Minister may, within 3 months after a lease is forfeited, give the person who, immediately before the forfeiture, was the lessee of the lease a notice (an <i>improvements notice</i>) requiring the person, within a stated period, to—	12 13 14 15 16
	(a) carry out repairs to bring a stated building or another structure on the relevant land into a good and substantial state of repair; or	17 18 19
	(b) remove a stated building or another structure from the relevant land; or	20 21
	(c) remediate the relevant land to the reasonable standard stated in the notice.	22 23
	(2) For subsection (1), the stated period must be a reasonable period, of not less than 3 months, having regard to the nature of the action required under the improvements notice.	24 25 26 27
	(3) An improvements notice may require the repair of a building or another structure only if the Minister is satisfied the building or structure is not in a good and substantial state of repair.	28 29 30 31

[s 186]

- (4) An improvements notice may require the removal of a building or another structure only if the Minister is satisfied—
- (a) 1 or more of the following applies for the building or structure—
- (i) the building or structure is not consistent with the purpose for which the lease was originally issued or, if the purpose has been changed under section 154, the purpose of the lease as changed;
- (ii) the presence of the building or structure on the relevant land may substantially hinder options for the future use or allocation of the relevant land;
- (iii) the presence of the building or structure on the relevant land, or the condition of the building or structure, is likely to be a substantial liability for the State;
- (iv) the building or structure is not in a good and substantial state of repair and it is not practicable to bring the building or structure into a good and substantial state of repair; and
- (b) the lease was not subject to a condition requiring the building or structure to remain on the lease land or prohibiting its removal.
- (5) An improvements notice may require the remediation of the relevant land only if the Minister is satisfied—
- (a) the land has been affected by a building or another structure on the land; or

-
- (b) the land has been, or is likely to be, affected by the removal of a building or another structure from the land. 1
2
3
- (6) In deciding whether to give the person an improvements notice, the Minister must consider any representations included in an improvements report given by the person. 4
5
6
7
- (7) The improvements notice must be accompanied by or include an information notice about the decision to give the improvements notice. 8
9
10
- (8) In this section— 11
relevant land, in relation to a lease that has been forfeited, means the land that was subject to the lease before its forfeiture. 12
13
14

244A Person must comply with improvements notice 15
16

- (1) A person to whom an improvements notice is given (the *recipient*) must comply with the notice. 17
18
- Note—* 19
See section 244B for the consequences of failing to comply with the notice. 20
21
- (2) For taking action to comply with the improvements notice, the recipient, or another person (the *contractor*) taking the action for the recipient, may enter the land to which the notice applies only— 22
23
24
25
26
- (a) with the consent of the Minister; or 27
- (b) if the recipient or contractor has given the Minister a notice about the proposed entry at least 5 business days before the entry. 28
29
30
- (3) The notice under subsection (2)(b) must inform the Minister about— 31
32
- (a) the intention to enter the land; and 33

[s 186]

- (b) the purpose of the entry; and 1
 - (c) the days and times the entry is to be made. 2
 - (4) In taking the action, the recipient or contractor 3
must take all reasonable steps to ensure the 4
recipient or contractor does as little damage as is 5
practicable in the circumstances. 6
 - (5) If a person incurs loss or damage because of 7
action taken by the recipient or contractor, the 8
person is entitled to be paid by the recipient or 9
contractor the reasonable compensation because 10
of the loss or damage that is— 11
 - (a) agreed between the recipient or contractor 12
and the person; or 13
 - (b) failing agreement, decided by a court having 14
jurisdiction for the recovery of amounts up 15
to the amount of compensation claimed. 16
 - (6) The court may make an order about costs it 17
considers just. 18
- 244B Noncompliance with improvements notice** 19
- (1) This section applies if a person to whom an 20
improvements notice is given fails to comply with 21
the notice. 22
 - (2) The State may— 23
 - (a) take the action required under the 24
improvements notice; and 25
 - (b) recover from the person the reasonable costs 26
of taking the action as a debt due to the 27
State. 28
 - (3) For subsection (2)(b) the costs of removing a 29
building or other structure include costs 30
reasonably incurred in disposing of the building 31
or structure or part of it. 32

	<i>Examples of disposal costs—</i>	1
	transport costs, dump fees, storage costs, costs of sale	2
Clause 187	Insertion of new s 280AA	3
	After section 280A—	4
	<i>insert—</i>	5
	280AA Particulars that may be removed	6
	The chief executive may remove from a register anything recorded under section 280 if—	7
		8
	(a) the chief executive no longer considers the thing should be recorded to ensure the register is an accurate, comprehensive and useable record of the land and dealings to which the register relates; and	9
		10
		11
		12
		13
	(b) the removal of the thing will not prejudice the rights of the holder of an interest in a lease, licence, permit or reserve.	14
		15
		16
Clause 188	Insertion of new s 287A	17
	After section 287—	18
	<i>insert—</i>	19
	287A Registration of, or dealing with, particular documents	20
		21
	(1) This section applies if a document is lodged or deposited other than in compliance with a requirement under this Act.	22
		23
		24
	(2) The chief executive may register, or otherwise deal with, the document if the chief executive is satisfied it is reasonable not to require the compliance.	25
		26
		27
		28

[s 189]

Clause 189	Amendment of s 294E (Registration of building management statement)	1
		2
	Section 294E—	3
	<i>insert—</i>	4
	(3) A registered building management statement binds the successors in title to the lessee of each lot to which the statement applies.	5
		6
		7
Clause 190	Amendment of s 305 (Requisitions)	8
	Section 305—	9
	<i>insert—</i>	10
	(6) Also, subsections (7) and (8) apply in relation to a document that is lodged if the chief executive is satisfied—	11
		12
		13
	(a) the document is not capable of registration; and	14
		15
	(b) the reason the document is not capable of registration is not a matter for which a requisition may be given under subsection (1).	16
		17
		18
		19
	(7) The chief executive may give notice (also the <i>requisition</i>) to the person who lodged the document, or to another person who reasonably appears to the chief executive to be relevantly associated with the document, stating—	20
		21
		22
		23
		24
	(a) that the document is not capable of registration; and	25
		26
	(b) why the document is not capable of registration.	27
		28
	(8) The requisition may, if it relates to an electronic conveyancing document, be accompanied by a copy of the document.	29
		30
		31

Clause 191	Amendment of s 306 (Rejecting document for failure to comply with requisition)	1 2
(1)	Section 306, heading, ‘for failure to comply with requisition’— <i>omit, insert—</i> after requisition given	3 4 5 6
(2)	Section 306(1)— <i>omit, insert—</i> (1) The chief executive may reject a document to which a requisition relates and any document that depends on it for registration if— (a) for a requisition given under section 305(1)—the requisition is not complied with by a person within the time stated or extended by the chief executive; or (b) the requisition is given under section 305(7).	7 8 9 10 11 12 13 14 15 16 17
(3)	Section 306(6), ‘rejected document’— <i>omit, insert—</i> document rejected under subsection (1)(a)	18 19 20
Clause 192	Insertion of new s 327D	21
	After section 327C— <i>insert—</i> 327D Minister may require report and other information	22 23 24 25
(1)	This section applies if a lessee makes an application under section 327C(1) to surrender all or part of a lease.	26 27 28
(2)	The Minister may, by notice given to the lessee, require the lessee, within a stated reasonable period, to give the Minister a report that states the	29 30 31

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	following information for each building or other structure on the lease land—	1 2
	(a) the nature of the building or structure;	3
	(b) the condition of the building or structure;	4
	(c) the location of the building or structure;	5
	(d) whether, if the lease is surrendered, the lessee proposes to apply under section 327I(1) to remove the building or structure.	6 7 8
(3)	The Minister may also, by notice given to the lessee, require the lessee, within a stated reasonable period, to—	9 10 11
	(a) give the Minister information, or further information, about a building or other structure on the lease land; or	12 13 14
	(b) give the Minister a report, prepared by a person with a stated qualification or expertise and at the lessee's expense, about the condition of the buildings and other structures on the lease land.	15 16 17 18 19
(4)	If the lessee fails to comply with a requirement made under subsection (3)(b)—	20 21
	(a) the Minister may obtain the report; and	22
	(b) the cost of obtaining the report may be recovered from the lessee as a debt due to the State.	23 24 25
Clause 193	Amendment of s 328 (Surrender of subleases)	26
(1)	Section 328(1), 'an instrument'—	27
	<i>omit, insert—</i>	28
	a document	29
(2)	Section 328(3) and (5), 'a surrender'—	30
	<i>omit, insert—</i>	31

	a document of surrender	1
(3)	Section 328(4)—	2
	<i>omit, insert—</i>	3
(3A)	Also, if a registered sublease (the <i>surrendered sublease</i>) has been wholly or partly surrendered by operation of law, the chief executive may register a document evidencing the surrender if satisfied every registered mortgagee and registered sub-sublessee of the sublessee under the surrendered sublease has been given notice of the surrender.	4 5 6 7 8 9 10 11
(4)	If a document of surrender of a sublease is lodged, the chief executive may register the document and record the date of surrender stated in the document in the leasehold land register.	12 13 14 15
(4)	Section 328(3A) to (6)—	16
	<i>renumber</i> as section 328(4) to (7).	17
Clause 194	Amendment of s 373A (Covenant by registration)	18
(1)	Section 373A—	19
	<i>insert—</i>	20
(2A)	Despite subsection (2)(c), non-freehold land the subject of a sublease may be made the subject of a covenant without the consent of the sublessee if—	21 22 23 24
(a)	the non-freehold land is—	25
(i)	all or part of land the subject of a term lease, or perpetual lease, for tourism purposes on a regulated island (a <i>tourism lease</i>); or	26 27 28 29
(ii)	all or part of land the subject of a lease that includes tidal water land (a <i>tidal water land lease</i>); and	30 31 32

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- (b) the covenant is for ensuring— 1
- (i) for non-freehold land mentioned in 2
paragraph (a)(i)—the tourism lease 3
may be transferred to a person only if 4
there is also transferred to the person a 5
lease of other non-freehold land the 6
subject of a tidal water land lease; or 7
- (ii) for non-freehold land mentioned in 8
paragraph (a)(ii)—the tidal water land 9
lease may be transferred to a person 10
only if there is also transferred to the 11
person a lease of other non-freehold 12
land the subject of a tourism lease. 13
- (2) Section 373A(4), ‘instrument’— 14
omit, insert— 15
document 16
- (3) Section 373A(5)(c), after ‘ensuring’— 17
insert— 18
a relevant interest in 19
- (4) Section 373A(5)(c)(i), before ‘other non-freehold land’— 20
insert— 21
a relevant interest in 22
- (5) Section 373A(5)(c)(iii), before ‘non-freehold land’— 23
insert— 24
a relevant interest in 25
- (6) Section 373A(6)— 26
omit. 27
- (7) Section 373A(12)— 28
insert— 29
relevant interest, in non-freehold land, means— 30
(a) a lease of the land; or 31

	(b) a road licence issued over the land; or	1
	(c) an occupation licence issued over the land.	2
Clause 195	Amendment of s 377 (Registering personal representative)	3
	(1) Section 377(1), ‘lodge an application’—	4
	<i>omit, insert—</i>	5
	apply to the chief executive	6
	(2) Section 377(2)(a)—	7
	<i>omit, insert—</i>	8
	(a) the person has obtained—	9
	(i) a grant of representation in Queensland; or	10
	(ii) the resealing in Queensland of a grant of representation; or	11
		12
		13
		14
Clause 196	Amendment of s 380 (Applying for Supreme Court order)	15
	Section 380(1)(c)—	16
	<i>insert—</i>	17
	(iii) a lease, sublease or licence registered in the name of a person as personal representative.	18
	<i>Example of a person interested in a lease, sublease or licence mentioned in subparagraph (iii)—</i>	19
	a person claiming to be entitled to be appointed as personal representative in the place of the person in whose name the lease, sublease or licence is registered	20
		21
		22
		23
		24
		25
Clause 197	Amendment of s 389C (Requirements of caveats)	26
	(1) Section 389C(2)(c)(ii)—	27
	<i>omit, insert—</i>	28

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	(ii) each other person whose interest or whose right to registration of a document is affected by the caveat; and	1 2 3
(2)	Section 389C— <i>insert—</i>	4 5
	(2A) Without limiting subsection (2)(b), the address stated may be the address of a stated legal practitioner.	6 7 8
Clause 198	Replacement of s 389E (Notifying caveat)	9
	Section 389E— <i>omit, insert—</i>	10 11
	389E Notifying caveat	12
	The chief executive must give notice of the lodgement of a caveat to each person mentioned in section 389C(2)(c)(i) and (ii).	13 14 15
Clause 199	Amendment of s 389F (Effect of lodging caveat)	16
(1)	Section 389F(3)— <i>insert—</i>	17 18
	(da) if the caveator is a person who has the benefit of an order mentioned in section 389D(1)(c)—a document for a dealing other than a dealing restrained by the order;	19 20 21 22
	<i>Example—</i>	23
	A caveat lodged by a person who has the benefit of an order mentioned in section 389D(1)(c) restrains the lessee of a lease issued under this Act from subleasing the lease. The lodgement of the caveat does not prevent registration of a mortgage of the lease.	24 25 26 27 28 29
(2)	Section 389F(3)(da) and (e)— <i>renumber</i> as section 389F(3)(e) and (f).	30 31

Clause 200	Amendment of s 389I (Cancelling caveat)	1
	(1) Section 389I(2)—	2
	<i>insert—</i>	3
	(d) if the caveator is a person who has the benefit of an order mentioned in section 389D(1)(c)—the proceeding in which the order was made has been discontinued or dismissed, or has otherwise ended.	4 5 6 7 8
	(2) Section 389I(4), ‘remove’—	9
	<i>omit, insert—</i>	10
	cancel	11
	(3) Section 389I—	12
	<i>insert—</i>	13
	(5) Also, the chief executive may cancel a caveat lodged by a person who has the benefit of an order mentioned in section 389D(1)(c) if—	14 15 16
	(a) a document for a dealing other than a dealing restrained by the order is registered; and	17 18 19
	(b) because of the registration of the document, the order can have no further effect to restrain dealings by the person subject to the order.	20 21 22 23
Clause 201	Insertion of new ch 6A	24
	After chapter 6—	25
	<i>insert—</i>	26
	Chapter 6A Investigation and enforcement	27 28
	Part 1 Preliminary	29

[s 201]

390C Definitions for chapter	1
In this chapter—	2
<i>court</i> means a Magistrates Court.	3
<i>disposal order</i> see section 390ZT(2).	4
<i>document certification requirement</i> see section 390ZW(6).	5 6
<i>document production requirement</i> see section 390ZW(2).	7 8
<i>electronic document</i> means a document of a type under the <i>Acts Interpretation Act 1954</i> , schedule 1, definition <i>document</i> , paragraph (c).	9 10 11
<i>former owner</i> see section 390ZQ(1).	12
<i>general power</i> see section 390ZD(1) and (2).	13
<i>help requirement</i> see section 390ZE(1).	14
<i>occupier</i> , of a place, includes the following—	15
(a) if there is more than 1 person who apparently occupies the place—any 1 of the persons;	16 17 18
(b) any person at the place who is apparently acting with the authority of a person who apparently occupies the place;	19 20 21
(c) if no-one apparently occupies the place—	22
(i) for a place that is non-freehold land—the lessee, licensee, permittee or trustee of the land; or	23 24 25
(ii) for a place that is freehold land—any person who is a registered owner of the place.	26 27 28
<i>of</i> , a place, includes at or on the place.	29
<i>offence warning</i> , for a direction or requirement by an authorised officer, means a warning that, without a reasonable excuse, it is an offence for	30 31 32

the person to whom the direction is given or requirement is made not to comply with it.	1 2
<i>owner</i> , of a thing that has been seized under this chapter, includes a person who would be entitled to possession of the thing had it not been seized.	3 4 5
<i>personal details requirement</i> see section 390ZU(5).	6 7
<i>person in control</i> —	8
(a) of a vehicle, includes—	9
(i) the vehicle’s driver or rider; and	10
(ii) anyone who reasonably appears to be, claims to be, or acts as if he or she is, the vehicle’s driver or rider or the person in control of the vehicle; or	11 12 13 14
(b) of another thing, includes anyone who reasonably appears to be, claims to be, or acts as if he or she is, the person in possession or control of the thing.	15 16 17 18
<i>place</i> includes the following—	19
(a) freehold land;	20
(b) non-freehold land;	21
(c) premises;	22
(d) a place in Queensland waters;	23
(e) a place held under more than 1 title or by more than 1 owner;	24 25
(f) the land or water on which a building or structure, or a group of buildings or structures, is situated.	26 27 28
<i>premises</i> includes—	29
(a) a building or other structure; and	30
(b) a part of a building or other structure; and	31

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(c)	a caravan or vehicle; and	1
(d)	a cave or tent; and	2
(e)	premises held under more than 1 title or by more than 1 owner.	3 4
	public place means a place, or part of a place—	5
(a)	that the public is entitled to use, whether or not on payment of money; or	6 7
	<i>Examples of a place that may be a public place under paragraph (a)—</i>	8 9
	a beach, a park, a road	10
(b)	the occupier of which allows, whether or not on payment of money, members of the public to enter.	11 12 13
	<i>Examples of a place that may be a public place under paragraph (b)—</i>	14 15
	a saleyard, a showground	16
	vehicle —	17
(a)	means a vehicle under the <i>Transport Operations (Road Use Management) Act 1995</i> ; and	18 19 20
(b)	includes a vessel under that Act.	21
Part 2	General provisions about authorised officers	22 23 24
Division 1	Appointment	25
390D Functions of authorised officers		26
	An authorised officer has the following functions—	27 28

-
- (a) to investigate, monitor and enforce compliance with this Act; 1
2
 - (b) to investigate or monitor whether an occasion has arisen for the exercise of powers under this Act; 3
4
5
 - (c) to facilitate the exercise of powers under this Act. 6
7

390E Appointment and qualifications 8

- (1) The chief executive may, by instrument in writing, appoint any of the following persons as authorised officers— 9
10
11
 - (a) a public service employee; or 12
 - (b) another person prescribed by regulation. 13
- (2) However, the chief executive may appoint a person as an authorised officer only if the chief executive is satisfied the person is appropriately qualified. 14
15
16
17

390F Appointment conditions and limit on powers 18

- (1) An authorised officer holds office on any conditions stated in— 19
20
 - (a) the authorised officer's instrument of appointment; or 21
22
 - (b) a signed notice given to the authorised officer; or 23
24
 - (c) a regulation. 25
- (2) The instrument of appointment, a signed notice given to the authorised officer or a regulation may limit the authorised officer's powers. 26
27
28
- (3) In this section— 29
signed notice means a notice signed by the chief 30

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executive.	1
390G When office ends	2
(1) The office of a person as an authorised officer ends if any of the following happens—	3 4
(a) the term of office stated in a condition of office ends;	5 6
(b) under another condition of office, the office ends;	7 8
(c) the authorised officer’s resignation under section 390H takes effect.	9 10
(2) Subsection (1) does not limit the ways the office of a person as an authorised officer ends.	11 12
(3) In this section—	13
<i>condition of office</i> means a condition under which the authorised officer holds office.	14 15
390H Resignation	16
(1) An authorised officer may resign by signed notice given to the chief executive.	17 18
(2) However, if holding office as an authorised officer is a condition of the authorised officer holding another office, the authorised officer may not resign as an authorised officer without resigning from the other office.	19 20 21 22 23
Division 2 Identity cards	24
390I Issue of identity card	25
(1) The chief executive must issue an identity card to each authorised officer.	26 27

-
- (2) The identity card must— 1
- (a) contain a recent photo of the authorised officer; and 2
3
- (b) contain a copy of the authorised officer’s signature; and 4
5
- (c) identify the person as an authorised officer under this Act; and 6
7
- (d) state an expiry date for the card. 8
- (3) This section does not prevent the issue of a single identity card to a person for this Act and other purposes. 9
10
11

390J Production or display of identity card 12

- (1) In exercising a power in relation to a person in the person’s presence, an authorised officer must— 13
14
- (a) produce the authorised officer’s identity card for the person’s inspection before exercising the power; or 15
16
17
- (b) have the identity card displayed so it is clearly visible to the person when exercising the power. 18
19
20
- (2) However, if it is not practicable to comply with subsection (1), the authorised officer must produce the identity card for the person’s inspection at the first reasonable opportunity. 21
22
23
24
- (3) For subsection (1), an authorised officer does not exercise a power in relation to a person only because the authorised officer has entered a place as mentioned in section 390N(1)(b), (f) or (g). 25
26
27
28

390K Return of identity card 29

If the office of a person as an authorised officer ends, the person must return the person’s identity 30
31

[s 201]

card to the chief executive within 21 days after the office ends unless the person has a reasonable excuse.	1 2 3	
Maximum penalty—10 penalty units.	4	
Division 3	Miscellaneous provisions	5
390L References to exercise of powers		6
If—		7
(a) a provision of this Act refers to the exercise of a power by an authorised officer; and		8 9
(b) there is no reference to a specific power;		10
the reference is to the exercise of all or any authorised officers' powers under this chapter or a warrant, to the extent the powers are relevant.		11 12 13
390M Reference to document includes reference to reproductions from electronic document		14 15
A reference in this chapter to a document includes a reference to an image or writing—		16 17
(a) produced from an electronic document; or		18
(b) not yet produced, but reasonably capable of being produced, from an electronic document, with or without the aid of another article or device.		19 20 21 22
Part 3	Entry of places by authorised officers	23 24
Division 1	Power to enter	25

390N General power to enter places

- | | |
|---|----|
| | 1 |
| (1) An authorised officer may enter a place, for a | 2 |
| purpose of this Act or the Vegetation | 3 |
| Management Act, if— | 4 |
| (a) an occupier at the place consents under | 5 |
| division 2 to the entry and section 390Q has | 6 |
| been complied with for the occupier; or | 7 |
| (b) the place is unallocated State land or | 8 |
| relevant trust land; or | 9 |
| (c) the place is non-freehold land subject to a | 10 |
| trust, lease, licence or permit, or freehold | 11 |
| land containing a reservation for a public | 12 |
| purpose, and the authorised officer | 13 |
| reasonably believes— | 14 |
| (i) the terms or conditions of the trust, | 15 |
| lease, licence, permit or reservation | 16 |
| applying to the land are not being | 17 |
| complied with; or | 18 |
| (ii) this Act is not being complied with; or | 19 |
| (d) the place is non-freehold land, or freehold | 20 |
| land containing a reservation for a public | 21 |
| purpose, and the authorised officer | 22 |
| reasonably suspects a building or structure | 23 |
| or equipment on the land is dangerous and | 24 |
| poses a serious risk to the safety of the | 25 |
| public; or | 26 |
| <i>Note—</i> | 27 |
| See chapter 7, part 1A in relation to safety notices. | 28 |
| (e) the place is non-freehold land (other than | 29 |
| unallocated State land or relevant trust | 30 |
| land), or freehold land containing a | 31 |
| reservation for a public purpose, and the | 32 |
| entry is made at least 14 days after giving | 33 |
| the occupier of the place a notice stating— | 34 |

[s 201]

- (i) the authorised officer's intention to enter the place; and 1
2
- (ii) the proposed purpose of entering the place; and 3
4
- (iii) the day and time, or the 48 hour period during which, the authorised officer proposes to enter the place; or 5
6
7
- (f) the place is a public place and the entry is made when the place is open to the public; or 8
9
10
- (g) the place is the place of business of a lessee, licensee or permittee and is— 11
12
 - (i) open for carrying on the business; or 13
 - (ii) otherwise open for entry; or 14
- (h) the entry is authorised under a warrant and, if there is an occupier of the place, section 390X has been complied with for the occupier. 15
16
17
18
- (2) However, subsection (1)(a) to (g) does not authorise the entry of a part of the place consisting of premises where a person resides. 19
20
21
- (3) If the power to enter arose only because an occupier of the place consented to the entry, the power is subject to any conditions of the consent and ceases if the consent is withdrawn. 22
23
24
25
- (4) If the power to enter is under a warrant, the power is subject to the terms of the warrant. 26
27
- (5) The consent may provide consent for re-entry and is subject to the conditions of consent. 28
29
- (6) If the power to re-enter is under a warrant, the re-entry is subject to the terms of the warrant. 30
31
- (7) In this section— 32
relevant trust land means— 33

-
- (a) trust land of which the State is the trustee; or 1
 - (b) trust land for which there is no trustee. 2

Division 2 Entry by consent 3

390O Application of division 4

This division applies if an authorised officer 5
intends to ask an occupier of a place to consent to 6
the authorised officer or another authorised 7
officer entering the place under section 8
390N(1)(a). 9

390P Incidental entry to ask for access 10

For the purpose of asking the occupier for the 11
consent, an authorised officer may, without the 12
occupier's consent or a warrant— 13

- (a) enter land around premises at the place to an 14
extent that is reasonable to contact the 15
occupier; or 16
- (b) enter part of the place the authorised officer 17
reasonably considers members of the public 18
ordinarily are allowed to enter when they 19
wish to contact an occupier of the place. 20

390Q Matters authorised officer must tell occupier 21

Before asking for the consent, the authorised 22
officer must— 23

- (a) give the occupier a reasonable explanation 24
about the purpose of the entry, including the 25
powers intended to be exercised; and 26
- (b) tell the occupier that— 27

[s 201]

- (i) the occupier is not required to consent; 1
and 2
- (ii) the consent may be given subject to 3
conditions and may be withdrawn at 4
any time. 5

390R Consent acknowledgement 6

- (1) If the consent is given, the authorised officer may 7
ask the occupier to sign an acknowledgement of 8
the consent. 9
- (2) The acknowledgement must state— 10
 - (a) the purpose of the entry, including the 11
powers to be exercised; and 12
 - (b) the following have been explained to the 13
occupier— 14
 - (i) the purpose of the entry, including the 15
powers intended to be exercised; 16
 - (ii) that the occupier is not required to 17
consent; 18
 - (iii) that the consent may be given subject 19
to conditions and may be withdrawn at 20
any time; and 21
 - (c) the occupier gives the authorised officer or 22
another authorised officer consent to enter 23
the place and exercise the powers; and 24
 - (d) the time and day the consent was given; and 25
 - (e) any conditions of the consent. 26
- (3) If the occupier signs the acknowledgement, the 27
authorised officer must immediately give a copy 28
to the occupier. 29
- (4) However, if it is not practicable to comply with 30
subsection (3), the authorised officer must give 31
the occupier a copy of the acknowledgement at 32

the first reasonable opportunity.	1
(5) If—	2
(a) an issue arises in a proceeding about whether the occupier consented to the entry; and	3 4 5
(b) a signed acknowledgement complying with subsection (2) for the entry is not produced in evidence;	6 7 8
the onus of proof is on the person relying on the lawfulness of the entry to prove the occupier consented.	9 10 11
Division 3 Entry under warrant	12
Subdivision 1 Obtaining warrant	13
390S Application for warrant	14
(1) An authorised officer may apply to a magistrate for a warrant for a place.	15 16
(2) The authorised officer must prepare a written application that states the grounds on which the warrant is sought.	17 18 19
(3) The written application must be sworn.	20
(4) The magistrate may refuse to consider the application until the authorised officer gives the magistrate all the information the magistrate requires about the application in the way the magistrate requires.	21 22 23 24 25
<i>Example—</i>	26
The magistrate may require additional information supporting the written application to be given by statutory declaration.	27 28 29

[s 201]

390T Issue of warrant

- | | |
|--|----|
| | 1 |
| (1) The magistrate may issue the warrant for the place | 2 |
| only if the magistrate is satisfied there are | 3 |
| reasonable grounds for suspecting there is at the | 4 |
| place, or will be at the place within the next 7 | 5 |
| days, a particular thing or activity that may | 6 |
| provide evidence of— | 7 |
| (a) the commission of an offence against this | 8 |
| Act; or | 9 |
| (b) the breach of a condition of a person’s lease, | 10 |
| licence or permit. | 11 |
| (2) The warrant must state— | 12 |
| (a) the place to which the warrant applies; and | 13 |
| (b) that a stated authorised officer or any | 14 |
| authorised officer may with necessary and | 15 |
| reasonable help and force— | 16 |
| (i) enter the place and any other place | 17 |
| necessary for entry to the place; and | 18 |
| (ii) exercise the authorised officer’s | 19 |
| powers; and | 20 |
| (c) particulars of the offence or breach of | 21 |
| condition that the magistrate considers | 22 |
| appropriate; and | 23 |
| (d) the name of the person suspected of having | 24 |
| committed the offence or having breached | 25 |
| the condition unless the name is unknown or | 26 |
| the magistrate considers it inappropriate to | 27 |
| state the name; and | 28 |
| (e) the evidence that may be seized under the | 29 |
| warrant; and | 30 |
| (f) the hours of the day or night when the place | 31 |
| may be entered; and | 32 |
| (g) the magistrate’s name; and | 33 |

-
- (h) the day and time of the warrant's issue; and 1
 - (i) the day, within 14 days after the warrant's 2
issue, the warrant ends. 3

390U Electronic application 4

- (1) An application under section 390S may be made 5
by phone, fax, email, radio, videoconferencing or 6
another form of electronic communication if the 7
authorised officer reasonably considers it 8
necessary because of— 9
 - (a) urgent circumstances; or 10
 - (b) other special circumstances, including, for 11
example, the authorised officer's remote 12
location. 13
- (2) The application— 14
 - (a) may not be made before the authorised 15
officer prepares the written application 16
under section 390S(2); but 17
 - (b) may be made before the written application 18
is sworn. 19

390V Additional procedure if electronic application 20

- (1) For an application made under section 390U, the 21
magistrate may issue the warrant (the *original* 22
warrant) only if the magistrate is satisfied— 23
 - (a) it was necessary to make the application 24
under section 390U; and 25
 - (b) the way the application was made under 26
section 390U was appropriate. 27
- (2) After the magistrate issues the original warrant— 28
 - (a) if there is a reasonably practicable way of 29
immediately giving a copy of the warrant to 30
the authorised officer, including, for 31

[s 201]

- example, by sending a copy by fax or email, 1
the magistrate must immediately give a copy 2
of the warrant to the authorised officer; or 3
- (b) otherwise— 4
- (i) the magistrate must tell the authorised 5
officer the information mentioned in 6
section 390T(2); and 7
- (ii) the authorised officer must complete a 8
form of warrant, including by writing 9
on it the information mentioned in 10
section 390T(2) provided by the 11
magistrate. 12
- (3) The copy of the warrant mentioned in subsection 13
(2)(a), or the form of warrant completed under 14
subsection (2)(b) (in either case the *duplicate* 15
warrant), is a duplicate of, and as effectual as, the 16
original warrant. 17
- (4) The authorised officer must, at the first reasonable 18
opportunity, send to the magistrate— 19
- (a) the written application complying with 20
section 390S(2) and (3); and 21
- (b) if the authorised officer completed a form of 22
warrant under subsection (2)(b), the 23
completed form of warrant. 24
- (5) Despite subsection (3), if— 25
- (a) an issue arises in a proceeding about 26
whether an exercise of a power was 27
authorised by a warrant issued under this 28
section; and 29
- (b) the original warrant is not produced in 30
evidence; 31
- the onus of proof is on the person relying on the 32
lawfulness of the exercise of the power to prove a 33
warrant authorised the exercise of the power. 34

(6) This section does not limit section 390S. 1

390W Defect in relation to warrant 2

(1) A warrant is not invalidated by a defect in— 3

(a) the warrant; or 4

(b) compliance with this subdivision; 5

unless the defect affects the substance of the 6

warrant in a material particular. 7

(2) In this section— 8

warrant includes a duplicate warrant mentioned 9

in section 390V(3). 10

Subdivision 2 Entry procedure 11

390X Entry procedure 12

(1) This section applies if an authorised officer is 13

intending to enter a place under a warrant issued 14

under this division. 15

(2) Before entering the place, the authorised officer 16

must do or make a reasonable attempt to do the 17

following things— 18

(a) identify himself or herself to a person who is 19

an occupier of the place and is present by 20

producing the authorised officer's identity 21

card or another document evidencing the 22

authorised officer's appointment; 23

(b) give the person a copy of the warrant; 24

(c) tell the person the authorised officer is 25

permitted by the warrant to enter the place; 26

(d) give the person an opportunity to allow the 27

authorised officer immediate entry to the 28

place without using force. 29

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(3)	However, the authorised officer need not comply with subsection (2) if the authorised officer reasonably believes that entry to the place without compliance is required to ensure the execution of the warrant is not frustrated.	1 2 3 4 5
(4)	In this section— <i>warrant</i> includes a duplicate warrant mentioned in section 390V(3).	6 7 8
Part 4	Other powers of authorised officers and related matters	9 10 11
Division 1	Stopping or moving vehicles	12 13
390Y Application of division		14
	This division applies if an authorised officer reasonably suspects, or is aware, that—	15 16
(a)	a vehicle is being used to commit an offence against this Act; or	17 18
(b)	a thing in or on a vehicle may provide evidence of—	19 20
(i)	the commission of an offence against this Act; or	21 22
(ii)	the breach of a condition of a person's lease, licence or permit.	23 24
390Z Power to stop or move		25
(1)	If the vehicle is moving, the authorised officer may, to exercise the authorised officer's powers,	26 27

-
- signal or otherwise direct the person in control of the vehicle to stop the vehicle and to bring the vehicle to, and keep it at, a convenient place within a reasonable distance to allow the authorised officer to exercise the powers. 1
2
3
4
5
- (2) If the vehicle is stopped, the authorised officer may direct the person in control of the vehicle— 6
7
- (a) not to move it until the authorised officer has exercised the authorised officer's powers; or 8
9
10
- (b) to move the vehicle to, and keep it at, a stated reasonable place to allow the authorised officer to exercise the powers. 11
12
13
- (3) When giving the direction under subsection (2), the authorised officer must give the person in control an offence warning for the direction. 14
15
16

390ZA Identification requirements if vehicle moving 17
18

- (1) This section applies if the authorised officer proposes to give a direction under section 390Z(1) and the vehicle is moving. 19
20
21
- (2) The authorised officer must clearly identify himself or herself as an authorised officer exercising the authorised officer's powers. 22
23
24
- Examples—* 25
- 1 If the authorised officer is in a moving vehicle, the authorised officer may use a loudhailer to identify himself or herself as an authorised officer exercising powers. 26
27
28
29
- 2 If the authorised officer is standing at the side of the road, the authorised officer may use a sign to identify himself or herself as an authorised officer exercising powers. 30
31
32
33
- (3) When the vehicle stops, the authorised officer must— 34
35

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- (a) have with him or her the authorised officer's identity card; and 1
2
- (b) immediately produce the identity card for the inspection of the person in control of the vehicle. 3
4
5
- (4) Subsection (3) applies despite section 390J. 6

390ZB Failure to comply with direction 7

- (1) The person in control of the vehicle must comply with a direction under section 390Z unless the person has a reasonable excuse. 8
9
10
Maximum penalty—100 penalty units. 11
- (2) It is a reasonable excuse for the person not to comply with a direction if— 12
13
 - (a) the vehicle was moving and the authorised officer did not comply with section 390ZA; 14
or 15
16
 - (b) to comply immediately would have endangered someone else or caused loss or damage to property, and the person complies as soon as it is practicable to do so. 17
18
19
20
- (3) Subsection (2) does not limit what may be a reasonable excuse for subsection (1). 21
22
- (4) A person does not commit an offence against subsection (1) if— 23
24
 - (a) the direction the person fails to comply with is given under section 390Z(2); and 25
26
 - (b) the person is not given an offence warning for the direction. 27
28

Division 2	General powers of	1
	authorised officers after	2
	entering places	3
390ZC	Application of division	4
(1)	The powers under this division may be exercised if an authorised officer enters a place under section 390N(1)(a), (b), (c), (d), (e), (g) or (h).	5 6 7
(2)	However, if the authorised officer enters under section 390N(1)(a) or (h), the powers under this division are subject to any conditions of the consent or terms of the warrant.	8 9 10 11
390ZD	General powers	12
(1)	The authorised officer may do any of the following (each a <i>general power</i>)—	13 14
(a)	search any part of the place;	15
(b)	inspect, examine or film any part of the place, anything at the place or the uses made of the place;	16 17 18
(c)	take for examination a thing, or a sample of or from a thing, at the place;	19 20
(d)	place an identifying mark in or on anything at the place;	21 22
(e)	take an extract from, or copy, a document at the place, or take the document to another place to copy;	23 24 25
(f)	produce an image or writing at the place from an electronic document or, to the extent it is not practicable, take a thing containing an electronic document to another place to produce an image or writing;	26 27 28 29 30 31

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- (g) take to, into or onto the place and use any person, equipment and materials the authorised officer reasonably requires for exercising the authorised officer's powers under this chapter; 1
2
3
4
5
- (h) remain at the place for the time necessary to achieve the purpose of the entry. 6
7
- (2) Also, if the place is lease land, licence land or permit land for agricultural, grazing or pastoral purposes, the authorised officer may do any of the following (also each a *general power*)— 8
9
10
11
 - (a) establish 1 or more sites (each a *monitoring site*) on the land to monitor compliance with— 12
13
14
 - (i) this Act; or 15
 - (ii) the lease, licence or permit; or 16
 - (iii) a land management agreement; or 17
 - (iv) a remedial action notice; or 18
 - (v) a remedial action order; or 19
 - (vi) a compliance notice; 20
 - (b) without limiting subsection (1)(d), place a marker to show where a monitoring site is; 21
22
 - (c) install or place a device (a *monitoring device*) at a monitoring site to carry out the monitoring; 23
24
25
 - (d) read a monitoring device; 26
 - (e) check the accuracy of, or repair or replace, a monitoring device. 27
28
- (3) The authorised officer may take a necessary step to allow the exercise of a general power. 29
30
- (4) If the authorised officer takes a document from the place to copy it, the authorised officer must copy the document and return it to the place as 31
32
33

soon as practicable. 1

(5) If the authorised officer takes from the place an article or device reasonably capable of producing a document from an electronic document to produce the document, the authorised officer must produce the document and return the article or device to the place as soon as practicable. 2
3
4
5
6
7

(6) In this section— 8
examine includes analyse, test, account, measure, weigh, grade, gauge and identify. 9
10
film includes photograph, videotape and record an image in another way. 11
12
inspect, a thing, includes open the thing and examine its contents. 13
14

390ZE Power to require reasonable help 15

(1) The authorised officer may make a requirement (a *help requirement*) of an occupier of the place or a person at the place to give the authorised officer reasonable help to exercise a general power, including, for example, to produce a document or to give information. 16
17
18
19
20
21
(2) When making the help requirement, the authorised officer must give the person an offence warning for the requirement. 22
23
24

390ZF Offence to contravene help requirement 25

(1) A person of whom a help requirement has been made must comply with the requirement unless the person has a reasonable excuse. 26
27
28
Maximum penalty—100 penalty units. 29
(2) It is a reasonable excuse for an individual not to comply with a help requirement if complying might tend to incriminate the individual or expose 30
31
32

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the individual to a penalty. 1

- (3) However, subsection (2) does not apply if a 2
document or information the subject of the help 3
requirement is required to be held or kept by the 4
person under this Act. 5

Note— 6

See, however, section 390ZZJ. 7

Division 3 Seizure by authorised 8 **officers and forfeiture 9**

Subdivision 1 Power to seize 10

390ZG Seizing evidence at a place that may be 11 **entered without consent or warrant 12**

- (1) An authorised officer who enters a place the 13
authorised officer may enter under this chapter 14
without the consent of an occupier of the place 15
and without a warrant may seize a thing at the 16
place if the authorised officer reasonably believes 17
the thing is evidence of— 18

(a) the commission of an offence against this 19
Act; or 20

(b) a breach of a condition of a person’s lease, 21
licence or permit. 22

- (2) However, if the authorised officer enters the place 23
under section 390N(1)(c), (d) or (e), the 24
authorised officer may seize a thing at the place 25
only if the authorised officer also reasonably 26
believes the seizure is necessary to prevent the 27
thing being— 28

(a) hidden, lost or destroyed; or 29

(b) used to commit, continue or repeat an offence against this Act.	1 2
390ZH Seizing evidence at a place that may be entered with consent or warrant	3 4
(1) This section applies if—	5
(a) an authorised officer is authorised to enter a place under this chapter with the consent of an occupier of the place or a warrant; and	6 7 8
(b) the authorised officer enters the place after obtaining the consent or under a warrant.	9 10
(2) If the authorised officer enters the place with the occupier’s consent, the authorised officer may seize a thing at the place only if—	11 12 13
(a) the authorised officer reasonably believes the thing is evidence of—	14 15
(i) the commission of an offence against this Act; or	16 17
(ii) a breach of a condition of a person’s lease, licence or permit; and	18 19
(b) seizure of the thing is consistent with the purpose of entry as explained to the occupier when asking for the occupier’s consent.	20 21 22 23
(3) If the authorised officer enters the place under a warrant, the authorised officer may seize the evidence for which the warrant was issued.	24 25 26
(4) The authorised officer may also seize anything else at the place if the authorised officer reasonably believes—	27 28 29
(a) the thing is evidence of—	30
(i) the commission of an offence against this Act; or	31 32

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(ii)	a breach of a condition of a person's lease, licence or permit; and	1 2
(b)	the seizure is necessary to prevent the thing being hidden, lost or destroyed.	3 4
(5)	The authorised officer may also seize a thing at the place if the authorised officer reasonably believes it has just been used in—	5 6 7
(a)	committing an offence against this Act; or	8
(b)	breaching a condition of a person's lease, licence or permit.	9 10
390ZI Seizure of property subject to security		11
(1)	An authorised officer may seize a thing, and exercise powers relating to the thing, despite a lien or other security over the thing claimed by another person.	12 13 14 15
(2)	However, the seizure does not affect the other person's claim to the lien or other security against a person other than the authorised officer or a person acting under the direction or authority of the authorised officer.	16 17 18 19 20
Subdivision 2 Powers to support seizure		21
390ZJ Power to secure seized thing		22
(1)	Having seized a thing under this division, an authorised officer may—	23 24
(a)	leave it at the place where it was seized (the <i>place of seizure</i>) and take reasonable action to restrict access to it; or	25 26 27
(b)	move it from the place of seizure.	28
(2)	For subsection (1)(a), the authorised officer may, for example—	29 30

-
- (a) seal the thing, or the entrance to the place of seizure, and mark the thing or place to show access to the thing or place is restricted; or 1
2
3
- (b) for equipment—make it inoperable; or 4
Example— 5
make it inoperable by dismantling it or removing a component without which the equipment can not be used 6
7
8
- (c) require a person the authorised officer reasonably believes is in control of the place or thing to do an act mentioned in paragraph (a) or (b) or anything else an authorised officer could do under subsection (1)(a). 9
10
11
12
13

390ZK Offence to contravene seizure requirement 14

A person must comply with a requirement made of the person under section 390ZJ(2)(c) unless the person has a reasonable excuse. 15
16
17

Maximum penalty—50 penalty units. 18

390ZL Offence to interfere 19

(1) If access to a seized thing is restricted under section 390ZJ, a person must not tamper with the thing or with anything used to restrict access to the thing without— 20
21
22
23

(a) an authorised officer’s approval; or 24

(b) a reasonable excuse. 25

Maximum penalty—100 penalty units. 26

(2) If access to a place is restricted under section 390ZJ, a person must not enter the place in contravention of the restriction or tamper with anything used to restrict access to the place without— 27
28
29
30
31

(a) an authorised officer’s approval; or 32

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(b) a reasonable excuse.	1
Maximum penalty—100 penalty units.	2
Subdivision 3 Safeguards for seized things	3 4
390ZM Receipt and information notice for seized thing	5 6
(1) This section applies if an authorised officer seizes anything under section 390ZG or 390ZH unless—	7 8
(a) the authorised officer reasonably believes there is no-one apparently in possession of the thing or it has been abandoned; or	9 10 11
(b) because of the condition, nature and value of the thing it would be unreasonable to require the authorised officer to comply with this section.	12 13 14 15
(2) The authorised officer must, as soon as practicable after seizing the thing, give an owner or person in control of the thing before it was seized—	16 17 18 19
(a) a receipt for the thing that generally describes the thing and its condition; and	20 21
(b) an information notice about the decision to seize it.	22 23
(3) However, if an owner or person from whom the thing is seized is not present when it is seized, the receipt and information notice may be given by leaving them in a conspicuous position and in a reasonably secure way at the place at which the thing is seized.	24 25 26 27 28 29
(4) The receipt and information notice may—	30
(a) be given in the same document; and	31

-
- (b) relate to more than 1 seized thing. 1
- (5) The authorised officer may delay giving the 2
receipt and information notice if the authorised 3
officer reasonably suspects giving them may 4
frustrate or otherwise hinder an investigation by 5
the authorised officer under this chapter. 6
- (6) However, the delay may be only for so long as the 7
authorised officer continues to have the 8
reasonable suspicion and remains in the vicinity 9
of the place at which the thing was seized to keep 10
it under observation. 11
- 390ZN Access to seized thing 12**
- (1) Until a seized thing is forfeited or returned, the 13
authorised officer who seized the thing must 14
allow an owner of the thing— 15
- (a) to inspect it at any reasonable time and from 16
time to time; and 17
- (b) if it is a document—to copy it. 18
- (2) Subsection (1) does not apply if it is impracticable 19
or would be unreasonable to allow the inspection 20
or copying. 21
- (3) The inspection or copying must be allowed free of 22
charge. 23
- 390ZO Return of seized thing 24**
- (1) This section applies if a seized thing is not— 25
- (a) forfeited or transferred under subdivision 4 26
or 5; or 27
- (b) subject to a disposal order under division 4. 28
- (2) As soon as the chief executive stops being 29
satisfied there are reasonable grounds for 30
retaining the thing, the chief executive must 31

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- return it to its owner. 1
- (3) If the thing is not returned to its owner within 3 2
months after it was seized, the owner may apply 3
to the chief executive for its return. 4
- (4) Within 30 days after receiving the application, the 5
chief executive must— 6
- (a) if the chief executive is satisfied there are 7
reasonable grounds for retaining the thing 8
and decides to retain it—give the owner an 9
information notice about the decision, 10
including the grounds for retaining the 11
thing; or 12
- (b) otherwise—return the thing to the owner. 13
- (5) For this section, there are reasonable grounds for 14
retaining a seized thing if— 15
- (a) the thing is being, or is likely to be, 16
examined; or 17
- (b) the thing is needed, or may be needed, for 18
the purposes of— 19
- (i) a proceeding for an offence against this 20
Act that is likely to be started or that 21
has been started but not completed; or 22
- (ii) an appeal from a decision in a 23
proceeding for an offence against this 24
Act; or 25
- (c) it is not lawful for the owner to possess the 26
thing. 27
- (6) Subsection (5) does not limit the grounds that may 28
be reasonable grounds for retaining the seized 29
thing. 30
- (7) Nothing in this section affects a lien or other 31
security over the seized thing. 32
- (8) In this section— 33

examine includes analyse, test, measure, weigh,
grade, gauge and identify. 1
2

Subdivision 4 Forfeiture 3

390ZP Forfeiture by chief executive decision 4

- (1) The chief executive may decide a seized thing is
forfeited to the State if an authorised officer— 5
6
- (a) after making reasonable inquiries, can not
find an owner; or 7
8
 - (b) after making reasonable efforts, can not
return it to an owner; or 9
10
 - (c) for a thing seized for an
offence—reasonably believes it is necessary
to keep the thing to prevent it being used to
commit the offence for which it was seized. 11
12
13
14
- (2) However, the authorised officer is not required
to— 15
16
- (a) make inquiries if it would be unreasonable
to make inquiries to find an owner; or 17
18
 - (b) make efforts if it would be unreasonable to
make efforts to return the thing to an owner. 19
20
- Example for paragraph (b)—* 21
- the owner of the thing has migrated to another
country 22
23
- (3) Regard must be had to the thing’s condition,
nature and value in deciding— 24
25
- (a) whether it is reasonable to make inquiries or
efforts; and 26
27
 - (b) if inquiries or efforts are made—what
inquiries or efforts, including the period
over which they are made, are reasonable. 28
29
30

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390ZQ Information notice about forfeiture decision	1
(1) If the chief executive decides under section 390ZP(1) to forfeit a thing, the chief executive must as soon as practicable give a person who owned the thing immediately before the forfeiture (the <i>former owner</i>) an information notice about the decision.	2 3 4 5 6 7
(2) If the decision was made under section 390ZP(1)(a) or (b), the information notice may be given by leaving it at the place where the thing was seized, in a conspicuous position and in a reasonably secure way.	8 9 10 11 12
(3) The information notice must state that the former owner may apply for a stay of the decision if the former owner appeals against the decision.	13 14 15
(4) However, subsections (1) to (3) do not apply if—	16
(a) the decision was made under section 390ZP(1)(a) or (b); and	17 18
(b) the place where the thing was seized is—	19
(i) a public place; or	20
(ii) a place where the notice is unlikely to be read by the former owner.	21 22
Subdivision 5 Dealing with property forfeited or transferred to State	23 24 25
390ZR When thing becomes property of the State	26
A thing becomes the property of the State if—	27
(a) the thing is forfeited to the State under section 390ZP(1); or	28 29

-
- (b) the owner of the thing and the State agree, in writing, to the transfer of the ownership of the thing to the State.

390ZS How property may be dealt with

- (1) This section applies if, under section 390ZR, a thing becomes the property of the State.
- (2) The chief executive may deal with the thing as the chief executive considers appropriate, including, for example, by destroying it or giving it away.
- (3) The chief executive must not deal with the thing in a way that could prejudice the outcome of an appeal against the forfeiture under this chapter.
- (4) If the chief executive sells the thing, the chief executive must, after deducting the costs of the sale, make reasonable efforts to return the proceeds of the sale to the former owner of the thing.
- (5) For subsection (4), the *costs of the sale* include the amount of any costs reasonably incurred, after the thing was forfeited or transferred to the State, in storing or transporting the thing.
- (6) This section is subject to any disposal order made for the thing.

Division 4 Disposal orders

390ZT Disposal order

- (1) This section applies if a person is convicted of an offence against this Act.
- (2) The court may make an order (a *disposal order*), on its own initiative or on an application by the prosecution, for the disposal of any of the

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following things owned by the person—	1
(a) anything that was the subject of, or used to commit, the offence;	2 3
(b) another thing the court considers is likely to be used by the person or another person in committing a further offence against this Act.	4 5 6 7
(3) The court may make a disposal order for a thing—	8
(a) whether or not it has been seized under this chapter; and	9 10
(b) if the thing has been seized—whether or not it has been returned to the former owner.	11 12
(4) In deciding whether to make a disposal order for a thing, the court—	13 14
(a) may require notice to be given to anyone the court considers appropriate, including, for example, any person who may have any property in the thing; and	15 16 17 18
(b) must hear any submissions that any person claiming to have any property in the thing may wish to make.	19 20 21
(5) The court may make any order it considers appropriate to enforce the disposal order.	22 23
(6) This section does not limit the court’s powers under another law.	24 25
Division 5	Other 26
	information-obtaining 27
	powers of authorised 28
	officers 29

390ZU Power to require name and address	1
(1) This section applies if an authorised officer—	2
(a) finds a person committing an offence against this Act; or	3 4
(b) finds a person in circumstances that lead the authorised officer to reasonably suspect the person has just committed an offence against this Act; or	5 6 7 8
(c) has information that leads the authorised officer to reasonably suspect a person has just committed an offence against this Act.	9 10 11
(2) The authorised officer may require the person to state the person's name and residential address or, if the person does not have a residential address in the State, another address in the State where the person may be contacted.	12 13 14 15 16
(3) The authorised officer may also require the person to give evidence of the correctness of the stated name or address if, in the circumstances, it would be reasonable to expect the person to—	17 18 19 20
(a) be in possession of evidence of the correctness of the stated name or address; or	21 22
(b) otherwise be able to give the evidence.	23
(4) When making a personal details requirement, the authorised officer must give the person an offence warning for the requirement.	24 25 26
(5) A requirement under this section is a <i>personal details requirement</i> .	27 28
390ZV Offence to contravene personal details requirement	29 30
(1) A person of whom a personal details requirement has been made must comply with the requirement unless the person has a reasonable excuse.	31 32 33

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Maximum penalty—50 penalty units.	1
(2) A person may not be convicted of an offence against subsection (1) unless the person is found guilty of the offence in relation to which the personal details requirement was made.	2 3 4 5
390ZW Power to require production of document	6
(1) An authorised officer may require a person to make available for inspection by an authorised officer, or to produce to the authorised officer for inspection, at a reasonable time and place nominated by the authorised officer—	7 8 9 10 11
(a) a document issued to the person under this Act; or	12 13
(b) a document required to be kept by the person under this Act; or	14 15
(c) if a document or information required to be kept by the person under this Act is stored or recorded by means of a device—a document that is a clear written reproduction of the stored or recorded document or information.	16 17 18 19 20
(2) A requirement under subsection (1) is a <i>document production requirement</i> .	21 22
(3) For an electronic document, compliance with the document production requirement requires the making available or production of a clear written reproduction of the electronic document.	23 24 25 26
(4) The authorised officer may keep the document to copy it.	27 28
(5) If the authorised officer copies the document, or an entry in the document, the authorised officer may require the person responsible for keeping the document to certify the copy as a true copy of the document or entry.	29 30 31 32 33

-
- (6) A requirement under subsection (5) is a **document certification requirement**. 1
2
- (7) The authorised officer must return the document 3
to the person as soon as practicable after copying 4
it. 5
- (8) However, if a document certification requirement 6
is made of a person, the authorised officer may 7
keep the document until the person complies with 8
the requirement. 9

**390ZX Offence to contravene document 10
production requirement 11**

- (1) A person of whom a document production 12
requirement has been made must comply with the 13
requirement unless the person has a reasonable 14
excuse. 15
- Maximum penalty—100 penalty units. 16

- (2) It is not a reasonable excuse for a person to fail to 17
comply with a document production requirement 18
on the basis that complying with the requirement 19
might tend to incriminate the person or expose the 20
person to a penalty. 21

Note— 22

See, however, section 390ZZJ. 23

- (3) The authorised officer must inform the person, in 24
a way that is reasonable in the circumstances, 25
that— 26
- (a) the person must comply with the document 27
production requirement even though 28
complying might tend to incriminate the 29
person or expose the person to a penalty; 30
and 31
- (b) if the person is an individual—under section 32
390ZZJ, there is a limited immunity against 33
the future use of the information or 34

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document given in compliance with the requirement.	1 2
(4) If the person fails to comply with the document production requirement when the authorised officer has failed to comply with subsection (3), the person can not be convicted of the offence against subsection (1).	3 4 5 6 7
(5) If a court convicts a person of an offence against subsection (1), the court may, as well as imposing a penalty for the offence, order the person to comply with the document production requirement.	8 9 10 11 12
390ZY Offence to contravene document certification requirement	13 14
(1) A person of whom a document certification requirement has been made must comply with the requirement unless the person has a reasonable excuse.	15 16 17 18
Maximum penalty—100 penalty units.	19
(2) It is not a reasonable excuse for a person to fail to comply with a document certification requirement on the basis that complying with the requirement might tend to incriminate the person or expose the person to a penalty.	20 21 22 23 24
<i>Note—</i>	25
See, however, section 390ZZJ.	26
(3) The authorised officer must inform the person, in a way that is reasonable in the circumstances, that—	27 28 29
(a) the person must comply with the document certification requirement even though complying might tend to incriminate the person or expose the person to a penalty; and	30 31 32 33 34

-
- (b) if the person is an individual—under section 390ZZJ, there is a limited immunity against the future use of the information or document given in compliance with the requirement. 1
2
3
4
5
- (4) If the person fails to comply with the document certification requirement when the authorised officer has failed to comply with subsection (3), the person can not be convicted of the offence against subsection (1). 6
7
8
9
10

390ZZ Power to require information 11

- (1) This section applies if an authorised officer reasonably believes— 12
13
- (a) an offence against this Act has been committed or a condition of a lease, licence or permit has been breached; and 14
15
16
- (b) a person may be able to give information about the offence or breach. 17
18
- (2) The authorised officer may, by notice given to the person, require the person to give the authorised officer information related to the offence or breach by a stated reasonable time. 19
20
21
22
- (3) For information that is an electronic document, compliance with the requirement requires the giving of a clear image or written version of the electronic document. 23
24
25
26
- (4) In this section— 27
information includes a document. 28

390ZZA Offence to contravene information requirement 29
30

- (1) A person of whom a requirement is made under section 390ZZ(2) must comply with the 31
32

[s 201]

requirement unless the person has a reasonable
excuse. 1 2

Maximum penalty—100 penalty units. 3

- (2) It is a reasonable excuse for an individual not to
give the information if giving the information
might tend to incriminate the individual or expose
the individual to a penalty. 4 5 6 7

Part 5 Obtaining criminal history reports 8 9

390ZZB Purpose of part 10

The purpose of this part is to help an authorised
officer to decide whether the authorised officer's
unaccompanied entry of a place under part 3
would create an unacceptable level of risk to the
authorised officer's safety. 11 12 13 14 15

390ZZC Chief executive's power to obtain criminal history report 16 17

- (1) The chief executive may ask the commissioner of
the police service for a written report about the
criminal history of a person if an authorised
officer reasonably suspects the person— 18 19 20 21
- (a) may be present at a place when the
authorised officer enters the place under part
3; and 22 23 24
- (b) may create an unacceptable level of risk to
the authorised officer's safety. 25 26
- (2) The commissioner of the police service must give
the report to the chief executive. 27 28
- (3) However, the report is required to contain only
criminal history in the commissioner's possession 29 30

or to which the commissioner has access.	1
(4) The chief executive must examine the report and identify, to the extent it is reasonably practicable to do so, offences involving the use of a weapon or violence against a person.	2 3 4 5
(5) The chief executive may give the authorised officer information in the report about the offences identified under subsection (4).	6 7 8
390ZZD Criminal history is confidential document	9
(1) A person must not, directly or indirectly, disclose to anyone else a report about a person’s criminal history, or information contained in the report, given under section 390ZZC. Maximum penalty—100 penalty units.	10 11 12 13 14
(2) However, the person does not contravene subsection (1) if—	15 16
(a) the disclosure of the report or information is for the purpose of the other person performing a function in relation to this Act; or	17 18 19 20
(b) the disclosure of the report or information is otherwise required or permitted by law.	21 22
(3) The chief executive or an authorised officer to whom the report or written information in the report is provided must destroy the report or written information as soon as practicable after the authorised officer considers the risk mentioned in section 390ZZB.	23 24 25 26 27 28
Part 6	Miscellaneous 29
	provisions relating to 30
	authorised officers 31

[s 201]

Division 1	Damage	1
390ZZE Duty to avoid inconvenience and minimise damage		2 3
In exercising a power, an authorised officer must take all reasonable steps to cause as little inconvenience, and do as little damage, as possible.		4 5 6 7
<i>Note—</i>		8
See also section 390ZZG.		9
390ZZF Notice of damage		10
(1) This section applies if—		11
(a) an authorised officer damages something when exercising, or purporting to exercise, a power; or		12 13 14
(b) a person (the <i>assistant</i>) acting under the direction or authority of an authorised officer damages something.		15 16 17
(2) However, this section does not apply in relation to damage the authorised officer reasonably considers is trivial or if the authorised officer reasonably believes—		18 19 20 21
(a) there is no-one apparently in possession of the thing; or		22 23
(b) the thing has been abandoned.		24
(3) The authorised officer must give notice of the damage to a person who appears to the authorised officer to be an owner, or person in control, of the thing.		25 26 27 28
(4) However, if for any reason it is not practicable to comply with subsection (3), the authorised officer must—		29 30 31

-
- (a) leave the notice at the place where the damage happened; and
- (b) ensure it is left in a conspicuous position and in a reasonably secure way.
- (5) The authorised officer may delay complying with subsection (3) or (4) if the authorised officer reasonably suspects complying with the subsection may frustrate or otherwise hinder an investigation by the authorised officer.
- (6) The delay may be only for so long as the authorised officer continues to have the reasonable suspicion and remains in the vicinity of the place.
- (7) If the authorised officer believes the damage was caused by a latent defect in the thing or other circumstances beyond the control of the authorised officer or the assistant, the authorised officer may state the belief in the notice.
- (8) The notice must state—
- (a) particulars of the damage; and
- (b) that the person who suffered the damage may claim compensation under section 390ZZG.

Division 2 Compensation

390ZZG Compensation

- (1) A person may claim compensation from the State if the person incurs loss because of the exercise, or purported exercise, of a power by or for an authorised officer under this chapter, including a loss arising from compliance with a requirement made of the person under part 4, division 3 or 5.
- (2) The compensation may be claimed and ordered in

[s 201]

- | | |
|---|----------------------|
| a proceeding— | 1 |
| (a) brought in a court with jurisdiction for the recovery of the amount of compensation claimed; or | 2
3
4 |
| (b) for an alleged offence against this Act the investigation of which gave rise to the claim for compensation. | 5
6
7 |
| (3) A court may order the payment of compensation only if it is satisfied it is just to make the order in the circumstances of the particular case. | 8
9
10 |
| (4) In considering whether it is just to order compensation, the court must have regard to— | 11
12 |
| (a) any relevant offence committed by the claimant; and | 13
14 |
| (b) any relevant breach of a condition of any licence, lease or permit of the claimant; and | 15
16 |
| (c) whether the loss arose from a lawful seizure or lawful forfeiture. | 17
18 |
| (5) A regulation may prescribe other matters that may, or must, be taken into account by the court when considering whether it is just to order compensation. | 19
20
21
22 |
| (6) Section 390ZZE does not provide for a statutory right of compensation other than as provided by this section. | 23
24
25 |
| (7) In this section— | 26 |
| <i>loss</i> includes costs and damage. | 27 |

Division 3	Other offences relating to authorised officers	28
		29

<i>Note—</i>	1
See also section 440 in relation to the obstruction of authorised officers and other persons.	2 3
390ZZH Giving authorised officer false or misleading information	4 5
(1) A person must not, in relation to the administration of this Act, give an authorised officer information the person knows is false or misleading in a material particular.	6 7 8 9
Maximum penalty—100 penalty units.	10
(2) Subsection (1) applies to information given in relation to the administration of this Act whether or not the information was given in response to a specific power under this Act.	11 12 13 14
(3) Subsection (1) does not apply to a person if the person, when giving information in a document—	15 16
(a) tells the authorised officer, to the best of the person’s ability, how the document is false or misleading; and	17 18 19
(b) if the person has, or can reasonably obtain, the correct information—gives the correct information.	20 21 22
390ZZI Impersonating authorised officer	23
A person must not impersonate an authorised officer.	24 25
Maximum penalty—100 penalty units.	26
Division 4 Other provisions	27

[s 202]

390ZZJ Evidential immunity for individuals complying with particular requirements	1 2
(1) Subsection (2) applies if an individual gives or produces information or a document to an authorised officer under section 390ZE or 390ZW.	3 4 5 6
(2) Evidence of the information or document, and other evidence directly or indirectly derived from the information or document, is not admissible against the individual in any proceeding to the extent it tends to incriminate the individual, or expose the individual to a penalty, in the proceeding.	7 8 9 10 11 12 13
(3) Subsection (2) does not apply to a proceeding about the false or misleading nature of the information or anything in the document or in which the false or misleading nature of the information or document is relevant evidence.	14 15 16 17 18

Clause 202 Omission of ch 7, pt 1, divs 2–5	19
Chapter 7, part 1, divisions 2 to 5— <i>omit.</i>	20 21

Clause 203 Insertion of new ch 7, pts 1A–1C	22
Chapter 7— <i>insert—</i>	23 24

Part 1A	Safety notices	25
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Division 1	Show cause procedure for particular safety notices	26 27
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403D Show cause notice

- | | |
|--|----|
| | 1 |
| (1) This section applies if the chief executive | 2 |
| proposes to give a person a safety notice under | 3 |
| section 403G(2)(c) in relation to a building or | 4 |
| structure or equipment. | 5 |
| (2) The chief executive must first give the person a | 6 |
| notice (a <i>show cause notice</i>) stating the | 7 |
| following— | 8 |
| (a) that the chief executive proposes to give the | 9 |
| person a safety notice requiring the person | 10 |
| to demolish or remove a stated building or | 11 |
| structure or stated equipment; | 12 |
| (b) the grounds for giving the proposed safety | 13 |
| notice; | 14 |
| (c) an outline of the facts and circumstances | 15 |
| forming the basis for the grounds; | 16 |
| (d) that the person may, within a stated period | 17 |
| (the <i>show cause period</i>), make written | 18 |
| representations to the chief executive to | 19 |
| show why the safety notice should not be | 20 |
| given. | 21 |
| (3) The show cause period must end at least 21 days | 22 |
| after the person is given the show cause notice. | 23 |

403E Representations about show cause notice

- | | |
|--|----|
| | 24 |
| (1) The person may, within the show cause period, | 25 |
| make written representations to the chief | 26 |
| executive about why the safety notice should not | 27 |
| be given. | 28 |
| (2) The chief executive must consider all | 29 |
| representations (the <i>accepted representations</i>) | 30 |
| made under subsection (1). | 31 |

[s 203]

403F Ending show cause process without further action	1 2
(1) If, after considering the accepted representations for the show cause notice, the chief executive no longer believes a ground exists to give the safety notice, the chief executive—	3 4 5 6
(a) must not take any further action about the show cause notice; and	7 8
(b) must give the person a notice that no further action is to be taken about the show cause notice.	9 10 11
(2) Subsection (1) does not prevent the chief executive giving the person a safety notice under section 403G(2)(a) or (b) in relation to the same building, structure or equipment.	12 13 14 15
Division 2 Giving of safety notices and related matters	16 17
403G Chief executive may give safety notice	18
(1) This section applies if the chief executive reasonably believes a building or structure or equipment on relevant land—	19 20 21
(a) is dangerous; and	22
(b) poses a serious risk to the safety of the public.	23 24
(2) The chief executive may give the occupier of the land on which the building, structure or equipment is situated a notice (a <i>safety notice</i>) requiring the person, within a stated reasonable period, to take any of the following actions (each a <i>safety action</i>)—	25 26 27 28 29 30
(a) to repair or rectify the building, structure or equipment to make it safe;	31 32

-
- (b) to fence off the building, structure or equipment to protect the public; 1
2
- (c) to demolish or remove the building, structure or equipment. 3
4
- (3) However, a person may be required to take a safety action mentioned in subsection (2)(c) only if— 5
6
7
- (a) the chief executive reasonably believes it is not possible or practicable to take steps to comply with a safety action mentioned in subsection (2)(a) or (b); and 8
9
10
11
- (b) the chief executive has complied with division 1. 12
13
- (4) The safety notice must be accompanied by or include an information notice about the decision to give the safety notice. 14
15
16
- (5) In this section— 17
- occupier*, of land, means— 18
- (a) if the land is the subject of a lease registered under this Act—the lessee of the land; or 19
20
- (b) if the land is a reserve—the trustee of the reserve; or 21
22
- (c) if a person has occupation rights in relation to the land under a licence or permit—the licensee or permittee. 23
24
25
- relevant land* means— 26
- (a) non-freehold land; or 27
- (b) freehold land containing a reservation for a public purpose. 28
29

403H Person must comply with safety notice 30

A person to whom a safety notice is given must comply with the notice unless the person has a 31
32

[s 203]

reasonable excuse.	1
Maximum penalty—400 penalty units.	2
Division 3	3
Noncompliance with safety notices	4
403I Safety notice requiring repair, rectification or fencing	5
(1) This section applies if—	7
(a) a person is given a safety notice under section 403G(2)(a) or (b); and	8
(b) the person fails to comply with the notice, whether or not the person has been convicted of an offence against section 403H for the noncompliance.	10
(2) The State may—	14
(a) take the safety action required under the safety notice; and	15
(b) recover from the person the reasonable costs of taking the safety action as a debt due to the State.	17
403J Safety notice requiring demolition or removal	20
(1) This section applies if—	21
(a) a person is given a safety notice under section 403G(2)(c); and	22
(b) the person fails to comply with the notice, whether or not the person has been convicted of an offence against section 403H for the noncompliance.	24
(2) The chief executive may give the person a notice (a <i>warning notice</i>) stating—	28

-
- (a) the chief executive is satisfied the person has failed to take a stated safety action required under the safety notice; and
- (b) if the person fails to take the safety action within 7 days after the person is given the warning notice (the *relevant period*), the State may—
- (i) take the safety action; and
- (ii) recover from the person the reasonable costs of taking the safety action, including any disposal costs, as a debt due to the State.
- (3) The warning notice must be accompanied by or include an information notice about the decision to give the warning notice.
- (4) If the person does not, within the relevant period, take the safety action required under the safety notice, the State may—
- (a) take the safety action; and
- (b) for the purpose of taking the safety action, remove anything in or on the building, structure or equipment to which the safety notice applies; and
- (c) recover from the person the reasonable costs of taking the safety action as a debt due to the State.
- (5) When the safety action is started, the building, structure or equipment to which the safety notice applies is forfeited to the State.
- (6) If a thing becomes the property of the State under subsection (5), the chief executive may deal with the thing (the *forfeited thing*) as the chief executive considers appropriate, including, for example, by destroying it, giving it away or otherwise disposing of it.

[s 203]

- (7) For subsection (4)(c), the costs of taking the safety action include the following costs (each the *disposal costs*)—
- (a) any costs reasonably incurred in disposing of the forfeited thing or any part of it;
- Examples of disposal costs—*
- transport costs, dump fees, storage costs, costs of sale
- (b) any costs reasonably incurred in removing a thing in or on the forfeited thing for the purpose of taking the safety action.
- (8) If the chief executive sells the forfeited thing, or any part of it, the amount for which the thing or part is sold must be offset against the amount that may otherwise be recovered under subsection (4)(c).
- (9) If the amount for which the forfeited thing or part is sold is greater than the reasonable costs of taking the safety action and any disposal costs, the chief executive must, after deducting the costs of taking the safety action and any disposal costs, make reasonable efforts to return the proceeds of the sale to the person.

Part 1B **Regulatory and other notices on unallocated State land and particular trust land**

403K Regulatory notices

- (1) The chief executive may, for the purpose of regulating or prohibiting a stated activity in an area of unallocated State land or relevant trust land, erect or display a notice (a *regulatory*

-
- notice*) at or near the access points to the area of
land to which the notice applies (the *restricted use
area*).
*Example of an access point to an area of unallocated State
land—*
a track or trail giving access to the area
- (2) A person must not contravene a requirement of
the regulatory notice unless the person has a
reasonable excuse.
Maximum penalty—400 penalty units.
- (3) The regulation or prohibition of the stated activity
under the regulatory notice must be for 1 or more
of the following purposes—
- (a) to protect public health or safety;
- (b) to prevent a nuisance in the restricted use
area;
Example of a nuisance—
excessive noise from trail bike riding
- (c) to protect infrastructure in the restricted use
area;
- (d) to protect the cultural or environmental
value of the restricted use area;
- (e) another purpose prescribed by regulation.
- (4) The regulatory notice must—
- (a) be easily visible to passers-by; and
- (b) identify the restricted use area—
- (i) by describing or depicting the limits of
the area; or
- (ii) by reference to an area or feature
beyond a stated access point; and
- (c) state the activity to which it applies and how
the activity is regulated or prohibited.

[s 203]

- (5) The regulatory notice may state that a contravention of a requirement of the notice is an offence against this Act and the penalty for the offence. 1
2
3
4
- (6) Evidence that the regulatory notice was erected or displayed at or near an access point to the restricted use area is evidence that the notice was erected or displayed by the chief executive. 5
6
7
8
- (7) In this section— 9
relevant trust land means— 10
- (a) trust land of which the State is the trustee; or 11
- (b) trust land for which there is no trustee. 12

403L Regulatory information notices 13

- (1) This section applies if a regulatory notice for a restricted use area does not state that a contravention of a requirement of the notice is an offence against this Act and the penalty for the offence. 14
15
16
17
18
- (2) The chief executive must erect or display at or near the access points to the restricted use area, and at other places the chief executive considers appropriate, a notice (a *regulatory information notice*) stating— 19
20
21
22
23
- (a) that a contravention of a requirement of the regulatory notice is an offence against this Act; and 24
25
26
- (b) the penalty for the offence. 27
- (3) The regulatory information notices must be placed so at least 1 of them is likely to be seen by anyone who sees a regulatory notice mentioned in subsection (1). 28
29
30
31
- (4) The regulatory information notice may contain any other information about the restricted use area 32
33

the chief executive considers appropriate. 1

403M Person must not interfere with notices 2

A person must not move, destroy, damage,
deface, alter or otherwise interfere with— 3
4

(a) a regulatory notice; or 5

(b) a regulatory information notice. 6

Maximum penalty—400 penalty units. 7

Part 1C Directions to leave 8
unallocated State land 9
and particular trust 10
land 11

403N Authorised officer may give direction 12

(1) This section applies in relation to a person on
unallocated State land or relevant trust land. 13
14

(2) An authorised officer may direct the person to
leave the land, or a stated part of the land, if the
authorised officer reasonably believes— 15
16
17

(a) it is unsafe for the person to remain on the
land; or 18
19

*Example of when it may be unsafe for a person to
remain on the land— 20
21*

A controlled burn is being carried out on the land. 22

(b) the person is contravening a requirement of
a regulatory notice that applies to the land
and leaving the land is the only way the
person can comply with the requirement. 23
24
25
26

Example— 27

A person is driving a vehicle in a part of
unallocated State land where the driving of 28
29

[s 203]

- vehicles is prohibited under a regulatory notice. 1
An authorised officer may direct the person to 2
leave the part of the unallocated State land to 3
which the regulatory notice applies. 4
- (3) The direction may be given orally or in writing. 5
- (4) If the direction is given orally, the authorised 6
officer must, when giving the direction, tell the 7
person— 8
- (a) for a direction under subsection (2)(a)— 9
- (i) why it is unsafe for the person to 10
remain on the land; and 11
- (ii) that it is an offence for the person not 12
to comply with the direction unless the 13
person has a reasonable excuse; or 14
- (b) for a direction under subsection (2)(b)— 15
- (i) the requirement of the regulatory 16
notice the authorised officer believes is 17
being contravened; and 18
- (ii) the way in which it is believed the 19
requirement is being contravened; and 20
- (iii) that it is an offence for the person not 21
to comply with the direction unless the 22
person has a reasonable excuse. 23
- (5) If the direction is given in writing, the direction 24
must state the matters mentioned in subsection 25
(4)(a) or (b). 26
- (6) The person must comply with the direction unless 27
the person has a reasonable excuse. 28
- Maximum penalty—400 penalty units. 29
- (7) In this section— 30
- relevant trust land* means— 31
- (a) trust land of which the State is the trustee; or 32
- (b) trust land for which there is no trustee. 33

403O Authorised officer must make record of direction	1
	2
(1) This section applies if an authorised officer—	3
(a) gives a direction under section 403N orally;	4
or	5
(b) gives a direction under section 403N in writing, but does not have a copy of the direction.	6
	7
	8
(2) The authorised officer must, as soon as reasonably practicable after the direction is given, make a written record of—	9
	10
	11
(a) the name of the person to whom the direction was given; and	12
	13
(b) details of the direction; and	14
(c) the day and time the direction was given.	15

Clause 204	Insertion of new s 405AA	16
	After section 405—	17
	<i>insert</i> —	18
	405AA Definitions for division	19
	In this division—	20
	<i>compliance period</i> see section 406(4)(a).	21
	<i>relevant period</i> see section 409(2).	22

Clause 205	Amendment of s 406 (Notice to person to leave land, remove structures etc.)	23
		24
	(1) Section 406(4)(a)—	25
	<i>omit, insert</i> —	26
	(a) the period (the <i>compliance period</i>) within which the person must comply with the notice; and	27
		28
		29

[s 206]

- (2) Section 406(5)— 1
omit, insert— 2
- (5) The trespass notice may be given by fixing the 3
notice in a conspicuous position and in a 4
reasonably secure way on the land, or on a thing 5
on the land. 6
- (6) The compliance period must be at least the period 7
prescribed by regulation after— 8
- (a) if the trespass notice is given to the person 9
in the way mentioned in subsection (5)—the 10
person becomes aware of the existence of 11
the notice; or 12
- (b) otherwise—the notice is given to the person. 13

- Clause 206 Replacement of s 408 (Improvements etc. forfeited)** 14
- Section 408— 15
omit, insert— 16
- 408 Forfeiture of improvements and other things 17
on land** 18
- (1) This section applies if a person to whom a trespass 19
notice is given— 20
- (a) does not comply with the notice; and 21
- (b) does not start a proceeding under this 22
division within the relevant period. 23
- (2) On the expiry of the relevant period, any 24
improvements, goods or anything else belonging 25
to the person that is on the land the subject of the 26
trespass notice is forfeited to the State. 27
- (3) In this section— 28
goods includes stock. 29

Clause 207	Amendment of s 409 (Person may start proceeding in Magistrates Court)	1 2
	Section 409(2)—	3
	<i>omit, insert—</i>	4
	(2) The proceeding must be started by the person within the following period (the <i>relevant period</i>)—	5 6 7
	(a) if the compliance period stated in the trespass notice is 7 days or less—7 days;	8 9
	(b) otherwise—the compliance period stated in the trespass notice.	10 11
Clause 208	Amendment of s 410 (Chief executive may start proceeding)	12 13
	Section 410(6)(a), ‘required time’—	14
	<i>omit, insert—</i>	15
	relevant period	16
Clause 209	Insertion of new ch 7, pt 2, div 5	17
	Chapter 7, part 2—	18
	<i>insert—</i>	19
	Division 5 Dealing with property forfeited to the State	20 21
	420AA How property may be dealt with	22
	(1) This section applies if a thing becomes the property of the State under—	23 24
	(a) section 408; or	25
	(b) a trespass order.	26
	(2) The chief executive may deal with the thing as the	27

[s 210]

	chief executive considers appropriate, including,	1
	for example, by destroying it, giving it away or	2
	otherwise disposing of it.	3
(3)	However, if the thing is forfeited to the State	4
	under a trespass order, the chief executive must	5
	not deal with the thing in a way that could	6
	prejudice the outcome of an appeal against the	7
	making of the trespass order.	8
(4)	The State may recover from the former owner any	9
	costs reasonably incurred in disposing of the thing	10
	(the <i>disposal costs</i>) as a debt due to the State.	11
	<i>Examples of disposal costs—</i>	12
	transport costs, dump fees, storage costs, costs of sale	13
(5)	If the chief executive sells the thing or any part of	14
	it, the amount for which the thing or part is sold	15
	must be offset against the amount that may	16
	otherwise be recovered under subsection (4).	17
(6)	If the amount for which the thing or part is sold is	18
	greater than the disposal costs, the chief executive	19
	must, after deducting the disposal costs, make	20
	reasonable efforts to return the proceeds of the	21
	sale to the former owner.	22
(7)	In this section—	23
	<i>former owner</i> , in relation to a thing that has been	24
	forfeited, means the person who owned the thing	25
	immediately before the forfeiture.	26
Clause 210	Insertion of new ch 7, pt 3, div 1AA	27
	Chapter 7, part 3, before division 1—	28
	<i>insert—</i>	29
	Division 1AA Preliminary	30

420J Definitions for part

In this part—

court, in relation to an original decision or a review decision relating to an original decision, means—

- (a) if the original decision is an investigation decision—a Magistrates Court; or
- (b) otherwise—the Land Court.

investigation decision means an original decision under any of the following provisions—

- (a) section 390ZG;
- (b) section 390ZH;
- (c) section 390ZO;
- (d) section 390ZP(1).

Clause 211 Insertion of new s 420K

Chapter 7, part 3, division 1, before section 421—

insert—

420K Right of appeal

- (1) A person who is given, or is entitled to be given, an information notice about an original decision may appeal against the decision.
- (2) Subsection (1) does not limit any other provision of this Act that gives a person a right to appeal against an original decision.

Clause 212 Amendment of s 421 (Notice of right of appeal to be given)

Section 421—

insert—

- (3) Subsections (1) and (2) do not apply in relation to

[s 213]

	an original decision for which a person is entitled to be given an information notice.	1 2
Clause 213	Replacement of s 440 (Obstruction of officers etc.)	3
	Section 440—	4
	<i>omit, insert—</i>	5
	440 Obstructing particular officers	6
	(1) A person must not obstruct a relevant officer exercising a power under this Act, or a person helping a relevant officer exercising a power under this Act, unless the person has a reasonable excuse.	7 8 9 10 11
	Maximum penalty—400 penalty units.	12
	(2) If a person has obstructed a relevant officer, or someone helping a relevant officer, and the relevant officer decides to proceed with the exercise of the power, the relevant officer must warn the person that—	13 14 15 16 17
	(a) it is an offence to cause an obstruction unless the person has a reasonable excuse; and	18 19 20
	(b) the relevant officer considers the person’s conduct an obstruction.	21 22
	(3) In this section—	23
	<i>obstruct</i> includes assault, hinder, resist, attempt to obstruct and threaten to obstruct.	24 25
	<i>relevant officer</i> means—	26
	(a) an authorised officer; or	27
	(b) a public service employee employed in the department.	28 29

Clause 214	Amendment of s 441 (Protection from liability)	1
(1)	Section 441(1), ‘officer or employee of the department’—	2
	<i>omit, insert—</i>	3
	official	4
(2)	Section 441(2), ‘officer or employee’—	5
	<i>omit, insert—</i>	6
	official	7
(3)	Section 441—	8
	<i>insert—</i>	9
(3)	This section does not apply to an official if the official is a State employee within the meaning of the <i>Public Service Act 2008</i> , section 26B(4).	10 11 12
	<i>Note—</i>	13
	For protection from civil liability in relation to State employees, see the <i>Public Service Act 2008</i> , section 26C.	14 15 16
(4)	In this section—	17
	official means—	18
(a)	an authorised officer; or	19
(b)	a person acting under the direction or authority of an authorised officer.	20 21
Clause 215	Amendment of s 448 (Regulation-making power)	22
(1)	Section 448—	23
	<i>insert—</i>	24
(2A)	Without limiting subsection (2)(a), a regulation may require the following to be lodged or deposited using an Electronic Lodgment Network—	25 26 27 28
(a)	documents of a stated class;	29

[s 216]

- (b) documents lodged or deposited by a person
of a stated class. 1
2
- (2) Section 448(4), ‘Subsection (3)’— 3
omit, insert— 4
Subsection (4) 5
- (3) Section 448— 6
insert— 7
(6) In this section— 8
Electronic Lodgment Network has the meaning 9
given by the Electronic Conveyancing National 10
Law (Queensland), section 13. 11
- (4) Section 448(2A) to (6)— 12
renumber as section 448(3) to (7). 13

Clause 216 Insertion of new ch 9, pt 3 14

Chapter 9— 15
insert— 16

Part 3 Transitional provisions 17
for Land, Explosives 18
and Other Legislation 19
Amendment Act 2017 20

525 Application of s 199B to existing leases and 21
permits 22

Section 199B applies to a lease or permit, whether 23
it was issued before or after the commencement. 24

526 Application of s 294E(3) 25

Section 294E(3) applies to a registered building 26
management statement whether the statement was 27

registered before or after the commencement.	1
527 Authorised persons	2
(1) This section applies to a person who, immediately before the commencement, held an appointment as an authorised person under former section 395.	3 4 5
(2) On the commencement, the person holds office as an authorised officer under this Act on the same conditions until the person's office as an authorised officer ends under this Act.	6 7 8 9
(3) In this section—	10
<i>former section 395</i> means section 395 as in force immediately before the commencement.	11 12
528 Identity cards issued before commencement	13
(1) This section applies to an identity card given under former section 397 to a person who, under section 527, holds office as an authorised officer under this Act.	14 15 16 17
(2) From the commencement, the identity card is taken to be an identity card issued to the authorised officer under section 390I.	18 19 20
(3) In this section—	21
<i>former section 397</i> means section 397 as in force from time to time before the commencement.	22 23
529 Compensation	24
(1) Despite its repeal, former section 402 continues to apply in relation to a loss or expense mentioned in former section 402(1).	25 26 27
(2) In this section—	28
<i>former section 402</i> means section 402 as in force immediately before the commencement.	29 30

[s 217]

Clause 217	Amendment of sch 2 (Original decisions)	1
(1)	Schedule 2, authorising provision, ‘section 423’—	2
	<i>omit, insert—</i>	3
	schedule 6, definition <i>original decision</i> ,	4
	paragraph (a)	5
(2)	Schedule 2—	6
	<i>insert—</i>	7
156A(1)	giving an improvements notice	
180I(1)	giving an improvements notice	
214H(2)	giving a compliance notice	
244(1)	giving an improvements notice	
390ZG	seizing a thing unless a circumstance mentioned in section 390ZM(1)(a) or (b) applies in relation to the thing	
390ZH	seizing a thing unless a circumstance mentioned in section 390ZM(1)(a) or (b) applies in relation to the thing	
390ZO	retaining a seized thing	
390ZP(1)	forfeiting a seized thing unless—	
	(a) the decision to forfeit it was made under section 390ZP(1)(a) or (b); and	
	(b) the place where the thing was seized is a place mentioned in section 390ZQ(4)(b)(i) or (ii)	
403G(2)	giving a safety notice	
403J(2)	giving a warning notice	
Clause 218	Amendment of sch 6 (Dictionary)	8
(1)	Schedule 6, definitions <i>authorised person, court, monitoring device, monitoring site</i> and <i>required time—</i>	9
	<i>omit.</i>	10
		11

(2) Schedule 6—	1
<i>insert—</i>	2
<i>accepted representations</i> see section 403E(2).	3
<i>authorised officer</i> means a person who holds office under chapter 6A, part 2 as an authorised officer.	4 5 6
<i>compliance notice</i> see section 214H(2).	7
<i>compliance order</i> see section 214J(2)(a).	8
<i>compliance period</i> , for chapter 7, part 2, division 2, see section 406(4)(a).	9 10
<i>court—</i>	11
(a) generally, other than in relation to an offence—means the Land Court; or	12 13
(b) in relation to an offence—means a Magistrates Court; or	14 15
(c) for chapter 6A—see section 390C; or	16
(d) for chapter 7, part 3—see section 420J.	17
<i>criminal history</i> , of a person, means the person’s criminal history, as defined under the <i>Criminal Law (Rehabilitation of Offenders) Act 1986</i> , other than a spent conviction.	18 19 20 21
<i>disposal order</i> , for chapter 6A, see section 390ZT(2).	22 23
<i>document certification requirement</i> , for chapter 6A, see section 390ZW(6).	24 25
<i>document production requirement</i> , for chapter 6A, see section 390ZW(2).	26 27
<i>electronic document</i> , for chapter 6A, see section 390C.	28 29
<i>former owner</i> , for chapter 6A, see section 390ZQ(1).	30 31

[s 218]

<i>general power</i> , for chapter 6A, see section 390ZD(1) and (2).	1 2
<i>help requirement</i> , for chapter 6A, see section 390ZE(1).	3 4
<i>identity card</i> , for a provision about authorised officers, means an identity card issued under section 390I.	5 6 7
<i>improvements notice</i> —	8
(a) for chapter 4, part 3, division 2, subdivision 1AA—see section 156A(1); or	9 10
(b) for chapter 4, part 4—see section 180I(1); or	11
(c) for chapter 5, part 4, division 4—see section 244(1).	12 13
<i>improvements report</i> —	14
(a) for chapter 4, part 3, division 2, subdivision 1AA—see section 156(2); or	15 16
(b) for chapter 4, part 4—see section 180C(1); or	17 18
(c) for chapter 5, part 4, division 4—see section 242A(2).	19 20
<i>information notice</i> , about a decision, means a notice stating—	21 22
(a) the decision and the reasons for it; and	23
(b) the rights of review and appeal under this Act; and	24 25
(c) the period in which any review or appeal under this Act must be started; and	26 27
(d) how rights of review and appeal under this Act are to be exercised; and	28 29
(e) that, if the person who is given the notice applies under this Act for review of the	30 31

decision, the person may apply for a stay of the decision.	1 2
<i>investigation decision</i> , for chapter 7, part 3, see section 420J.	3 4
<i>monitoring device</i> see section 390ZD(2)(c).	5
<i>monitoring site</i> see section 390ZD(2)(a).	6
<i>occupier</i> , of a place, for chapter 6A, see section 390C.	7 8
<i>of</i> , a place, for chapter 6A, see section 390C.	9
<i>offence warning</i> , for a direction or requirement by an authorised officer, for chapter 6A, see section 390C.	10 11 12
<i>personal details requirement</i> , for chapter 6A, see section 390ZU(5).	13 14
<i>person in control</i> , for chapter 6A, see section 390C.	15 16
<i>place</i> , for chapter 6A, see section 390C.	17
<i>premises</i> , for chapter 6A, see section 390C.	18
<i>public place</i> , for chapter 6A, see section 390C.	19
<i>reasonably believes</i> means believes on grounds that are reasonable in the circumstances.	20 21
<i>reasonably suspects</i> means suspects on grounds that are reasonable in the circumstances.	22 23
<i>regulatory information notice</i> see section 403L(2).	24 25
<i>regulatory notice</i> see section 403K(1).	26
<i>relevant period</i> , for chapter 7, part 2, division 2, see section 409(2).	27 28
<i>restricted use area</i> see section 403K(1).	29
<i>review decision</i> see section 426(1).	30
<i>safety action</i> see section 403G(2).	31

[s 219]

	<i>safety notice</i> see section 403G(2).	1
	<i>show cause notice</i> see section 403D(2).	2
	<i>show cause period</i> see section 403D(2)(d).	3
	<i>vehicle</i> , for chapter 6A, see section 390C.	4
(3)	Schedule 6, definition <i>marker</i> , ‘section 400’—	5
	<i>omit, insert</i> —	6
	section 390ZD	7
(4)	Schedule 6, definition <i>owner</i> , paragraph (c)—	8
	<i>omit, insert</i> —	9
	(c) for chapter 6A, see section 390C; or	10
	(d) for chapter 7, part 3B, see section 431O.	11

Part 8	Amendment of Land	12
	Regulation 2009	13

Clause 219	Regulation amended	14
	This part amends the <i>Land Regulation 2009</i> .	15
Clause 220	Amendment of s 48 (Required time for trespass notice—Act, s 406)	16 17
(1)	Section 48, heading, ‘Required time’—	18
	<i>omit, insert</i> —	19
	Compliance period	20
(2)	Section 48(1)—	21
	<i>omit, insert</i> —	22
	(1) For section 406(6) of the Act, the compliance period is—	23 24
	(a) for a trespass related act that is building, placing or maintaining an improvement,	25 26

	other than a relevant improvement, on the land—28 days; or	1 2
	(b) for a trespass act related act, other than an act to which paragraph (a) applies or an act related to camping—7 days; or	3 4 5
	(c) for a trespass related act related to camping—4 hours.	6 7
Part 9	Amendment of Land Title Act 1994	8 9
Division 1	Preliminary	10
Clause 221	Act amended	11
	This part amends the <i>Land Title Act 1994</i> .	12
	<i>Note—</i>	13
	See also the amendments in schedule 1, part 1.	14
Division 2	Amendments commencing on assent	15 16
Clause 222	Insertion of new s 10A	17
	After section 10—	18
	<i>insert—</i>	19
	10A Registration of, or dealing with, particular instruments or other documents	20 21
	(1) This section applies if an instrument or other document is lodged or deposited other than in compliance with a requirement under this Act.	22 23 24
	(2) The registrar may register, or otherwise deal with, the instrument or document if the registrar is	25 26

[s 223]

	satisfied it is reasonable not to require the compliance.	1 2
Clause 223	Insertion of new s 29A	3
	After section 29—	4
	<i>insert—</i>	5
	29A Particulars the registrar may remove	6
	The registrar may remove from the freehold land register anything recorded under section 28(2) or 29 if—	7 8 9
	(a) the registrar no longer considers the thing should be recorded to ensure the freehold land register is an accurate, comprehensive and useable record of freehold land in the State; and	10 11 12 13 14
	(b) the removal of the thing will not prejudice the rights of the holder of an interest recorded in the register.	15 16 17
Clause 224	Amendment of s 54D (Registration of building management statement)	18 19
	Section 54D—	20
	<i>insert—</i>	21
	(3) A registered building management statement binds the successors in title to the registered owner of each lot to which the statement applies.	22 23 24
Clause 225	Amendment of s 69 (Surrendering a lease)	25
	(1) Section 69(2), ‘mortgagee and sublessee’—	26
	<i>omit, insert—</i>	27
	registered mortgagee and registered sublessee	28
	(2) Section 69—	29

insert—

1

(2A) Also, if a registered lease (the *surrendered lease*)
has been wholly or partly surrendered by
operation of law, the registrar may register an
instrument evidencing the surrender if satisfied
every registered mortgagee and registered
sublessee of the lessee under the surrendered lease
has been given written notice of the surrender.

2
3
4
5
6
7
8

(3) Section 69(2A) to (5)—

9

renumber as section 69(3) to (6).

10

Clause 226 Amendment of s 111 (Registering personal representative)

11
12

(1) Section 111(1), ‘lodge an application’—

13

omit, insert—

14

apply to the registrar

15

(2) Section 111(2)(a)—

16

omit, insert—

17

(a) the person has obtained—

18

(i) a grant of representation in
Queensland; or

19
20

(ii) the resealing in Queensland of a grant
of representation; or

21
22

Clause 227 Amendment of s 114 (Applying for Supreme Court order)

23

Section 114(1)(c)—

24

insert—

25

(iii) a lot registered in the name of a person as
personal representative.

26
27

[s 228]

	<i>Example of a person interested in a lot mentioned in subparagraph (iii)—</i>	1 2
	a person claiming to be entitled to be appointed as personal representative in the place of the person in whose name the lot is registered	3 4 5
Clause 228	Amendment of s 121 (Requirements of caveats)	6
	(1) Section 121(2)(c)(i), ‘owner’—	7
	<i>omit, insert—</i>	8
	proprietor	9
	(2) Section 121(2)(c)(ii)—	10
	<i>omit, insert—</i>	11
	(ii) each other person whose interest or whose right to registration of an instrument is affected by the caveat; and	12 13 14
	(3) Section 121—	15
	<i>insert—</i>	16
	(2A) Without limiting subsection (2)(b), the address stated may be the address of a stated legal practitioner.	17 18 19
Clause 229	Replacement of s 123 (Notifying caveat)	20
	Section 123—	21
	<i>omit, insert—</i>	22
	123 Notifying caveat	23
	The registrar must give written notice of the lodgement of a caveat to each person mentioned in section 121(2)(c)(i) and (ii).	24 25 26
Clause 230	Amendment of s 124 (Effect of lodging caveat)	27
	(1) Section 124(2)—	28

insert—

- (da) if the caveator is a person who has the benefit of an order mentioned in section 122(1)(e)—an instrument for a dealing other than a dealing restrained by the order;

Example—

A caveat lodged by a person who has the benefit of an order mentioned in section 122(1)(e) restrains the registered owner of a lot from transferring or mortgaging the lot. The lodgement of the caveat does not prevent registration of an instrument of lease for the lot.

- (2) Section 124(2)(da) and (e)—

renumber as section 124(2)(e) and (f).

Clause 231 Amendment of s 126 (Lapsing of caveat)

- (1) Section 126(2) and (3)—

omit, insert—

- (2) The caveatee of a caveat to which this section applies—

- (a) may serve on the caveator a notice requiring the caveator to start a proceeding in a court of competent jurisdiction to establish the interest claimed under the caveat; and

Note—

See section 131 in relation to the service of notices on the caveator.

- (b) if the caveatee serves a notice under paragraph (a)—must, within 14 days after the notice is served, deposit an instrument notifying the registrar of the service of the notice.

- (2) Section 126(4)(a)(i) and (ii)—

omit, insert—

[s 232]

- (i) if the caveatee has served a notice under subsection (2)(a) on the caveator and has complied with subsection (2)(b)—within 14 days after the notice is served on the caveator; or
 - (ii) otherwise—within 3 months after the lodgement of the caveat; and
- (3) Section 126(4)(b), ‘in the way the registrar requires’—
omit, insert—
by depositing an instrument

Clause 232 Amendment of s 128 (Cancelling a caveat)

- (1) Section 128(1)—
insert—
- (d) if the caveator is a person who has the benefit of an order mentioned in section 122(1)(e)—the proceeding in which the order was made has been discontinued or dismissed, or has otherwise ended.
- (2) Section 128(3), ‘remove’—
omit, insert—
cancel
- (3) Section 128—
insert—
- (4) Also, the registrar may cancel a caveat lodged by a person who has the benefit of an order mentioned in section 122(1)(e) if—
 - (a) an instrument for a dealing other than a dealing restrained by the order is registered; and
 - (b) because of the registration of the instrument, the order can have no further effect to

	restrain dealings by the person subject to the order.	1 2
Clause 233	Amendment of s 156 (Requisitions)	3
	Section 156—	4
	<i>insert—</i>	5
	(6) Also, subsections (7) and (8) apply in relation to an instrument or other document that is lodged if the registrar is satisfied—	6 7 8
	(a) the instrument or document is not capable of registration; and	9 10
	(b) the reason the instrument or document is not capable of registration is not a matter for which a requisition may be given under subsection (1).	11 12 13 14
	(7) The registrar may give written notice (also the <i>requisition</i>) to the person who lodged the instrument or document, or to another person who reasonably appears to the registrar to be relevantly associated with the instrument or document, stating—	15 16 17 18 19 20
	(a) that the instrument or document is not capable of registration; and	21 22
	(b) why the instrument or document is not capable of registration.	23 24
	(8) The requisition may, if it relates to an electronic conveyancing document, be accompanied by a copy of the document.	25 26 27
Clause 234	Amendment of s 157 (Rejecting instrument or document for failure to comply with requisition)	28 29
	(1) Section 157, heading, ‘for failure to comply with requisition’—	30 31

[s 235]

omit, insert— 1

after requisition given 2

(2) Section 157(1)— 3

omit, insert— 4

(1) The registrar may reject an instrument or 5
document to which a requisition relates and any 6
instrument that depends on it for registration if— 7

(a) for a requisition given under section 8
156(1)—the requisition is not complied with 9
by a person within the time stated or 10
extended by the registrar; or 11

(b) the requisition is given under section 12
156(7). 13

(3) Section 157(6), ‘a rejected instrument’— 14

omit, insert— 15

an instrument rejected under subsection (1)(a) 16

Clause 235 Amendment of s 197 (Service) 17

(1) Section 197— 18

insert— 19

(1A) Subsection (1) does not apply to a notice required 20
or permitted to be served on a caveator under part 21
7, division 2. 22

Note— 23

See section 131 in relation to the service of notices on a 24
caveator. 25

(2) Section 197(2), after ‘permitted’— 26

insert— 27

to 28

(3) Section 197(3), ‘subsection (2)’— 29

omit, insert— 30

	subsection (3)	1
(4)	Section 197(1A) to (4)—	2
	<i>renumber</i> as section 197(2) to (5).	3
Clause 236	Amendment of s 199 (Regulation-making power)	4
(1)	Section 199(2)(a)—	5
	<i>omit, insert</i> —	6
	(a) the requirements for lodging and depositing instruments and other documents;	7 8
(2)	Section 199—	9
	<i>insert</i> —	10
	(2A) Without limiting subsection (2)(a), a regulation may require the following to be lodged or deposited using an Electronic Lodgment Network—	11 12 13 14
	(a) instruments or other documents of a stated class;	15 16
	(b) instruments or other documents lodged or deposited by a person of a stated class.	17 18
(3)	Section 199—	19
	<i>insert</i> —	20
	(4) In this section—	21
	<i>Electronic Lodgment Network</i> has the meaning given by the Electronic Conveyancing National Law (Queensland), section 13.	22 23 24
(4)	Section 199(2A) to (4)—	25
	<i>renumber</i> as section 199(3) to (5).	26
Clause 237	Insertion of new pt 12, div 7, sdiv 1	27
	Part 12—	28

[s 238]

insert—

		1
	Division 7	2
	Transitional provisions for	3
	Land, Explosives and	4
	Other Legislation	5
	Amendment Act 2017	
	Subdivision 1	6
	Registered building	7
	management statements	
	213 Application of s 54D(3)	8
	Section 54D(3) applies to a registered building	9
	management statement whether the statement was	10
	registered before or after the commencement.	11
	Division 3	12
	Amendments commencing on 1	13
	January 2019	
Clause 238	Amendment of s 41C (Application of provisions of Act to	14
	common property)	15
	Section 41C(3), first dot point—	16
	<i>omit.</i>	17
Clause 239	Omission of pt 3, div 3 (Certificates of title)	18
	Part 3, division 3—	19
	<i>omit.</i>	20
Clause 240	Omission of s 75 (Equitable mortgage)	21
	Section 75—	22
	<i>omit.</i>	23

Clause 241	Omission of s 154 (Returning certificate of title for cancellation)	1 2
	Section 154—	3
	<i>omit.</i>	4
Clause 242	Amendment of s 164 (Dispensing with production of paper instrument)	5 6
	(1) Section 164(3) and (4)—	7
	<i>omit.</i>	8
	(2) Section 164(5)—	9
	<i>renumber</i> as section 164(3).	10
Clause 243	Amendment of s 166 (Destroying instrument in certain circumstances)	11 12
	(1) Section 166(5) to (7)—	13
	<i>omit.</i>	14
	(2) Section 166(8)—	15
	<i>renumber</i> as section 166(5).	16
Clause 244	Amendment of s 189 (Matters for which there is no entitlement to compensation)	17 18
	Section 189(2)—	19
	<i>insert</i> —	20
	<i>certificate of title</i> means a certificate of title issued under this Act before the commencement of the <i>Land, Explosives and Other Legislation Amendment Act 2017</i> , part 9, division 3.	21 22 23 24
Clause 245	Insertion of new pt 12, div 7, sdiv 2	25
	Part 12, division 7, as inserted by this Act—	26

[s 245]

<i>insert—</i>	1
Subdivision 2 Certificates of title	2
214 Definition for subdivision	3
In this subdivision—	4
<i>certificate of title</i> means a certificate of title issued under this Act before the commencement.	5 6
215 Certificates of title cease to be instruments	7
(1) On the commencement, a certificate of title—	8
(a) ceases to be an instrument under this Act; and	9 10
(b) ceases to be evidence, conclusive or otherwise, of the indefeasible title for the lot for which it was issued.	11 12 13
(2) To remove any doubt, it is declared that subsection (1) does not affect—	14 15
(a) the indefeasible title for the lot for which the certificate of title was issued; or	16 17
(b) any interest in the lot for which the certificate of title was issued.	18 19
216 Registration of particular instruments lodged before commencement without certificate of title	20 21 22
(1) This section applies to an instrument lodged before the commencement if—	23 24
(a) the instrument could not be registered for a lot because the certificate of title for the lot had not been returned for cancellation as required under former section 154; and	25 26 27 28

(b)	immediately before the commencement, the instrument had not been rejected under section 157(1).	1 2 3
(2)	The instrument may be registered despite the noncompliance with former section 154.	4 5
(3)	In this section— <i>former section 154</i> means section 154 as in force from time to time before the commencement.	6 7 8
217 Provisions of other Acts relating to certificates of title		9 10
To the extent a provision of another Act requires or permits a person to take an action in relation to a certificate of title, the provision is taken, from the commencement, not to apply.		11 12 13 14
<i>Examples of an action in relation to a certificate of title—</i> deposit, give, inspect, produce, or dispense with production of a certificate of title		15 16 17
Clause 246	Amendment of sch 2 (Dictionary)	18
(1)	Schedule 2, definition <i>certificate of title</i> — <i>omit.</i>	19 20
(2)	Schedule 2, definition <i>instrument</i> , paragraph (a), ‘or certificate of title’— <i>omit.</i>	21 22 23

[s 247]

Part 10	Amendment of Mineral and Energy Resources (Common Provisions) Act 2014	1
		2
		3
Clause 247	Act amended	4
	This part amends the <i>Mineral and Energy Resources (Common Provisions) Act 2014</i> .	5
		6
Clause 248	Amendment of s 103 (Definitions for ch 4)	7
	Section 103, definition <i>relevant matter</i> —	8
	<i>omit, insert</i> —	9
	<i>relevant matter</i> , in relation to a joint development plan, means—	10
		11
	(a) for a joint development plan under part 2, division 3—a matter mentioned in section 130(3); or	12
		13
		14
	(b) for a joint development plan under part 3—a matter mentioned in section 142(3).	15
		16
Clause 249	Amendment of s 165 (What is <i>PL connecting infrastructure</i>)	17
		18
	Section 165(1), ‘in an overlapping area the subject of the PL’—	19
		20
	<i>omit</i> .	21
Clause 250	Insertion of new ch 7, pt 5	22
	Chapter 7—	23
	<i>insert</i> —	24

Part 5	Provisions about	1
	application of section	2
	232	3
243A	Application generally	4
	Section 232 does not, and never did, affect the	5
	operation of the Mineral Resources Act, section	6
	826.	7
243B	Application to coal resource authority	8
	granted over replacement PL	9
(1)	This section applies if a coal resource authority,	10
	whenever granted, overlaps a PL that—	11
(a)	was granted after the relevant	12
	commencement; and	13
(b)	is a replacement tenure under the P&G Act,	14
	section 908(2).	15
(2)	Section 232 applies to the coal resource authority	16
	and PL as if the PL were granted before the	17
	relevant commencement.	18
(3)	This section applies to a PL mentioned in	19
	subsection (1) even if it was granted before the	20
	commencement of this section.	21
(4)	In this section—	22
	<i>coal resource authority</i> see section 103.	23
	<i>overlaps</i> see section 231.	24
	<i>PL</i> means a petroleum lease (csg) within the	25
	meaning of section 103.	26
	<i>relevant commencement</i> means the	27
	commencement of part 4.	28

[s 251]

Part 11	Amendment of Mineral Resources Act 1989	1 2
Clause 251	Act amended	3
	This part amends the <i>Mineral Resources Act 1989</i> .	4
Clause 252	Insertion of new ch 15, pt 10A	5
	Chapter 15—	6
	<i>insert—</i>	7
	Part 10A	8
	Other provision for Mineral and Energy Resources (Common Provisions) Act 2014	9 10 11
	837A Application of Common Provisions Act, s 138 to particular coal mining leases	12 13
	(1) This section applies if—	14
	(a) the area of a coal mining lease granted after the relevant commencement overlaps the area of a petroleum lease granted before the relevant commencement; and	15 16 17 18
	(b) the new overlap provisions do not apply to the circumstance of the overlap under the Common Provisions Act, section 232(2).	19 20 21
	(2) For applying the Common Provisions Act, section 138 to the coal mining lease, each of the following applies—	22 23 24
	(a) the written notice of the offer given under section 138(2) need not comply with the requirements under section 138(2)(a) to (c);	25 26 27

- (b) section 138(3) is taken to provide only that the petroleum lease holder may accept the offer within 12 months after receiving the written notice, or a later period agreed to by the coal mining lease holder;
- (c) the reference in section 138(7) to ‘gas offered to a petroleum resource authority holder under subsection (2)(a)’ is taken to be a reference to ‘undiluted incidental coal seam gas offered to a petroleum resource authority holder under subsection (2)’.
- (3) This section applies to a coal mining lease mentioned in subsection (1) even if it was granted before the commencement of this section.
- (4) In this section—
new overlap provisions means the Common Provisions Act, chapter 4.
relevant commencement means the commencement of section 826.

Part 12 **Amendment of Petroleum and Gas (Production and Safety) Act 2004**

Division 1 **Preliminary**

- Clause 253** **Act amended**
- This part amends the *Petroleum and Gas (Production and Safety) Act 2004*.
- Note—*
- See also the amendments in schedule 1, parts 1 and 3.

[s 254]

Division 2	Amendments commencing on assent	1 2
Clause 254	Amendment of s 343 (Exclusion)	3
	Section 343, from ‘for land’—	4
	<i>omit, insert—</i>	5
	for—	6
	(a) land in the area of a coal or oil shale mining lease; or	7 8
	(b) land that is the subject of an application for a coal or oil shale mining lease when the call for tenders is made.	9 10 11
Clause 255	Amendment of s 670 (What is an <i>operating plant</i>)	12
	(1) Section 670(2)(k)—	13
	<i>omit, insert—</i>	14
	(k) a facility used to drill, complete, maintain, repair, convert or decommission an authorised water bore.	15 16 17
	(2) Section 670(8)—	18
	<i>insert—</i>	19
	(c) a facility mentioned in subsection (2)(j) for an authorised water bore after either of the following happens—	20 21 22
	(i) a transfer of the bore takes effect under section 288 or the 1923 Act, section 75Q;	23 24 25
	(ii) the bore is decommissioned and the relevant time for the bore under section 294(2) or the 1923 Act, section 75W(2) passes.	26 27 28 29

(3) Section 670(10)—	1
<i>insert—</i>	2
<i>1923 Act water monitoring authority</i> means a	3
water monitoring authority under the 1923 Act.	4
<i>authorised water bore</i> means a water injection	5
bore, water observation bore or water supply bore	6
that a relevant holder or a person for the relevant	7
holder—	8
(a) drills or converts under this Act or the 1923	9
Act; or	10
(b) decommissions under this Act or the 1923	11
Act.	12
<i>relevant holder</i> means the holder of a petroleum	13
tenure, water monitoring authority, 1923 Act	14
petroleum tenure or 1923 Act water monitoring	15
authority.	16

Clause 256	Amendment of s 677 (Operator responsible for compliance with safety management system)	17
	Section 677, ‘ensure’—	18
	<i>omit, insert—</i>	19
	take all reasonable steps to ensure	20
Clause 257	Amendment of s 693 (Site safety manager’s obligations)	21
	Section 693, ‘ensure’—	22
	<i>omit, insert—</i>	23
	take all reasonable steps to ensure	24
Clause 258	Omission of ch 9, pt 4, div 2 (Operating plant owners)	25
	Chapter 9, part 4, division 2—	26
	<i>omit.</i>	27

[s 259]

Clause 259	Replacement of s 699 (General obligation to keep risk to acceptable level)	1 2
	Section 699—	3
	<i>omit, insert—</i>	4
	699 General obligation to keep risk to acceptable level	5 6
	(1) This section applies to a person on whom—	7
	(a) an obligation is imposed under this Act for an operating plant; or	8 9
	(b) an obligation is imposed under the safety management system for an operating plant.	10 11
	(2) The person must take all reasonable steps to ensure no person or property is exposed to a level of risk in relation to the operating plant that is more than an acceptable level.	12 13 14 15
	Maximum penalty—100 penalty units.	16
Clause 260	Amendment of s 702 (Requirement to comply with safety management system)	17 18
	Section 702, after ‘must’—	19
	<i>insert—</i>	20
	take all reasonable steps to	21
Clause 261	Amendment of s 725 (What is <i>gas work</i>)	22
	Section 725, from ‘the gas’—	23
	<i>omit, insert—</i>	24
	a gas system.	25
Clause 262	Insertion of new ch 10, pt 3	26
	Chapter 10—	27
	<i>insert—</i>	28

Part 3	Remediation of abandoned operating plant	1 2 3
799E Definitions for part		4
In this part—		5
<i>abandoned operating plant</i> see section 799F.		6
<i>authorised person</i> means a person authorised by the chief executive under section 799G.		7 8
<i>former tenure or authority</i> , for an abandoned operating plant, means a relevant tenure or authority—		9 10 11
(a) under which an authorised activity was previously carried out in relation to the abandoned operating plant; and		12 13 14
(b) that is no longer in force.		15
<i>primary land</i> , for an abandoned operating plant, means—		16 17
(a) land on which the abandoned operating plant is located; or		18 19
(b) land within the boundary of a former tenure or authority for the abandoned operating plant.		20 21 22
<i>relevant tenure or authority</i> means any of the following tenures or authorities—		23 24
(a) a 1923 Act petroleum tenure;		25
(b) a coal or oil shale mining tenement;		26
(c) a geothermal tenure;		27
(d) a GHG tenure;		28
(e) a mineral hydrocarbon mining lease;		29
(f) a petroleum authority.		30

[s 262]

remediation activities see section 799G. 1

799F Meaning of *abandoned operating plant* 2

- (1) An *abandoned operating plant* is— 3
- (a) a facility, pipeline or system— 4
 - (i) that is or was an operating plant 5
mentioned in section 670(2); and 6
 - (ii) for which a relevant tenure or authority 7
required under an Act is not in force; 8
and 9
 - (iii) for which no environmental authority is 10
in force; or 11
 - (b) a place, or part of a place— 12
 - (i) that is or was an operating plant 13
mentioned in section 670(5); and 14
 - (ii) if an activity at the place, or part of the 15
place, was carried out for a relevant 16
tenure or authority—for which the 17
relevant tenure or authority is not in 18
force; and 19
 - (iii) for which no environmental authority is 20
in force; or 21
 - (c) an authorised activity— 22
 - (i) that was an operating plant mentioned 23
in section 670(6) and (7); and 24
 - (ii) for which no relevant tenure or 25
authority is in force; and 26
 - (iii) for which no environmental authority is 27
in force; or 28
 - (d) any other thing prescribed by regulation that 29
is or was an operating plant. 30
- (2) An *abandoned operating plant* does not include a 31

site where a bore drilled under the Water Act or a legacy borehole is located. 1
2

799G Authorised person to carry out remediation activities 3
4

The chief executive may authorise a person to carry out 1 or more of the following activities (*remediation activities*) in relation to an abandoned operating plant— 5
6
7
8

(a) investigate the condition of the abandoned operating plant or the primary land for the abandoned operating plant; 9
10
11

(b) cap a wellhead; 12

(c) drill a well or water bore on the primary land to monitor or remediate the abandoned operating plant or the primary land; 13
14
15

(d) maintain the abandoned operating plant to make it safe; 16
17

Example for paragraph (d)— 18

monitor, inspect, carry out repairs 19

(e) decommission the abandoned operating plant; 20
21

Example for paragraph (e)— 22

degassing a facility, removing part of a facility 23

(f) remove, or make safe, structures or equipment on the primary land that are associated with the abandoned operating plant; 24
25
26
27

(g) repair erosion, or prevent further erosion, of the primary land or vegetation on the primary land; 28
29
30

(h) clean up pollution remaining on the primary land; 31
32

[s 262]

- (i) if the primary land is contaminated land under the Environmental Protection Act—conduct work to remediate the primary land; 1
2
3
4
- (j) any other activity prescribed by regulation that relates to ensuring the safety of the abandoned operating plant or the primary land. 5
6
7
8

799H Entering land to carry out remediation activities 9
10

- (1) This section applies to the following land— 11
 - (a) primary land for an abandoned operating plant; 12
13
 - (b) land (*adjacent land*) that is adjacent to primary land for an abandoned operating plant if an authorised person has no other reasonably practicable way of entering the primary land without entering the adjacent land. 14
15
16
17
18
19
- (2) An authorised person may, to carry out remediation activities, enter the land— 20
21
 - (a) if the carrying out of remediation activities is necessary to preserve life or property—at any time; or 22
23
24
 - (b) otherwise—at any time after the earlier of the following days— 25
26
 - (i) the day the owner of the land is given notice of the entry under section 799I; 27
28
 - (ii) the day the occupier of the land is given notice of the entry under section 799I. 29
30
- (3) However, this section does not permit an authorised person to enter a structure, or a part of a structure, used for residential purposes without the consent of the occupier of the structure or part. 31
32
33
34

-
- (4) Despite subsection (2), the authorised person may enter adjacent land only for the purpose of entering primary land for an abandoned operating plant.

799I Notice of entry

- (1) An authorised person entering land under this part must give the owner and any occupier of the land notice of the entry—
- (a) if the carrying out of remediation activities is necessary to preserve life or property—within 10 business days after the entry is made; or
- (b) otherwise—before entering the land.
- (2) The notice must state the following matters—
- (a) the day on which entry was, or is to be, made;
- (b) the purpose of the entry and, if the land is primary land, the remediation activities carried out or proposed to be carried out;
- (c) that the authorised person is permitted under this part to enter the land without consent or a warrant.

799J Obligation of authorised person in carrying out remediation activities

- An authorised person who enters land under this part—
- (a) must not cause, or contribute to, unnecessary damage to any structure or works on the land; and
- (b) must take all reasonable steps to ensure the person causes as little inconvenience, and

[s 263]

	does as little other damage, as is practicable in the circumstances.	1 2
	799K Abandoned operating plant is not operating plant	3 4
	(1) For the purposes of chapter 9 and the <i>Work Health and Safety Act 2011</i> , an abandoned operating plant is taken not to be an operating plant.	5 6 7
	(2) This section applies despite section 670.	8
Clause 263	Replacement of s 813 (False or misleading information)	9
	Section 813—	10
	<i>omit, insert—</i>	11
	813 False or misleading documents or statements	12
	(1) A person must not make an entry in a document required to be made, adopted, held or kept under this Act knowing the entry is false or misleading in a material particular.	13 14 15 16
	Maximum penalty—100 penalty units.	17
	<i>Notes—</i>	18
	1 This provision is an executive liability provision—see section 814.	19 20
	2 If a corporation commits an offence against this provision, an executive officer of the corporation may be taken, under section 814A, to have also committed the offence.	21 22 23 24
	(2) A person must not state anything to an authorised officer that the person knows is false or misleading in a material particular.	25 26 27
	Maximum penalty—100 penalty units.	28
	<i>Notes—</i>	29
	1 This provision is an executive liability provision—see section 814.	30 31

2	If a corporation commits an offence against this provision, an executive officer of the corporation may be taken, under section 814A, to have also committed the offence.	1 2 3 4
(3)	A person must not, in relation to the administration of this Act, give to an authorised officer a document that the person knows to be false or misleading in a material particular.	5 6 7 8
	Maximum penalty—100 penalty units.	9
	<i>Notes—</i>	10
1	This provision is an executive liability provision—see section 814.	11 12
2	If a corporation commits an offence against this provision, an executive officer of the corporation may be taken, under section 814A, to have also committed the offence.	13 14 15 16
(4)	Subsection (3) applies to a document given in relation to the administration of this Act whether or not the document was given in response to a specific power under this Act.	17 18 19 20
(5)	Subsection (3) does not apply to a person if the person, when giving the document—	21 22
(a)	tells the authorised officer, to the best of the person’s ability, how the document is false or misleading; and	23 24 25
(b)	if the person has, or can reasonably obtain, the correct information—gives the correct information.	26 27 28
(6)	This section does not apply to a person for an act or omission of the person if section 606 or 607 applies to the person for the act or omission.	29 30 31
Clause 264	Amendment of s 814 (Liability of executive officer—particular offences committed by corporation)	32 33
	Section 814(5), definition <i>executive liability provision—</i>	34

[s 265]

insert—

- section 813(3)

		1
		2
Clause 265	Amendment of s 814A (Executive officer may be taken to have committed offence)	3
		4
	(1) Section 814A(5), definition <i>deemed executive liability provision</i> , paragraph (a), ‘698,’—	5
		6
	<i>omit.</i>	7
	(2) Section 814A(5), definition <i>deemed executive liability provision</i> , paragraph (a), ‘or 813(2)’—	8
		9
	<i>omit, insert—</i>	10
	813(2) or 813(3)	11
Clause 266	Replacement of s 836 (Safety management systems)	12
	Section 836—	13
	<i>omit, insert—</i>	14
	836 Safety management systems	15
	(1) This section applies if it is relevant for a proceeding to establish what was the safety management system for an operating plant at a particular time.	16
		17
		18
		19
	(2) For the proceeding, the safety management system the copy of which was accessible at the plant under section 676(1)(a) at that time is taken to be the safety management system for the plant at that time.	20
		21
		22
		23
		24
Clause 267	Amendment of s 837 (Offences under Act are summary)	25
	(1) Section 837(1), from ‘must be’—	26
	<i>omit, insert—</i>	27
	are to be heard and decided summarily.	28

-
- (2) Section 837(4)(a) and (b)— 1
omit, insert— 2
 (a) 2 years after the offence first comes to the 3
 notice of the complainant; 4
- (3) Section 837(4)(c)— 5
renumber as section 837(4)(b). 6

- Clause 268 Replacement of s 840 (Conduct of representatives)** 7
- Section 840— 8
omit, insert— 9
- 840 Responsibility for acts or omissions of representative** 10
11
- (1) This section applies to a proceeding for an offence 12
against this Act. 13
- (2) If it is relevant to prove a person's state of mind 14
about a particular act or omission, it is enough to 15
show— 16
- (a) the act was done or omitted to be done by a 17
 representative of the person within the scope 18
 of the representative's actual or apparent 19
 authority; and 20
- (b) the representative had the state of mind. 21
- (3) An act done or omitted to be done for a person by 22
a representative of the person within the scope of 23
the representative's actual or apparent authority is 24
taken to have been done or omitted to be done also 25
by the person, unless the person proves the person 26
could not, by the exercise of reasonable 27
precautions and proper diligence, have prevented 28
the act or omission. 29
- (4) In this section— 30
representative means— 31

[s 269]

- (a) for an individual—an employee or agent of the individual; or 1
2
 - (b) for a corporation—an executive officer, employee or agent of the corporation. 3
4
- state of mind*, of a person, includes— 5
- (a) the person’s knowledge, intention, opinion, belief or purpose; and 6
7
 - (b) the person’s reasons for the intention, opinion, belief or purpose. 8
9

840A Costs of investigation 10

- (1) If a court convicts a person of an offence against this Act, the court may order the person to pay the department’s reasonable costs of investigating the offence, including reasonable costs of preparing for the prosecution of the offence. 11
12
13
14
15
- (2) This section does not limit the orders for costs the court may make. 16
17

Clause 269 Amendment of s 851A (Public statements) 18

Section 851A— 19

insert— 20

- (4) No liability is incurred by the State for anything done in good faith for the purpose of issuing a public statement under this section. 21
22
23
- (5) No liability is incurred by a person for publishing, in good faith, information that has been included in a public statement under this section. 24
25
26
- (6) In this section— 27
liability includes liability in defamation. 28

Clause 270	Amendment of s 856 (Protection from liability for particular persons)	1	
		2	
	Section 856(1)—	3	
	<i>insert</i> —	4	
	(f) an authorised person carrying out	5	
	remediation activities under chapter 10, part	6	
	3.	7	
Clause 271	Insertion of new ch 15, pt 21	8	
	Chapter 15—	9	
	<i>insert</i> —	10	
	Part 21	Transitional provisions	11
		for Land, Explosives	12
		and Other Legislation	13
		Amendment Act 2017	14
	993 Definition for part	15	
	In this part—	16	
	<i>former</i> , for a provision of this Act, means the	17	
	provision as in force before the commencement of	18	
	the section in which the term is used.	19	
	994 Offence proceedings	20	
	(1) This section applies if, for a proceeding for an	21	
	offence against this Act, an act or omission to	22	
	which the proceeding relates was done or omitted	23	
	to be done before the commencement.	24	
	(2) Former sections 837 and 840 apply to the	25	
	proceeding.	26	

[s 272]

Clause 272	Amendment of sch 2 (Dictionary)	1
(1)	Schedule 2, definitions <i>authorised person</i> , <i>distribution system</i> , <i>gas system</i> and <i>multi-tenanted premises</i> —	2
	<i>omit.</i>	3
		4
(2)	Schedule 2—	5
	<i>insert</i> —	6
	<i>abandoned operating plant</i> , for chapter 10, part 3, see section 799F.	7
		8
	<i>authorised person</i> —	9
	(a) for chapter 2, part 10, division 5, see section 294A; or	10
		11
	(b) for chapter 10, part 3, see section 799E.	12
	<i>distribution system</i> means a system of distribution pipelines and meters and other equipment used for, or in connection with, the supply of fuel gas to more than 1 consumer within a fuel gas market, but does not include—	13
		14
		15
		16
		17
	(a) pipelines connected from the exit point of a meter installed for a consumer's premises; or	18
		19
		20
	(b) appliances or equipment connected to pipelines mentioned in paragraph (a).	21
		22
	<i>former tenure or authority</i> , for chapter 10, part 3, see section 799E.	23
		24
	<i>gas system</i> means a system that—	25
	(a) consists of the following things in any combination—	26
		27
	(i) gas devices;	28
	(ii) containers;	29
	(iii) fittings;	30
	(iv) flues;	31

	(v) pipes; and	1
	(b) is used with, or designed or intended to be used with, fuel gas.	2 3
	<i>Examples of gas systems—</i>	4
	1 an existing system of interconnected domestic gas devices installed in a dwelling house	5 6
	2 a gas device, and associated pipe work, added to an existing system	7 8
	3 a gas-fired industrial boiler installation	9
	4 pipes and fittings installed without a gas device in a dwelling house	10 11
	primary land , for an abandoned operating plant, for chapter 10, part 3, see section 799E.	12 13
	relevant tenure or authority , for chapter 10, part 3, see section 799E.	14 15
	remediation activities , for chapter 10, part 3, see section 799G.	16 17
Division 3	Amendments commencing on proclamation	18 19
Clause 273	Amendment of s 18 (Types of authority under Act)	20
	(1) Section 18(1)—	21
	<i>insert—</i>	22
	(j) a gas device approval authority granted under chapter 9, part 6A, division 2.	23 24
	(2) Section 18(2), after ‘authorisation’—	25
	<i>insert—</i>	26
	or gas device approval authority	27

[s 274]

Clause 274	Amendment of s 670 (What is an <i>operating plant</i>)	1
	(1) Section 670(2)(g)—	2
	<i>omit.</i>	3
	(2) Section 670(2)(h) to (k)—	4
	<i>renumber</i> as section 670(2)(g) to (j).	5
	(3) Section 670(5)(a), ‘an LPG delivery network’—	6
	<i>omit, insert—</i>	7
	a fuel gas delivery network	8
	(4) Section 670(5)(b) and (c)—	9
	<i>omit.</i>	10
	(5) Section 670(5)(d) to (e)—	11
	<i>renumber</i> as section 670(5)(b) to (d).	12
Clause 275	Amendment of s 673 (Who is the <i>operator</i> of an <i>operating plant</i>)	13
	(1) Section 673(3), from ‘has the role’—	14
	<i>omit, insert—</i>	15
	is responsible for managing and ensuring the safe	16
	operation of the plant.	17
	(2) Section 673(4) and examples—	18
	<i>omit.</i>	19
		20
Clause 276	Omission of s 673A (Operator must ensure chief inspector is given notice before a plant is commissioned or operated)	21
	Section 673A—	22
	<i>omit.</i>	23
		24
		25

Clause 277	Amendment of s 688 (Executive safety manager's general obligations)	1
		2
	(1) Section 688(a)—	3
	<i>omit, insert—</i>	4
	(a) if the operator is a corporation—nominate an individual as a representative of the operator to give and receive information for the operator under this Act; and	5
		6
		7
		8
	(2) Section 688—	9
	<i>insert—</i>	10
	(2) To remove any doubt, it is declared that—	11
	(a) a nomination of an operator's representative under subsection (1)(a) does not affect an obligation imposed on the operator under this Act; and	12
		13
		14
		15
	(b) any information given to or by an operator's representative is taken to have been given to or by the operator.	16
		17
		18
Clause 278	Omission of ss 689–691	19
	Sections 689 to 691—	20
	<i>omit.</i>	21
Clause 279	Replacement of s 694 (Operator is default site safety manager)	22
		23
	Section 694—	24
	<i>omit, insert—</i>	25
	694 Default site safety manager	26
	(1) This section applies if no-one has been appointed as the site safety manager for a site at an operating plant.	27
		28
		29
	(2) The site safety manager for the site is—	30

[s 280]

	(a) if the operator is an individual—the operator; or	1 2
	(b) if the operator is a corporation—the executive safety manager of the operating plant.	3 4 5
Clause 280	Insertion of new ch 9, pt 3, div 3	6
	Chapter 9, part 3—	7
	<i>insert—</i>	8
	Division 3 Information notices	9
	694A Executive safety manager and operator to give information notices	10 11
	(1) The executive safety manager of an operating plant must give the chief inspector a notice stating who is—	12 13 14
	(a) the operator; and	15
	(b) the executive safety manager; and	16
	(c) if the operator is a corporation, the representative of the operator.	17 18
	Maximum penalty—500 penalty units.	19
	(2) The operator of an operating plant must give the chief inspector a notice stating the information prescribed by regulation about the operating plant.	20 21 22 23
	Maximum penalty—500 penalty units.	24
	(3) For subsection (2), a regulation may prescribe information that is necessary for ensuring and promoting the safety of the operating plant.	25 26 27

	<i>Examples of information for ensuring and promoting the safety of an operating plant—</i>	1 2
	1 a description of the operating plant including the operating plant's location and nature and extent of activities	3 4 5
	2 details of the commissioning or decommissioning of the operating plant	6 7
(4)	A notice under this section must be given—	8
	(a) in the approved form; and	9
	(b) in the way prescribed by regulation; and	10
	(c) no later than—	11
	(i) for a notice under subsection (1)—10 business days after the commencement and, after that period, any time the operator, executive safety manager or representative (if any) of the operator changes; and	12 13 14 15 16 17
	(ii) for a notice under subsection (2)—a day prescribed by regulation.	18 19
(5)	In this section—	20
	<i>representative</i> , of an operator, means a individual nominated under section 688(1)(a).	21 22
Clause 281	Amendment of s 726 (Gas work for which licence is required)	23 24
	Section 726—	25
	<i>insert—</i>	26
(5)	This section does not apply to gas work carried out by a person under a safety management system for an operating plant in circumstances prescribed by regulation.	27 28 29 30

Division 1	Approval requirement	1
731AA Approval of gas devices for supply, installation and use		2 3
(1) A person must not supply a gas device (type A), or install or use any type of gas device, unless—		4 5
(a) the supply, installation or use has been approved by—		6 7
(i) the chief inspector; or		8
(ii) a person who holds a gas device approval authority for the gas device; and		9 10 11
(b) the gas device complies with any labelling requirements prescribed by regulation for the device.		12 13 14
Maximum penalty—200 penalty units.		15
<i>Note—</i>		16
This provision is an executive liability provision—see section 814.		17 18
(2) Also, a person must not supply a gas device unless the person gives the person to whom the device is supplied a written notice in the approved form stating that the installation and use of the device must be approved under subsection (1)(a).		19 20 21 22 23
Maximum penalty—200 penalty units.		24
<i>Note—</i>		25
If a corporation commits an offence against this provision, an executive officer of the corporation may be taken, under section 814A, to have also committed the offence.		26 27 28 29
Division 2	Gas device approval authorities	30 31

[s 284]

731AB Who may apply	1
A person may apply to the chief inspector for a gas device approval authority for a gas device.	2 3
731AC Requirements for application	4
The application must be in the approved form and comply with any requirement prescribed by regulation.	5 6 7
731AD Deciding application	8
(1) The chief inspector must decide whether to grant or refuse the application.	9 10
(2) However, the chief inspector must refuse the application if the chief inspector considers the applicant—	11 12 13
(a) does not have the qualifications or experience for approving a gas device prescribed by regulation; or	14 15 16
(b) is not a suitable person to hold the authority.	17
(3) In deciding whether the applicant is a suitable person to hold the authority, the chief inspector may have regard to the following matters—	18 19 20
(a) any noncompliance action taken against the applicant;	21 22
(b) whether the applicant has been convicted of an indictable offence or an offence against this Act;	23 24 25
(c) any other matter prescribed by regulation.	26
(4) The chief inspector may impose a condition on the authority when making a decision.	27 28
(5) If the chief inspector makes any of the following decisions, the chief inspector must give the applicant an information notice about the	29 30 31

decision—	1
(a) a decision to refuse the application;	2
(b) a decision to impose a condition on the authority, other than a condition agreed to or requested by the applicant.	3 4 5
731AE Term of gas device approval authority	6
(1) A gas device approval authority takes effect—	7
(a) on a day stated in it; or	8
(b) if no day of effect is stated, on the day it is granted.	9 10
(2) The authority may be issued for a stated term and remains in force until the end of the term unless it is cancelled, suspended or surrendered under this Act.	11 12 13 14
(3) If no term is stated, the authority continues in force unless it is cancelled, suspended or surrendered under this Act.	15 16 17
731AF Conditions for gas device approval authority	18 19
A regulation may prescribe—	20
(a) a condition of a gas device approval authority that applies in addition to a condition imposed under section 731AD; and	21 22 23 24
(b) a requirement the chief inspector must comply with to vary or revoke a condition imposed under section 731AD.	25 26 27
731AG Offence not to comply with conditions	28
The holder of a gas device approval authority must comply with the conditions of the authority.	29 30

[s 285]

	Maximum penalty—250 penalty units.	1
	<i>Note—</i>	2
	If a corporation commits an offence against this provision, an executive officer of the corporation may be taken, under section 814A, to have also committed the offence.	3 4 5 6
Clause 285	Omission of s 733 (Approval of gas devices and gas fittings for supply, installation and use)	7 8
	Section 733—	9
	<i>omit.</i>	10
Clause 286	Amendment of s 734A (Safety obligations of gas system installer)	11 12
	Section 734A(6) and (7), definition <i>operator</i> , ‘LPG delivery network’—	13 14
	<i>omit, insert—</i>	15
	fuel gas delivery network	16
Clause 287	Insertion of new s 734AA	17
	Chapter 9, part 7—	18
	<i>insert—</i>	19
	734AA Safe use of gas devices	20
	(1) A person who uses a gas device must take reasonable steps to ensure the gas device is used safely.	21 22 23
	Maximum penalty—100 penalty units.	24
	(2) A person does not contravene subsection (1) if the person uses a gas device in accordance with—	25 26
	(a) if the gas device is a gas device (type A)—the manufacturer’s instructions for the safe use of the gas device; or	27 28 29

	(b) if the gas device is a gas device (type B)—	1
	(i) an approval for use of the gas device under section 731AA(1)(a); and	2 3
	(ii) the manufacturer’s instructions for the safe use of the gas device.	4 5
Clause 288	Amendment of s 789 (Operation of div 4)	6
	Section 789(2)(b), ‘or authorisation’—	7
	<i>omit, insert—</i>	8
	, gas work authorisation or gas device approval authority	9 10
Clause 289	Amendment of s 790 (Types of noncompliance action that may be taken)	11 12
	(1) Section 790(1)—	13
	<i>insert—</i>	14
	(da) if the authority is a gas device approval authority—suspending it for a period by a notice under subdivision 4;	15 16 17
	(2) Section 790(1)(da) to (f)—	18
	<i>renumber</i> as section 790(1)(e) to (g).	19
	(3) Section 790(2), ‘subsection (1)(f)’—	20
	<i>omit, insert—</i>	21
	subsection (1)(g)	22
Clause 290	Amendment of s 814 (Liability of executive officer—particular offences committed by corporation)	23 24
	(1) Section 814(5), definition <i>executive liability provision</i> , entry for ‘section 733(1)’—	25 26
	<i>omit.</i>	27

[s 291]

- (2) Section 814(5), definition *executive liability provision*— 1
insert— 2
- section 731AA(1) 3

Clause 291 Amendment of s 814A (Executive officer may be taken to have committed offence) 4
5

Section 814A(5), definition *deemed executive liability provision*, paragraph (a), ‘733(2),’— 6
7
omit, insert— 8
731AA(2), 731AG, 9

Clause 292 Insertion of new ss 995–997 10

Chapter 15, part 21— 11
insert— 12

995 Existing approvals 13

- (1) This section applies if— 14
- (a) before the commencement, a person or body approved a gas device or gas fitting under former section 733(1)(a)(ii); and 15
16
17
 - (b) immediately before the commencement, the approval had not been cancelled or suspended. 18
19
20

- (2) The approval is taken to have been given by the holder of a gas device approval authority. 21
22

996 Persons or bodies approved by the chief inspector 23
24

- (1) This section applies if— 25
- (a) before the commencement, the chief inspector approved a person or body under 26
27

-
- former section 733(1)(a) for a particular 1
type of gas device; and 2
- (b) immediately before the commencement, the 3
approval had not been cancelled or 4
suspended. 5
- (2) The approval is taken to be a gas device approval 6
authority until 1 year after the commencement. 7

997 Fuel gas delivery networks 8

- (1) This section applies if— 9
- (a) immediately before the commencement— 10
- (i) a supply of fuel gas to or in a container 11
owned or provided by a person was not 12
an LPG delivery network under this 13
Act as in force before the 14
commencement; and 15
- (ii) the place in which the supply was 16
carried out was not an operating plant; 17
and 18
- (b) on the commencement, the supply of fuel 19
gas by the person is a fuel gas delivery 20
network. 21
- (2) Section 670(5) does not apply to the supply of fuel 22
gas by the person until 3 months after the 23
commencement. 24

Clause 293 Amendment of sch 1 (Reviews and appeals) 25

- (1) Schedule 1, table 1— 26
- insert—* 27

731AD Refusal of application for gas
device approval authority

[s 294]

731AD	Decision to impose condition on a gas device approval authority, other than a condition agreed to or requested by the applicant	
(2)	Schedule 1, table 1, entry for section 798, ‘or authorisation’—	1
	<i>omit, insert—</i>	2
	, gas work authorisation or gas device approval authority	3 4
(3)	Schedule 1, table 2, second entry for section 798, ‘or authorisation’—	5 6
	<i>omit, insert—</i>	7
	, gas work authorisation or gas device approval authority	8 9
Clause 294	Amendment of sch 2 (Dictionary)	10
(1)	Schedule 2, definitions <i>bulk fuel gas storage facility</i> and <i>LPG delivery network—</i>	11 12
	<i>omit.</i>	13
(2)	Schedule 2—	14
	<i>insert—</i>	15
	<i>fuel gas delivery network—</i>	16
	(a) means the supply of fuel gas to or in a container owned or provided (other than by being sold) by a person (a <i>product supplier</i>) to a consumer or another person in the business of distributing fuel gas; and	17 18 19 20 21
	(b) includes an activity that is part of or incidental to the supply mentioned in paragraph (a) that is carried out by the product supplier or the product supplier’s agent.	22 23 24 25 26

<i>Examples of fuel gas delivery networks—</i>	1
• the delivery of cylinders of fuel gas to a consumer or to a distributor	2 3
• the filling and storing of cylinders of fuel gas, including cages of 4kg and 8.5kg exchange cylinders	4 5 6
• the bulk delivery of fuel gas to a container	7
• the filling of a tanker for delivery of fuel gas	8
• the maintenance of containers and storage equipment used for the supply of fuel gas	9 10
• the dispensing of fuel gas to vehicles	11
<i>gas device approval authority</i> see section 18(1)(j).	12 13
(3) Schedule 2, definition <i>holder</i> , paragraph (d)—	14
<i>omit, insert—</i>	15
(d) of a gas work licence, gas work authorisation or gas device approval authority, means each person recorded as its holder in the register the chief inspector keeps under section 734AB.	16 17 18 19 20

Part 13	Amendment of State Penalties Enforcement Regulation 2014	21 22
----------------	---	----------

Clause 295	Regulation amended	23
	This part amends the <i>State Penalties Enforcement Regulation 2014</i> .	24 25

Clause 296	Amendment of sch 1 (Infringement notice offences and fines for nominated laws)	26 27
	Schedule 1, entry for <i>Land Act 1994—</i>	28
	<i>omit, insert—</i>	29

[s 296]

Land Act 1994

1

	Column 1 Infringement notice offence	Column 2 Infringement notice fine (penalty units)	
		Individual	Corporation
	s 214J(1)	20	100
	s 390ZB(1)	3	15
	s 390ZF(1)	10	–
	s 390ZK	5	–
	s 390ZL(1)	10	50
	s 390ZL(2)	10	50
	s 403K(2)	2	10
	s 403M	4	20
	s 403N(6) for a direction given under s 403N(2)(a)	10	50
	for a direction given under s 403N(2)(b)	3	15
	404(1) for a trespass related act mentioned in s 404(1)(a)	10	50
	for a trespass related act mentioned in s 404(1)(b)	5	25
	for a trespass related act mentioned in s 404(1)(c)	3	15
	for a trespass related act mentioned in s 404(1)(d)	10	50
	for a trespass related act mentioned in s 404(1)(e)	10	50

	Column 1 Infringement notice offence	Column 2 Infringement notice fine (penalty units)	
		Individual	Corporation
s 407		10	50

Authorised person for service of infringement notices—an authorised officer appointed under the *Land Act 1994*, section 390E 1
2
3

Part 14 **Amendment of Torres Strait Islander Land Act 1991** 4
5

Clause 297 Act amended 6
This part amends the *Torres Strait Islander Land Act 1991*. 7
Note— 8
See also the amendments in schedule 1, part 1. 9

Clause 298 Amendment of s 28B (Definitions for pt 2A) 10
Section 28B, definition *interest holder*, paragraph (d), 11
'registered lease'— 12
omit, insert— 13
registered sublease 14

Clause 299 Amendment of s 28R (Dwelling on available land) 15
(1) Section 28R(5)— 16
omit, insert— 17
(5) If the dwelling notice states the housing chief 18
executive consents to the applicant making the 19
application, the trustee must decide the price of 20
the dwelling— 21

[s 300]

	(a) by agreement with the housing chief executive; or	1 2
	(b) by using a methodology agreed between the trustee and the housing chief executive.	3 4
(2)	Section 28R(6), ‘valuation’— <i>omit.</i>	5 6
Clause 300	Amendment of s 28T (Offer to allocate available land)	7
	Section 28T(3), ‘value’— <i>omit, insert—</i>	8 9
	price	10
Clause 301	Amendment of s 36 (Appointment of grantee to hold land for benefit of Torres Strait Islanders)	11 12
	Section 36(3)— <i>omit, insert—</i>	13 14
	(3) However, the Minister may appoint a CATSI corporation that is a registered native title body corporate as the grantee of the land under subsection (2) only if—	15 16 17 18
	(a) under the Commonwealth Native Title Act, a determination has been made that native title exists in relation to all or a part of the land and the CATSI corporation is the registered native title body corporate for the determination; or	19 20 21 22 23 24
	(b) a determination has not been made under the Commonwealth Native Title Act that native title exists in relation to all or a part of the land, but the Minister is satisfied it is appropriate in all the circumstances to appoint the CATSI corporation as the grantee of the land.	25 26 27 28 29 30 31

	<i>Examples of when it is appropriate to appoint the CATSI corporation as the grantee of the land—</i>	1 2
	1 The appointment of the CATSI corporation is supported by consultation with Torres Strait Islanders particularly concerned with the land.	3 4 5 6
	2 The land is within the external boundaries of an area of land the subject of a native title determination and the CATSI corporation is the registered native title body corporate for the determination.	7 8 9 10 11
	3 An ILUA has been entered into for the land and the CATSI corporation is nominated in the ILUA as the proposed grantee for the land under this Act.	12 13 14 15
	4 Anthropological research supports the CATSI corporation as being the appropriate grantee.	16 17
Clause 302	Amendment of s 60 (Transfer to entity to hold for benefit of Torres Strait Islanders)	18 19
	Section 60(3)(a) and (b)—	20
	<i>omit, insert—</i>	21
	(a) under the Commonwealth Native Title Act, a determination has been made that native title exists in relation to all or a part of the land and the CATSI corporation is the registered native title body corporate for the determination; or	22 23 24 25 26 27
	(b) a determination has not been made under the Commonwealth Native Title Act that native title exists in relation to all or a part of the land, but the Minister is satisfied it is appropriate in all the circumstances for the land to be transferred to the CATSI corporation.	28 29 30 31 32 33 34

[s 303]

	<i>Examples of when it is appropriate for the land to be transferred to the CATSI corporation—</i>	1 2
	1 The transfer to the CATSI corporation is supported by consultation with Torres Strait Islanders particularly concerned with the land.	3 4 5 6
	2 The land is within the external boundaries of an area of land the subject of a native title determination and the CATSI corporation is the registered native title body corporate for the determination.	7 8 9 10 11
	3 An ILUA has been entered into for the land and the CATSI corporation is nominated in the ILUA as the proposed transferee for the land under this Act.	12 13 14 15
	4 Anthropological research supports the CATSI corporation as being the appropriate transferee.	16 17 18
Clause 303	Amendment of s 71 (Transfer of Torres Strait Islander land)	19 20
	(1) Section 71(2)— <i>omit.</i>	21 22
	(2) Section 71(3)— <i>renumber</i> as section 71(2).	23 24
Clause 304	Amendment of s 72 (Application for approval to transfer)	25
	Section 72(2)(c), ‘the matters mentioned in section 73(1)(c)’— <i>omit, insert—</i>	26 27 28
	each matter mentioned in section 73(1)(c) or (d) that applies to the transfer	29 30
Clause 305	Amendment of s 73 (Minister’s approval to transfer)	31
	(1) Section 73(1)—	32

<i>insert—</i>	1
(ca) if the transferee is a CATSI corporation that is a registered native title body corporate—	2 3
(i) under the Commonwealth Native Title Act, a determination has been made that native title exists in relation to all or a part of the land and the CATSI corporation is the registered native title body corporate for the determination; or	4 5 6 7 8 9 10
(ii) a determination has not been made under the Commonwealth Native Title Act that native title exists in relation to all or a part of the land, but it is appropriate in all the circumstances for the land to be transferred to the CATSI corporation; and	11 12 13 14 15 16 17
<i>Examples of when it is appropriate for the land to be transferred to the CATSI corporation—</i>	18 19
1 The transfer to the CATSI corporation is supported by consultation with Torres Strait Islanders particularly concerned with the land.	20 21 22 23
2 The land is within the external boundaries of an area of land the subject of a native title determination and the CATSI corporation is the registered native title body corporate for the determination.	24 25 26 27 28 29
3 An ILUA has been entered into for the land and the CATSI corporation is nominated in the ILUA as the proposed transferee for the land under this Act.	30 31 32 33
4 Anthropological research supports the CATSI corporation as being the appropriate transferee.	34 35 36
(2) Section 73(1)(ca) and (d)—	37
<i>renumber</i> as section 73(1)(d) and (e).	38

[s 306]

- (3) Section 73(3)(b), ‘section 71(3)(d)(i)’— 1
omit, insert— 2
section 71(2)(d)(i) 3

Clause 306 Amendment of s 76 (Transfer of Torres Strait Islander land) 4
5

- (1) Section 76(2)— 6
omit. 7
(2) Section 76(3)— 8
renumber as section 76(2). 9

Clause 307 Amendment of s 78 (Minister’s approval to transfer) 10

- (1) Section 78(1)— 11
insert— 12
(ba) if the transferee is a CATSI corporation that 13
is a registered native title body corporate— 14
(i) under the Commonwealth Native Title 15
Act, a determination has been made 16
that native title exists in relation to all 17
or a part of the land and the CATSI 18
corporation is the registered native title 19
body corporate for the determination; 20
or 21
(ii) a determination has not been made 22
under the Commonwealth Native Title 23
Act that native title exists in relation to 24
all or a part of the land, but it is 25
appropriate in all the circumstances for 26
the land to be transferred to the CATSI 27
corporation; and 28

	<i>Examples of when it is appropriate for the land to be transferred to the CATSI corporation—</i>	1 2
	1 The transfer to the CATSI corporation is supported by consultation with Torres Strait Islanders particularly concerned with the land.	3 4 5 6
	2 The land is within the external boundaries of an area of land the subject of a native title determination and the CATSI corporation is the registered native title body corporate for the determination.	7 8 9 10 11 12
	3 An ILUA has been entered into for the land and the CATSI corporation is nominated in the ILUA as the proposed transferee for the land under this Act.	13 14 15 16
	4 Anthropological research supports the CATSI corporation as being the appropriate transferee.	17 18 19
(2)	Section 78(1)(ba) and (c)— <i>renumber</i> as section 78(1)(c) and (d).	20 21
Clause 308	Amendment of s 93 (Additional conditions and requirements for social housing dwelling)	22 23
(1)	Section 93(2)— <i>omit, insert—</i>	24 25
	(2) Before the lease is granted, the lessor must decide the price of the dwelling—	26 27
	(a) by agreement with the housing chief executive; or	28 29
	(b) by using a methodology agreed between the lessor and the housing chief executive.	30 31
(2)	Section 93(3), (4)(b) and (6), note, ‘value’— <i>omit, insert—</i> price	32 33 34

[s 309]

Clause 309	Amendment of s 192 (Dealing with particular trust property)	1
		2
	Section 192(1) and (3), ‘value’—	3
	<i>omit, insert</i> —	4
	price	5
Clause 310	Amendment of sch 1 (Dictionary)	6
	(1) Schedule 1—	7
	<i>insert</i> —	8
	<i>native title determination</i> , in relation to land,	9
	means a determination under the Commonwealth	10
	Native Title Act that native title exists in relation	11
	to all or a part of the land.	12
	(2) Schedule 1, definition <i>social housing</i> , paragraph (b), ‘the	13
	value of’—	14
	<i>omit</i> .	15
Part 15	Other amendments	16
Clause 311	Legislation amended	17
	Schedule 1 amends the legislation it mentions.	18

Schedule 1	Other amendments	1
	section 311	2
Part 1	Amendments commencing on assent	3
		4
	Aboriginal Land Act 1991	5
1	Section 305(2), definition <i>renumbered Act</i>, ‘former section 306’—	6
	<i>omit, insert—</i>	7
		8
	section 148, as inserted by the <i>Aboriginal Land and Torres Strait Islander Land and Other Legislation Amendment Act 2011</i> , section 90	9
		10
		11
2	Section 306(1), note, ‘on 7 December 2012’—	12
	<i>omit.</i>	13
	Land Act 1994	14
1	Section 29(1), ‘chapter 7, part 1, division 3’—	15
	<i>omit, insert—</i>	16
	chapter 6A, part 3	17
2	Section 29(1), note—	18
	<i>omit, insert—</i>	19

	<i>Note—</i>	1
	Chapter 6A, part 3 deals with the power of an authorised officer to enter a place, including a place that is freehold land or non-freehold land.	2 3 4
3	Section 130A(5), ‘section 234(c)’—	5
	<i>omit, insert—</i>	6
	section 234(d)	7
4	Section 237A, ‘section 234(b), (c), (d) or (f)’—	8
	<i>omit, insert—</i>	9
	section 234(b), (c), (d), (e) or (f)	10
5	Sections 238 and 239(1)(b), ‘section 234(d)’—	11
	<i>omit, insert—</i>	12
	section 234(e)	13
6	Section 252(1) and (2)(b), ‘section 400’—	14
	<i>omit, insert—</i>	15
	section 390ZD	16
7	Particular references to authorised person	17
	Each of the following provisions is amended by omitting ‘authorised person’ and inserting ‘authorised officer’—	18 19
	• section 253	20
	• section 431B(1) and (2)	21
	• section 431C(c)	22
8	Schedule 1B, authorising provision, ‘section 448(3)’—	23
	<i>omit, insert—</i>	24

	section 448(4)	1
	Land Title Act 1994	2
1	Section 4, heading, ‘—the dictionary’—	3
	<i>omit.</i>	4
2	Section 54E(2), ‘owner’—	5
	<i>omit, insert—</i>	6
	owners	7
3	Section 67(2)(b), ‘a lease’—	8
	<i>omit, insert—</i>	9
	the lease	10
	Petroleum and Gas (Production and Safety) Act 2004	11
1	Section 392BN(4)(a), ‘a copy’—	12
	<i>omit, insert—</i>	13
	an overview	14
2	Section 392BN(4)(b), ‘copy’—	15
	<i>omit, insert—</i>	16
	overview	17

Schedule 1

3	Section 392BN(7)(a), ‘a copy’—	1
	<i>omit, insert—</i>	2
	an overview of the safety management system	3
4	Section 586(1), note, ‘(Additional orders that may be made on conviction)’—	4
	<i>omit.</i>	5
		6
5	Section 587(6), note, ‘(Additional orders that may be made on conviction)’—	7
	<i>omit.</i>	8
		9
6	Section 674(1)(a), after ‘make’—	10
	<i>insert—</i>	11
	or adopt	12
7	Section 674(2)(a), after ‘made’—	13
	<i>insert—</i>	14
	or adopted	15
8	Section 675A(1), ‘made’—	16
	<i>omit.</i>	17
9	Section 687(5), definition <i>senior managing officer</i>, after ‘corporation’—	18
	<i>insert—</i>	19
	or organisation	20
		21
10	Section 687A(3), ‘the responsible’—	22
	<i>omit, insert—</i>	23

	responsible	1
11	Section 697(3), ‘in the approved form’— <i>omit.</i>	2 3
12	Section 724(3)(b)— <i>omit.</i>	4 5
13	Section 724(3)(c)— <i>renumber</i> as section 724(3)(b).	6 7
14	Section 724(5), definition <i>gas flare</i>— <i>omit.</i>	8 9
15	Section 774(1), note, ‘(Additional orders that may be made on conviction)’— <i>omit.</i>	10 11 12
16	Section 791(1)(c), ‘petroleum’— <i>omit.</i>	13 14
17	Section 809(c), from ‘fitting’— <i>omit, insert—</i> fitting.	15 16 17
18	Section 834(1)(a), after ‘given,’— <i>insert—</i> held,	18 19 20

Schedule 1

19	Section 834(1)(aa) and (b), after ‘kept’—	1
	<i>insert—</i>	2
	or held	3
20	Section 841, heading, ‘Additional orders’—	4
	<i>omit, insert—</i>	5
	Orders about forfeiture	6
 Torres Strait Islander Land Act 1991		7
1	Section 151, heading, after ‘Act’—	8
	<i>insert—</i>	9
	1989	10
2	Section 201, definition <i>previous</i>, editor’s note, ‘section 205’—	11
	<i>omit, insert—</i>	12
	section 142, as inserted by the <i>Aboriginal Land and Torres Strait Islander Land and Other Legislation Amendment Act 2011</i> , section 188	13
		14
		15
		16
3	Section 204(2), definition <i>renumbered Act</i>, ‘section 205’—	17
	<i>omit, insert—</i>	18
	section 142, as inserted by the <i>Aboriginal Land and Torres Strait Islander Land and Other Legislation Amendment Act 2011</i> , section 188	19
		20
		21

Part 2	Amendments commencing on 1 January 2019	1 2
	Acquisition of Land Act 1967	3
1	Section 12(2B)— <i>omit.</i>	4 5
2	Section 17(3)— <i>omit.</i>	6 7
	Integrated Resort Development Act 1987	8
1	Sections 106(5)(a) and 143(5)(a), ‘(other than certificates of title for lots)’— <i>omit.</i>	9 10 11
	Land Title Regulation 2015	12
1	Schedule 2, item 2(i)— <i>omit.</i>	13 14
2	Schedule 2, item 2(j) to (m)— <i>renumber</i> as schedule 2, item 2(i) to (l).	15 16

Queensland Building and Construction Commission Act 1991	1 2
1 Section 46, heading, ‘on certificate of title’—	3
<i>omit, insert—</i>	4
of permit in register	5
2 Section 46(3), ‘the file attached to’—	6
<i>omit.</i>	7
3 Section 46(4), ‘file’—	8
<i>omit, insert—</i>	9
register	10
Retirement Villages Regulation 2010	11
1 Section 2(m), ‘certificate of title’—	12
<i>omit, insert—</i>	13
real property description	14
Sanctuary Cove Resort Act 1985	15
1 Sections 27(4)(a) and 70(4)(a) and (4A)(a), ‘(other than certificates of title for lots)’—	16 17
<i>omit.</i>	18

2	Section 27(4A)(a), ‘(other than certificates of titles for lots)’—	1 2
	<i>omit.</i>	3
Part 3		
	Amendments commencing by proclamation	4 5
Explosives Act 1999		6
1	Section 50(1), ‘or boat’—	7
	<i>omit.</i>	8
2	Section 50(3), ‘for a purpose prescribed under a regulation’—	9 10
	<i>omit.</i>	11
3	Section 102(3)(b), note—	12
	<i>omit.</i>	13
4	Sections 102(5) and (7) and 103(5) and (7), ‘, boat’—	14
	<i>omit.</i>	15
5	Section 103(3)(b), note—	16
	<i>omit.</i>	17

	Explosives Regulation 2017	1
1	Sections 41(2), 49(2)(b), 51(3) definition <i>prescribed vehicle</i>, 133(a) and (b), 134(1), 136(4)(b), (c), (e) and (f)(i), 137(1), 138, 142(a)(i) and (b), 144(1) and (2) definition <i>relevant event</i> and 145(1) and (2), ‘or boat’—	2 3 4 5
	<i>omit.</i>	6
2	Section 44(2), ‘proposed action’—	7
	<i>omit, insert—</i>	8
	proposal	9
3	Section 80(1)(a), after ‘factory’—	10
	<i>insert—</i>	11
	that involves an imminent risk of death or injury to a person	12 13
4	Section 130(1)(a), after ‘magazine’—	14
	<i>insert—</i>	15
	that involves an imminent risk of death or injury to a person	16 17
5	Section 141(1)(a), after ‘explosives’—	18
	<i>insert—</i>	19
	that involves an imminent risk of death or injury to a person	20 21

Petroleum and Gas (Production and Safety) Act 2004		1
1	Section 546(a)(iv), '690(1)(f) or'—	2
	<i>omit.</i>	3
2	Chapter 9, part 2, division 2, note, '(Operator is default site safety manager)'—	4
	<i>omit.</i>	5
		6
3	Chapter 9, part 3, heading, 'report'—	7
	<i>omit, insert—</i>	8
	information notice	9
4	Chapter 9, part 3, division 1, heading, 'and safety report'—	10
	<i>omit.</i>	11
		12
5	Section 708A(2), '733'—	13
	<i>omit, insert—</i>	14
	731AA	15
6	Chapter 9, part 6, division 3, subdivision 1, heading—	16
	<i>omit.</i>	17
7	Chapter 9, part 6, division 3, subdivision 2, heading—	18
	<i>omit.</i>	19
8	Section 834(1)(a)(v), '730'—	20
	<i>omit, insert—</i>	21
	734AB	22

Statutory Instruments Regulation 2012	1
1 Schedule 1—	2
<i>insert—</i>	3
4 a notice making a determination, other than an administrative determination, under the <i>Explosives Regulation 2017</i> , section 145B	4 5 6
Transport Operations (Road Use Management) Act 1995	7 8
1 Sections 31(2)(a), 32(2) and 39A(2), after ‘inspector’—	9
<i>insert—</i>	10
or an authorised officer	11
2 Section 47(2), after ‘inspectors’—	12
<i>insert—</i>	13
or authorised officers	14
Transport Operations (Road Use Management—Dangerous Goods) Regulation 2008	15 16
1 Section 24(3)(b), note, from ‘under the’—	17
<i>omit, insert—</i>	18
under the <i>Statutory Instruments Regulation 2012</i> , section 2(3) and schedule 1.	19 20

2	Section 25(2)(b), note, from ‘under the’—	1
	<i>omit, insert—</i>	2
	under the <i>Statutory Instruments Regulation 2012</i> ,	3
	section 2(3) and schedule 1.	4

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