



Queensland

Revenue Legislation Amendment Bill 2014

Includes amendments agreed during Consideration



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Revenue Legislation Amendment Bill 2014

Contents

		Page
Part 1	Preliminary	
1	Short title	10
2	Commencement	10
Part 2	Amendment of Duties Act 2001	
3	Act amended	10
4	Amendment of s 98 (Conditions for transfer or agreement for transfer of business property)	10
5	Amendment of s 99 (Conditions for partnership acquisitions)	11
6	Amendment of s 100 (Conditions for particular trust acquisitions)	12
7	Amendment of s 101 (Conditions for creation of trusts and particular trust acquisitions)	13
8	Amendment of s 102 (Conditions for acquisitions of interest in family unit trusts)	13
9	Amendment of s 123 (Exemption—particular distribution of dutiable property to a beneficiary)	14
10	Replacement of s 133 (Exemption—building units and group titles plans and community titles schemes)	14
	133 Exemption—community titles schemes	15
11	Amendment of s 173 (Value of land-holdings and property—business property disregarded)	16
12	Insertion of new ch 17, pt 19	17
	Part 19 Transitional provisions for Revenue Legislation Amendment Act 2014	
	653 Application of amended ch 2, pt 10 and related provisions	17
	654 Application of existing s 123 concession	18
13	Amendment of sch 6 (Dictionary)	18
Part 3	Amendment of Land Tax Act 2010	
14	Act amended	20
15	Insertion of new ss 42A and 42B	20

Contents

	42A	Exemption for old home after transitioning to current home	20
	42B	Exemption for new home before transitioning from current home	22
16		Insertion of new s 44A	24
	44A	Reassessment—transitioning to or from current home	24
Part 4		Amendment of Mineral Resources Act 1989	
Division 1		Preliminary	
17		Act amended	25
Division 2		Amendments commencing on assent	
18		Replacement of s 326 (Maintenance of records)	26
	326	Requirement to keep proper records	26
	326A	Accessibility of records	26
	326B	Form of records	26
	326C	Period for keeping records	27
	326D	Wilfully damaging records	27
	326E	Minister may require translation or conversion of document or information	27
19		Amendment of s 412A (Liability of executive officer—particular offences committed by company)	28
20		Insertion of new ch 15, pt 9	28
	Part 9	Transitional provisions for Revenue Legislation Amendment Act 2014	
	820	Definition for pt 9	29
	821	Application of particular provisions for previous section 326 records	29
Division 3		Amendments commencing on 1 July 2014	
21		Omission of s 322 (Minister may request audit)	29
22		Amendment of s 326E (Minister may require translation or conversion of document or information)	30
23		Omission of s 327 (Minister may require information)	30
24		Omission of ss 328–330	30
25		Replacement of ch 11, pt 3, hdg (Reassessment and enforcement)	30
26		Insertion of new ch 11, pt 3, div 1 hdg	30
27		Replacement of s 331 (Reassessment of royalty)	30
	331	Definitions for pt 3	31
	Division 2	Royalty assessments and reassessments	

	331A	Assessment of royalty	32
	331B	Reassessment of royalty	32
	331C	Making assessments and default assessments in particular circumstances	33
	331D	Notice of assessment or reassessment	34
	Division 3	Unpaid royalty interest and royalty penalties	
	331E	Liability for royalty penalty amount	35
	331F	Royalty penalty amount not payable if proceeding for offence started	37
	331G	Remission of royalty penalty amount	37
28		Amendment of s 332 (Unpaid royalty interest)	37
29		Insertion of new ch 11, pt 3, div 4.	38
	Division 4	Refunds and payments	
	332AA	Refunds	38
30		Amendment of s 332A (Application of payments)	39
31		Amendment of s 333 (Recovery of unpaid amounts)	39
32		Insertion of new s 333A, ch 11, pt 3, divs 5–7 and pt 3A	40
	333A	Earlier time for payment of royalty-related amount. . .	40
	Division 5	Offences	
	333B	Failure to comply with information requirement or lodgement requirement	41
	333C	False or misleading documents	41
	333D	False or misleading information	42
	333E	Self-incrimination not a reasonable excuse for failure to comply with particular requirements.	43
	333F	Obligation to notify Minister if royalty under assessed	43
	333G	Obstruction of Minister or royalty investigator.	44
	333H	Impersonation of royalty investigator	44
	Division 6	Obligations of administrators and garnishees	
	333I	Definitions for div 6	44
	333J	Particular administrators to notify Minister of appointment	45
	333K	Administrator's liability for payment	46
	333L	Collection of amounts from a garnishee.	46
	333M	Duration of garnishee notice	47
	333N	Effect of discharge of debt on garnishee notice.	47
	333O	Effect of payment by garnishee	48

Contents

	Division 7	Use of approved information system for particular decisions	
	333P	Approved information system	49
	333Q	Minister may arrange for use of an approved information system to make particular decisions	49
	Part 3A	Investigations relating to royalty provisions	
	Division 1	Preliminary	
	333R	Powers to be exercised only for administering and enforcing royalty provisions	49
	Division 2	Royalty investigators	
	333S	Appointment	50
	333T	Appointment conditions and limit on powers	50
	333U	Issue of identity card	51
	333V	Production of identity card	51
	333W	When royalty investigator ceases to hold office	52
	333X	Resignation	52
	333Y	Return of identity card	52
	Division 3	Powers of royalty investigators	
	333Z	Application of Taxation Administration Act 2001, pt 7	53
	333ZA	Forfeiture of thing seized for testing	55
33		Omission of s 334 (Furnishing false particulars etc.)	55
34		Amendment of s 342 (Powers of authorised officers).	55
35		Amendment of s 412A (Liability of executive officer—particular offences committed by company).	56
36		Insertion of new ss 822 and 823	56
	822	Application of ch 11, pt 3, divs 2 and 3 for royalty payable for period occurring before 1 July 2014.	56
	823	Application of s 333J to particular administrators.	57
37		Amendment of sch 2 (Dictionary).	58
Part 5		Amendment of Payroll Tax Act 1971	
38		Act amended	59
39		Amendment of s 14 (Exemption from payroll tax)	59
Part 6		Amendment of Petroleum and Gas (Production and Safety) Act 2004	
Division 1		Preliminary	
40		Act amended	60
Division 2		Provisions commencing on assent	
41		Insertion of new ch 6, pt 3A	60

	Part 3A	Records	
	604B	Requirement to keep proper records	60
	604C	Accessibility of records	61
	604D	Form of records	61
	604E	Period for keeping records	61
	604F	Wilfully damaging records	61
	604G	Minister may require translation or conversion of document or information	62
42		Amendment of s 814 (Liability of executive officer—particular offences committed by corporation)	63
Division 3		Provisions commencing on 1 July 2014	
43		Amendment of s 81 (Conditions for renewal application)	63
44		Amendment of s 103 (Applying to divide)	63
45		Amendment of s 161 (Conditions for renewal application)	63
46		Amendment of s 171 (Applying to divide)	63
47		Amendment of s 487 (Operation and purpose of pt 1)	64
48		Amendment of ch 6, pt 2, hdg (Royalty returns)	64
49		Insertion of new ch 6, pt 2, div 1 and ch 6, pt 2, div 2, hdg	64
	Division 1	Preliminary	
	592A	Definitions for pt 2.	64
	Division 2	Royalty returns	
50		Amendment of s 593 (Application of pt 2)	65
51		Amendment of s 594 (Obligation to lodge royalty return)	66
52		Amendment of s 595 (Fee for late lodgement of royalty return)	66
53		Omission of ss 596 to 598	67
54		Amendment of s 599 (Annual royalty returns)	67
55		Amendment of s 599A (Minister may require royalty estimate)	68
56		Insertion of new ch 6, pt 2, divs 3 and 4.	69
	Division 3	Royalty assessments and reassessments	
	599B	Assessment of petroleum royalty	69
	599C	Reassessment of royalty	69
	599D	Making assessments and default assessments in particular circumstances	71
	599E	Notice of assessment or reassessment	72
	Division 4	Use of approved information system for particular decisions	
	599F	Approved information system	73

Contents

	599G	Minister may arrange for use of an approved information system to make particular decisions	74
57		Replacement of ss 600–601.	74
	Division 1	General	
	600	Refunds	74
	601	Liability for royalty penalty amount	75
	601A	Royalty penalty amount not payable if proceeding for offence started	77
	601B	Remission of royalty penalty amount	77
58		Amendment of s 602 (Unpaid royalty interest)	78
59		Amendment of s 602A (Application of payments)	78
60		Replacement of s 603 (Recovery of unpaid amounts)	79
	603	Recovery of unpaid amounts	79
61		Replacement of s 604 (Certificate of unpaid petroleum royalty)	79
	604	Earlier time for payment of royalty-related amount.	79
62		Amendment of s 604G (Minister may require translation or conversion of document or information)	80
63		Insertion of new ch 6, pt 3, div 2.	80
	Division 2	Obligations of administrators and garnishees	
	604AA	Definitions for div 2.	80
	604AB	Particular administrators to notify Minister of appointment	81
	604AC	Administrator’s liability for payment	81
	604AD	Collection of amounts from a garnishee.	82
	604AE	Duration of garnishee notice	83
	604AF	Effect of discharge of debt on garnishee notice.	83
	604AG	Effect of payment by garnishee	84
64		Replacement of ch 6, pt 4 (Monitoring payment of petroleum royalty)	84
	Part 4	Offences for royalty provisions	
	605	Failure to comply with information requirement or lodgement requirement	84
	606	False or misleading documents	85
	607	False or misleading information	85
	608	Self-incrimination not a reasonable excuse for failure to comply with particular requirements.	86
	609	Obligation to notify Minister if petroleum royalty under assessed	86

	610	Obstruction of Minister or royalty investigator	87
	611	Impersonation of royalty investigator	87
	Part 4A	Investigations relating to royalty provisions	
	Division 1	Preliminary	
	612	Powers to be exercised only for administering and enforcing royalty provisions	88
	Division 2	Royalty investigators	
	613	Appointment	88
	614	Appointment conditions and limit on powers	88
	615	Issue of identity card	89
	616	Production of identity card	89
	616A	When royalty investigator ceases to hold office	90
	616B	Resignation	90
	616C	Return of identity card	91
	Division 3	Powers of royalty investigators	
	616D	Application of Taxation Administration Act 2001, pt 7	91
	617	Forfeiture of thing seized for testing	93
65		Amendment of s 736 (Functions)	93
66		Amendment of s 813 (False or misleading information)	94
67		Amendment of s 814 (Liability of executive officer—particular offences committed by corporation)	94
68		Amendment of s 851AA (Place or way for making applications or giving or lodging documents)	94
69		Insertion of new ch 15, pt 18	94
	Part 18	Transitional provisions for Revenue Legislation Amendment Act 2014	
	988	Application of assessment and royalty penalty provisions for petroleum royalty payable for period occurring before 1 July 2014	95
	989	Application of s 604AB to particular administrators	96
70		Amendment of sch 2 (Dictionary)	96
Part 7		Amendment of State Penalties Enforcement Act 1999	
71		Act amended	98
72		Amendment of s 10 (Registrar and other staff of SPER)	98
73		Insertion of new ss 10A–10C	98
	10A	Service contractors	99
	10B	Service subcontractors	100
	10C	Delegation of prescribed functions	102

Contents

74	Insertion of new ss 11A and 11B	103
	11A Identity cards	103
	11B Return of identity card	104
75	Amendment of s 148 (Electronic transmission of particular documents)	104
76	Amendment of s 152G (Disclosure of confidential information—information acquired by an official in official's capacity)	104
77	Amendment of s 158 (Service of document)	104
78	Amendment of s 161 (Delegation by registrar)	105
79	Amendment of s 165 (Regulation-making power)	106
80	Amendment of sch 2 (Dictionary)	106
Part 8	Amendment of Taxation Administration Act 2001	
81	Act amended	107
82	Amendment of s 7 (Appointment of commissioner)	107
83	Insertion of new pt 19.	107
	Part 19 Transitional provision for Revenue Legislation Amendment Act 2014	
	176 Application of s 7	108
84	Amendment of sch 2 (Dictionary)	108

2014

A Bill

for

An Act to amend the Duties Act 2001, the Land Tax Act 2010, the Mineral Resources Act 1989, the Payroll Tax Act 1971, the Petroleum and Gas (Production and Safety) Act 2004, the State Penalties Enforcement Act 1999 and the Taxation Administration Act 2001 for particular purposes

[s 1]

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Revenue Legislation Amendment Act 2014*.

2 Commencement

- (1) Part 3 commences on 30 June 2014.
- (2) The following provisions commence on 1 July 2014—
 - (a) part 4, division 3;
 - (b) part 5;
 - (c) part 6, division 3.

Part 2 Amendment of Duties Act 2001

3 Act amended

This part amends the *Duties Act 2001*.

4 Amendment of s 98 (Conditions for transfer or agreement for transfer of business property)

- (1) Section 98(1)(a)—

omit, insert—

 - (a) the transferor or person directing the transfer is—

-
- (i) if the business property is used to carry on a business of primary production—a defined relative of the transferee; or
 - (ii) otherwise—an ancestor of the transferee;
 - (2) Section 98(1)(c), after ‘by the’—
insert—
defined relative or
 - (3) Section 98(2)(a)—
omit, insert—
 - (a) the beneficiary of the trust is a minor, and—
 - (i) if the business property is used to carry on a business of primary production—the minor is a defined relative of the person creating the trust; or
 - (ii) otherwise—the minor is a descendant of the person creating the trust; and

5 Amendment of s 99 (Conditions for partnership acquisitions)

- (1) Section 99(1)(b)—
omit, insert—
 - (b) the transferor or person directing the acquisition is—
 - (i) if the business property is used to carry on a business of primary production—a defined relative of the acquirer; or
 - (ii) otherwise—an ancestor of the acquirer;
- (2) Section 99(1)(d), after ‘by the’—
insert—

[s 6]

defined relative or

(3) Section 99(2)(a)—

omit, insert—

(a) the beneficiary of the trust is a minor, and—

(i) if the business property is used to carry on a business of primary production—the minor is a defined relative of the person creating the trust; or

(ii) otherwise—the minor is a descendant of the person creating the trust; and

6 Amendment of s 100 (Conditions for particular trust acquisitions)

(1) Section 100(1)(b)—

omit, insert—

(b) the person disposing of the interest or directing the acquisition is—

(i) if the business property is used to carry on a business of primary production—a defined relative of the acquirer; or

(ii) otherwise—an ancestor of the acquirer;

(2) Section 100(1)(d), after ‘by the’—

insert—

defined relative or

(3) Section 100(2)(a)—

omit, insert—

(a) the beneficiary of the trust is a minor, and—

(i) if the business property is used to carry on a business of primary production—the minor is a defined

relative of the person creating the trust;
or

- (ii) otherwise—the minor is a descendant of the person creating the trust; and

7 Amendment of s 101 (Conditions for creation of trusts and particular trust acquisitions)

Section 101(b)—

omit, insert—

- (b) the beneficiary of the trust is a minor, and—
 - (i) if the business property is used to carry on the business of primary production—the minor is a defined relative of the person creating the trust;
or
 - (ii) otherwise—the minor is a descendant of the person creating the trust;

8 Amendment of s 102 (Conditions for acquisitions of interest in family unit trusts)

(1) Section 102(1)(b)—

omit, insert—

- (b) the person disposing of the interest or directing the acquisition is—
 - (i) if the business property is used to carry on a business of primary production—a defined relative of the acquirer; or
 - (ii) otherwise—an ancestor of the acquirer;

(2) Section 102(1)(d), after ‘by the’—

insert—

defined relative or

(3) Section 102(2)(a)—

[s 9]

omit, insert—

- (a) the beneficiary of the trust is a minor, and—
 - (i) if the business property is used to carry on a business of primary production—the minor is a defined relative of the person creating the trust; or
 - (ii) otherwise—the minor is a descendant of the person creating the trust; and

9 Amendment of s 123 (Exemption—particular distribution of dutiable property to a beneficiary)

Section 123(4)(b)—

omit, insert—

- (b) any of the following apply—
 - (i) if the property of the trust is business property used to carry on a business of primary production—the beneficiary is not a defined relative of the person who created the trust;
 - (ii) if the property of the trust is business property used to carry on a prescribed business—the beneficiary is not a descendant of the person who created the trust;
 - (iii) the property of the trust is not, at the time of the distribution, business property or the business is not intended to be carried on by the beneficiary, whether alone or with others.

10 Replacement of s 133 (Exemption—building units and group titles plans and community titles schemes)

Section 133—

omit, insert—

133 Exemption—community titles schemes

- (1) Subject to subsection (2), transfer duty is not imposed on a transfer, or agreement for the transfer, of a lot that, under the *Body Corporate and Community Management Act 1997*, is a lot included in a community titles scheme if—
 - (a) the transferor is a corporation (the *transferor corporation*); and
 - (b) under that Act, the transferor corporation is the original owner for the scheme; and
 - (c) the transferee held shares in the transferor corporation that were surrendered to obtain the transfer of the lot from the transferor corporation; and
 - (d) the separate area that the lot comprises corresponds with the separate area the transferee had a right to occupy immediately before surrendering the transferee's shares; and
 - (e) the separate area that the lot comprises has been used for residential purposes immediately before the transferee surrendered the transferee's shares and will, after registration of the plan and the transfer of the lot to the transferee, be used for residential purposes.
- (2) Subsection (1) applies to the transfer or agreement for the transfer of a lot by a transferor corporation on or after the commencement day only if—
 - (a) before the commencement day—
 - (i) shares were issued by the transferor corporation; and

[s 11]

- (ii) the corporation's constitution provided, and on and from the commencement day continues to provide, that a person who holds the shares has the right to occupy the separate area mentioned in subsection (1)(d); or
- (b) before the commencement day, the transferee entered into an agreement with the transferor corporation under which—
 - (i) the transferee is entitled to purchase the shares mentioned in subsection (1)(c) from the transferor corporation; and
 - (ii) because of the purchase of the shares, the transferee has the right to occupy the separate area mentioned in subsection (1)(d).
- (3) In this section—
commencement day means the day this section commences.

11 Amendment of s 173 (Value of land-holdings and property—business property disregarded)

(1) Section 173(3)(c)—

omit, insert—

- (c) the transferor or person directing the transfer is—
 - (i) if the business property is used to carry on a business of primary production—a defined relative of the transferee; or
 - (ii) otherwise—an ancestor of the transferee;

(2) Section 173(3)(e), after 'by the'—

insert—

defined relative or

(3) Section 173(4)(a)—

omit, insert—

- (a) the beneficiary of the trust is a minor, and—
 - (i) if the business property is used to carry on a business of primary production—the minor is a defined relative of the person creating the trust; or
 - (ii) otherwise—the minor is a descendant of the person creating the trust; and

12 Insertion of new ch 17, pt 19

Chapter 17—

insert—

Part 19 Transitional provisions for Revenue Legislation Amendment Act 2014

653 Application of amended ch 2, pt 10 and related provisions

(1) The relevant provisions, as in force on the commencement, apply to dutiable transactions only if liability for transfer duty arises on or after the commencement.

(2) In this section—

commencement means the day this section commences.

relevant provisions means the following provisions—

- chapter 2, part 10

[s 13]

- sections 123 and 173
- schedule 6, definitions *defined relative*, *family partnership*, *family trust* and *family unit trust*

654 Application of existing s 123 concession

- (1) This section applies to a dutiable transaction to which section 123 applies if, before the day this section commences, a concession for transfer duty has been provided under chapter 2, part 10 for the dutiable property the subject of the distribution.
- (2) Section 123, as in force immediately before the day this section commences, continues to apply in relation to the dutiable transaction.

13 Amendment of sch 6 (Dictionary)

- (1) Schedule 6—

insert—

defined relative, of a person, means each of the following—

- (a) the person's spouse;
- (b) a parent of the person or the person's spouse;
- (c) a grandparent of the person or the person's spouse;
- (d) a brother, sister, nephew or niece of the person or the person's spouse;
- (e) a child or grandchild of the person or the person's spouse;
- (f) an aunt or uncle of the person or the person's spouse;

(c) the spouse of anyone mentioned in paragraphs (b) to (f).

(2) Schedule 6, definition *family partnership*—
omit, insert—

family partnership, for a person, means a partnership of which—

- (a) if the partnership carries on a business of primary production—the total partnership interests of the partners who are defined relatives of the person is at least 50%; or
- (b) otherwise—the total partnership interests of the partners who are members of the person's family is at least 50%.

(3) Schedule 6, definition *family trust*—
omit, insert—

family trust, for a person, means a trust—

- (a) the trustee of which started to hold the property on trust at the direction of—
 - (i) if the trust property is used to carry on a business of primary production—a defined relative of the person; or
 - (ii) otherwise—an ancestor of the person; and
- (b) the beneficiaries of which—
 - (i) for a trust mentioned in paragraph (a)(i)—are defined relatives of the person; or
 - (ii) otherwise—are members of the person's family.

(4) Schedule 6, definition *family unit trust*—
omit, insert—

[s 14]

family unit trust, for a person, means a unit trust—

- (a) that is a private unit trust; and
- (b) for which at least 50% of the trust interests in the trust are held by the person, or—
 - (i) if the trust property is used to carry on a business of primary production—defined relatives of the person; or
 - (ii) otherwise—members of the person's family.

Part 3 Amendment of Land Tax Act 2010

14 Act amended

This part amends the *Land Tax Act 2010*.

15 Insertion of new ss 42A and 42B

After section 42—

insert—

42A Exemption for old home after transitioning to current home

- (1) This section applies in relation to the imposition of land tax on taxable land for a financial year (the *current financial year*) if—
 - (a) a person is the owner of land (the *current home*)—
 - (i) that, on the liability date for the current financial year, is exempt or partially

-
- exempt land under section 41 or 42;
and
- (ii) of which, on the liability date for the financial year (the *previous financial year*) occurring immediately before the current financial year, the person was not the owner; and
- (b) the person is also the owner of land (the *old home*)—
- (i) of which the person has continuously been the owner since the liability date for the previous financial year; and
 - (ii) that, on the liability date for the previous financial year, was exempt or partially exempt land for the person as owner of the land under section 41 or 42; and
 - (iii) of which, on the liability date for the financial year immediately following the current financial year, the person is no longer the owner.
- (2) Subject to subsection (3), the person's old home is exempt land for the current financial year, to the extent that the old home was exempt or partially exempt land under section 41 or 42 on the liability date for the previous financial year.
- (3) The old home is not exempt under subsection (2) if the person receives rents or profits from—
- (a) the current home before it is used as the home of the person, other than to the extent provided for under subsection (4); or
 - (b) the old home after it is used as the home of the person.
- (4) For subsection (3)(a), the person may receive rents or profits from the current home if—

[s 15]

- (a) the current home was acquired by the person subject to a lease under which a person (the *lessee*) had a right to occupy the land; and
 - (b) the lessee gave vacant possession of the current home to the person on the earlier of—
 - (i) the end of the term of the lease; or
 - (ii) within 6 months after the day the person acquired the current home.
- (5) In this section—
- liability date*, for a financial year, means the time when liability for land tax for the financial year arises under section 7.

42B Exemption for new home before transitioning from current home

- (1) This section applies in relation to the imposition of land tax on taxable land for a financial year (the *current financial year*) if—
 - (a) a person is the owner of land (the *current home*)—
 - (i) that, on the liability date for the current financial year, is exempt or partially exempt land under section 41 or 42, other than because the land is taken to be used as a home under section 38; and
 - (ii) of which, on the liability date for the financial year (the *next financial year*) occurring immediately after the current financial year, the person is no longer the owner; and
 - (b) the person is also the owner of land (the *new home*)—

- (i) of which, on the liability date for the financial year occurring immediately before the current financial year, the person was not the owner; and
 - (ii) that, on the liability date for the next financial year, is exempt or partially exempt land under section 41 or 42 for the person; and
 - (iii) of which, on the liability date for the next financial year, the person is still the owner.
- (2) Subject to subsection (3), the person's new home is exempt land for the current financial year, to the extent that the person's current home is exempt or partially exempt land under section 41 or 42 on the liability date for the current financial year.
- (3) The new home is not exempt under subsection (2) if the person receives rents or profits from—
 - (a) the current home after it is used as the home of the person; or
 - (b) the new home before it is used as the home of the person, other than to the extent provided for under subsection (4).
- (4) For subsection (3)(b), the person may receive rents or profits from the new home if—
 - (a) the new home was acquired by the person subject to a lease under which a person (the *lessee*) has a right to occupy the land; and
 - (b) the lessee gives vacant possession of the new home to the person on the earlier of—
 - (i) the end of the term of the lease; or
 - (ii) within 6 months after the day the person acquired the new home.

[s 16]

(5) In this section—

liability date, for a financial year, means the time when liability for land tax for the financial year arises under section 7.

16 Insertion of new s 44A

After section 44—

insert—

44A Reassessment—transitioning to or from current home

- (1) This section applies if a person's liability for land tax is assessed on the basis that the person is, under section 42A, the owner of an old home that is exempt land for a financial year (the *relevant year*), but—
 - (a) on the liability date mentioned in section 42A(1)(b)(iii), the person is still the owner of the old home; or
 - (b) the old home is not exempt under section 42A(2) because the person has received rents or profits in the way mentioned in section 42A(3).
- (2) This section also applies if a person's liability for land tax is assessed on the basis that the person is, under section 42B, the owner of a new home that is exempt land for a financial year (also the *relevant year*), but—
 - (a) on the liability date mentioned in section 42B(1)(a)(ii), the person is still the owner of the current home mentioned in that section; or
 - (b) on the liability date mentioned in section 42B(1)(b)(ii), the new home is not exempt or partially exempt land under section 41 or 42 for the person; or

-
- (c) on the liability date mentioned in section 42B(1)(b)(iii), the person is not the owner of the new home; or
 - (d) the new home is not exempt under section 42B(2) because the person has received rents or profits in the way mentioned in section 42B(3).
- (3) Each matter mentioned in subsection (1)(a) and (b) and (2)(a) to (d) is a *relevant matter*.
 - (4) The person must give notice to the commissioner stating the details of the relevant matter.

Note—

Under the Administration Act, the requirement under this subsection is a lodgement requirement for which a failure to comply is an offence under section 121 of that Act.

- (5) The notice mentioned in subsection (4) must be given within 28 days after the day the relevant matter happens, or the circumstances comprising the relevant matter arise.
- (6) The commissioner must make a reassessment of the person's liability for land tax for the relevant year on the basis that the land was not exempt land.

Part 4 Amendment of Mineral Resources Act 1989

Division 1 Preliminary

17 Act amended

This part amends the *Mineral Resources Act 1989*.

[s 18]

Division 2 **Amendments commencing on assent**

18 **Replacement of s 326 (Maintenance of records)**

Section 326—

omit, insert—

326 Requirement to keep proper records

- (1) A person who is the holder of a mining claim or mining lease or who otherwise mines mineral from land must keep the records necessary to enable the royalty payable by the person to be ascertained.

Maximum penalty—100 penalty units.

- (2) For subsection (1), the Minister may, by written notice given to a person, require the person to keep a particular record stated in the notice.
- (3) The person must not fail, without reasonable excuse, to comply with the notice.

Maximum penalty—100 penalty units.

326A Accessibility of records

A person who is required under this part to keep a record must keep the record in a way that it is able to be readily produced to the Minister if required by the Minister.

Maximum penalty—100 penalty units.

326B Form of records

A person who is required under this part to keep a record must keep the record—

- (a) in the form of a document written in English with information about amounts expressed in Australian currency; or
- (b) in a form that can be readily converted or translated into the form mentioned in paragraph (a).

Maximum penalty—100 penalty units.

326C Period for keeping records

A person who is required under this part to keep a record must keep it until the later of the following—

- (a) 5 years has elapsed after it was made or obtained;
- (b) 5 years has elapsed after the completion of the transaction or matter to which it relates.

Maximum penalty—100 penalty units.

326D Wilfully damaging records

- (1) A person must not wilfully damage a record that is required to be kept under this part.

Maximum penalty—100 penalty units.

Note—

This provision is an executive liability provision—see section 412A.

- (2) In this section—

damage includes destroy.

326E Minister may require translation or conversion of document or information

- (1) The Minister may, by written notice given to a person, require the person to translate or convert into a written document in the English language

[s 19]

and Australian currency any document or information the Minister reasonably believes is relevant to the administration or enforcement of a royalty provision.

- (2) The notice must state the reasonable time for compliance with the requirement.
- (3) The person must not fail, without reasonable excuse, to comply with the requirement.

Maximum penalty—100 penalty units.

- (4) If the person does not comply with the requirement, the Minister may have the document or information translated or converted.
- (5) The costs and expenses incurred under subsection (4) are a debt payable to the State by the person and may be recovered by the State in a court of competent jurisdiction.
- (6) In this section—

royalty provision means a provision of this Act administered by the Minister responsible for administering the *Taxation Administration Act 2001*.

19 **Amendment of s 412A (Liability of executive officer—particular offences committed by company)**

Section 412A(5), definition *executive liability provision*—
insert—

- section 326D(1)

20 **Insertion of new ch 15, pt 9**

Chapter 15—

insert—

Part 9 **Transitional provisions for Revenue Legislation Amendment Act 2014**

820 Definition for pt 9

In this part—

commencement means the commencement of the provision in which the term is used.

821 Application of particular provisions for previous section 326 records

- (1) This section applies to a person in relation to a record required to be kept by the person under section 326 as in force immediately before the commencement (*previous section 326*).
- (2) On and from the commencement—
 - (a) previous section 326(2) continues to apply to the person in relation to the record; and
 - (b) if the person is no longer the holder of a mining claim or mining lease or a person who otherwise mines mineral from land, sections 326A, 326B and 326D also apply to the person in relation to the record.

Division 3 **Amendments commencing on 1 July 2014**

21 Omission of s 322 (Minister may request audit)

Section 322—

omit.

[s 22]

22 Amendment of s 326E (Minister may require translation or conversion of document or information)

Section 326E(6)—

omit.

23 Omission of s 327 (Minister may require information)

Section 327—

omit.

24 Omission of ss 328–330

Sections 328 to 330—

omit.

25 Replacement of ch 11, pt 3, hdg (Reassessment and enforcement)

Chapter 11, part 3, heading—

omit, insert—

Part 3 Royalty administration

26 Insertion of new ch 11, pt 3, div 1 hdg

Chapter 11, part 3, before section 331—

insert—

Division 1 Preliminary

27 Replacement of s 331 (Reassessment of royalty)

Section 331—

omit, insert—

331 Definitions for pt 3

In this part—

assessment means a determination made under this part of a royalty-related amount payable by a person for a period, for which an assessment notice is given, and includes a reassessment.

assessment notice see section 331D(1).

default assessment see section 331A(2).

original assessment, for a royalty-related amount payable by a person for a period, means the first assessment by the Minister of the royalty-related amount payable by the person for the period.

reassessment means a determination made under this part of a variation of the royalty-related amount payable by a person for a period, for which an assessment notice is given.

royalty penalty amount see section 331E(1).

royalty-related amount means any of the following amounts—

- (a) an amount of royalty;
- (b) an amount of a civil penalty;
- (c) an amount of unpaid royalty interest;
- (d) a royalty penalty amount;
- (e) if a prescribed fee must accompany a royalty return under a regulation—the amount of the prescribed fee.

Division 2 Royalty assessments and reassessments

[s 27]

331A Assessment of royalty

- (1) The Minister must make an assessment of a royalty-related amount payable by a person for each royalty return lodged by the person under this chapter, even if the royalty-related amount payable by the person is nil.
- (2) Also, the Minister may, at any time, make an assessment of the royalty-related amount payable by a person for a period (a *default assessment*), if the Minister is reasonably satisfied—
 - (a) a royalty-related amount is payable by the person for the period; but
 - (b) the person has not lodged a return for the period under this chapter.

331B Reassessment of royalty

- (1) The Minister may make a reassessment of a royalty-related amount payable by a person for a period if the Minister is reasonably satisfied the original assessment or an earlier reassessment made for the period was not or is no longer correct.
- (2) The Minister must make a reassessment of a royalty-related amount payable by a person for a period if a provision of this or another Act applies to require the reassessment.
- (3) A reassessment increasing a royalty-related amount payable by a person for a period may be made at any time.
- (4) A reassessment decreasing a royalty-related amount payable by a person for a period must be made within 5 years after the day the original assessment for the period was made (the *reassessment period*).

- (5) However, a reassessment decreasing a royalty-related amount payable by a person for a period may be made after the reassessment period if—
 - (a) within the reassessment period, the person asks the Minister to reassess a royalty-related amount payable by the person for the period and the Minister agrees to make the reassessment; or
 - (b) the reassessment is required under a provision of this or another Act.
- (6) A reassessment does not replace the previous assessment of a royalty-related amount payable by a person for a period, but merely varies it by—
 - (a) decreasing or increasing the royalty-related amount payable by the person; or
 - (b) changing the basis on which the royalty-related amount payable by the person is assessed.

331C Making assessments and default assessments in particular circumstances

- (1) The Minister may make an assessment of a royalty-related amount payable by a person for a period on the available information the Minister considers relevant.
- (2) Subsection (3) applies if—
 - (a) the Minister makes a default assessment of a royalty-related amount payable by a person for a period; or
 - (b) the information given by a person in a return or another document relating to the return is insufficient to enable the Minister to determine a royalty-related amount payable by the person for a period; or

[s 27]

- (c) a person fails to give the Minister information or a document required to enable the Minister to determine a royalty-related amount payable by the person for a period.
- (3) The Minister may make an assessment of the amount the Minister reasonably believes to be the royalty-related amount payable by the person for the period.
- (4) If an assessment of a royalty-related amount payable by a person is made under subsection (3) because the person failed to give a document mentioned in subsection (2)(c), the Minister may make an assessment as if the document were in existence and in the Minister's possession.

331D Notice of assessment or reassessment

- (1) The Minister must give notice of an assessment or reassessment of a royalty-related amount payable by a person for a period (an *assessment notice*) to the person.
- (2) If the royalty-related amount already paid by the person for the period is more than the amount assessed or reassessed as payable for the period, the assessment notice must include the difference between those amounts.
- (3) Subsection (4) applies if the royalty-related amount already paid by the person for the period is less than the amount assessed or reassessed as payable for the period.
- (4) The assessment notice must include—
 - (a) the amount of the difference between the royalty-related amount paid and the royalty-related amount payable for the period (the *liability difference*); and

-
- (b) the day by which the liability difference must be paid (the *due date*); and
 - (c) a statement that, under section 332, unpaid royalty interest is payable on the amount of the liability difference, to the extent it is comprised of royalty unpaid from time to time, for the period—
 - (i) starting on, and including, the day after the lodgement day; and
 - (ii) ending on, and including, the day the liability difference is paid in full; and
 - (d) the rate at which the interest is payable; and
 - (e) the royalty penalty amount for which the person is liable under section 331E.
- (5) The due date must be at least the following number of days after the day the Minister gives the notice to the person—
- (a) for an assessment other than a reassessment or default assessment—7 days;
 - (b) for a reassessment or default assessment—28 days.
- (6) In this section—
- lodgement day*, for a period, means the day a royalty return must be lodged by a person for the period (disregarding any extended time for lodging the return provided for by regulation).

Division 3 Unpaid royalty interest and royalty penalties

331E Liability for royalty penalty amount

- (1) A person is liable to the State for an amount (*royalty penalty amount*) if—

[s 27]

- (a) the Minister makes a default assessment under section 331A(2); or
 - (b) the Minister makes a reassessment and the original assessment was a default assessment under section 331A(2); or
 - (c) the royalty payable by the person for a period on a reassessment under section 331B is more than the royalty assessed as payable by the person on the original assessment, or an earlier reassessment, for the period.
- (2) The royalty penalty amount must be assessed as follows—
- (a) if subsection (1)(a) applies—an amount equal to 75% of the royalty payable;
 - (b) if subsection (1)(b) applies—an amount equal to 75% of the royalty payable under the reassessment;
 - (c) if subsection (1)(c) applies and the royalty payable on the reassessment is more than the royalty assessed on the original assessment—an amount equal to 75% of the difference between the 2 amounts;
 - (d) if subsection (1)(c) applies and the royalty payable on the reassessment is less than the royalty assessed on the original assessment but more than the royalty assessed on an earlier reassessment—an amount equal to 75% of the difference between the royalty payable on the last reassessment and the lowest royalty assessed on an earlier reassessment.
- (3) The Minister may increase the royalty penalty amount by not more than 20% of the royalty penalty amount assessed under subsection (2) if the Minister is reasonably satisfied the person has

hindered or prevented the Minister from becoming aware of the nature and extent of the person's liability to pay royalty.

331F Royalty penalty amount not payable if proceeding for offence started

- (1) This section applies if a person is liable to pay all or part of a royalty penalty amount because of a particular act or omission of the person.
- (2) If a proceeding is started against the person for an offence under this Act that is constituted by the particular act or omission and the royalty penalty amount has not been paid, the royalty penalty amount is payable only if the Minister withdraws the proceeding.
- (3) If a proceeding is started against the person for an offence under this Act that is constituted by the particular act or omission and the royalty penalty amount has been paid, the Minister must make a reassessment remitting the royalty penalty amount to nil.
- (4) However, if the proceeding against the person is withdrawn, the Minister must make a reassessment to reinstate the royalty penalty amount remitted under subsection (3).

331G Remission of royalty penalty amount

The Minister may remit the whole or part of a royalty penalty amount.

28 Amendment of s 332 (Unpaid royalty interest)

Section 332—

insert—

[s 29]

- (7) If a regulation made under subsection (3) provides for unpaid royalty interest to be worked out if royalty is payable by instalments, and the Minister decides to remit to a person the whole or part of the interest under subsection (6) payable for an instalment, the Minister must give the person a notice stating the amount to be remitted.
- (8) However, subsection (7) only applies if the amount of unpaid royalty interest is to be remitted before an assessment notice is given for the remittance.

29 Insertion of new ch 11, pt 3, div 4

Chapter 11, part 3, after section 332—

insert—

Division 4 Refunds and payments

332AA Refunds

- (1) This section applies—
 - (a) if, on an assessment of a royalty-related amount payable by a person for a period made under section 331A, the royalty-related amount paid for the period is more than the royalty-related amount payable by the person for the period under the assessment (the difference being an *excess amount*); or
 - (b) if, on a reassessment of a royalty-related amount payable by a person for a period made under section 331B, the royalty-related amount paid for the period is more than the royalty-related amount payable by the person for the period under the reassessment (the difference also being an *excess amount*); or

- (c) if—
 - (i) the royalty-related amount paid by a person for a period is otherwise more than the royalty-related amount payable by the person under this chapter (the difference also being an *excess amount*); and
 - (ii) the Minister has given the person a notice stating the excess amount.
- (2) The Minister must refund an excess amount mentioned in subsection (1) by—
 - (a) repaying the excess amount to the person; or
 - (b) crediting the excess amount against an amount the Minister is reasonably satisfied is, or will be, payable by the person for a royalty-related amount.
- (3) No interest is payable on the excess amount refunded.

30 Amendment of s 332A (Application of payments)

- (1) Section 332A, ‘liability relating to royalty’—
omit, insert—
royalty-related amount
- (2) Section 332A(a)—
omit, insert—
 - (a) first, a royalty-related amount, other than unpaid royalty interest or royalty;

31 Amendment of s 333 (Recovery of unpaid amounts)

- (1) Section 333(1)—
omit, insert—

[s 32]

- (1) This section applies if a person does not pay the whole or part of a royalty-related amount payable by the person under this Act.
- (2) Section 333(3), after ‘civil penalty’—
insert—
or royalty penalty amount
- (3) Section 333(4)
omit, insert—
 - (4) In this section—
relevant entity means—
 - (a) for royalty payable to a person other than the State—that person; or
 - (b) otherwise—the State.

32 Insertion of new s 333A, ch 11, pt 3, divs 5–7 and pt 3A

After section 333—

insert—

333A Earlier time for payment of royalty-related amount

- (1) This section applies despite any other provision of this Act relating to when a royalty-related amount is payable by a person for a period.
- (2) The Minister may, in an assessment notice or notice given under this section, state an earlier date than the date a royalty-related amount would otherwise be payable under this Act (the ***ordinary due date***), if the Minister reasonably believes the amount may not be recoverable if the ordinary due date were to apply.

- (3) The date stated in the notice mentioned in subsection (2) must not be a date before the notice is given.

Division 5 Offences

333B Failure to comply with information requirement or lodgement requirement

- (1) A person must not fail, without reasonable excuse, to comply with an information requirement or a lodgement requirement.

Maximum penalty—100 penalty units.

Note—

This provision is an executive liability provision—see section 412A.

- (2) In this section—

information requirement means a requirement under a royalty provision to give information to the Minister or a royalty investigator.

lodgement requirement means a requirement under a royalty provision to—

- (a) lodge a document; or
(b) give a document to the Minister or a royalty investigator.

333C False or misleading documents

- (1) A person must not give to the Minister or a royalty investigator a document containing information that the person knows, or should reasonably know, is false or misleading in a material particular.

Maximum penalty—100 penalty units.

[s 32]

Note—

This provision is an executive liability provision—see section 412A.

- (2) Subsection (1) does not apply to a person who, when giving the document—
 - (a) tells the Minister or royalty investigator of the extent to which the document is false or misleading; and
 - (b) to the extent the person has, or can reasonably get, the correct information—gives the correct information to the Minister or royalty investigator.
- (3) It is enough for a complaint against a person for an offence against subsection (1) to state the document was, without specifying which, ‘false or misleading’.

333D False or misleading information

- (1) A person must not state anything to the Minister or a royalty investigator that the person knows is false or misleading in a material particular.

Maximum penalty—100 penalty units.

Note—

This provision is an executive liability provision—see section 412A.

- (2) It is enough for a complaint for an offence against subsection (1), to state the statement made was ‘false or misleading’ to the person’s knowledge, without specifying which.

**333E Self-incrimination not a reasonable excuse
for failure to comply with particular
requirements**

- (1) This section applies if, under a royalty provision, a person is required by written notice given to the person to—
 - (a) give information or a document to the Minister or a royalty investigator; or
 - (b) lodge a document.
- (2) It is not a reasonable excuse for the person to fail to comply with the requirement because complying with the requirement might tend to incriminate the person.
- (3) However, evidence of, or evidence directly or indirectly derived from, information or a document given or lodged in compliance with the requirement, by the person that might tend to incriminate the person is not admissible in evidence against the person in a criminal proceeding, other than a proceeding in which the falsity or misleading nature of the information or document is relevant.

**333F Obligation to notify Minister if royalty under
assessed**

- (1) A person must advise the Minister if the person becomes aware that—
 - (a) an assessment or reassessment of a royalty-related amount payable by the person for a period was not, or is no longer, correct; and
 - (b) the correct royalty-related amount is more than the amount stated in the assessment notice for the assessment or reassessment for the period.

[s 32]

- (2) The person must comply with subsection (1) within 30 days after becoming aware of the matters mentioned in the subsection.

Maximum penalty—100 penalty units.

333G Obstruction of Minister or royalty investigator

A person must not, without reasonable excuse, obstruct—

- (a) the Minister or a royalty investigator exercising a power under a royalty provision; or
- (b) a person helping the Minister or an investigator exercising a power under a royalty provision.

Maximum penalty—100 penalty units.

333H Impersonation of royalty investigator

A person must not pretend to be a royalty investigator.

Maximum penalty—40 penalty units.

Division 6 Obligations of administrators and garnishees

333I Definitions for div 6

In this division—

administrator, for a person's property, means another person who is—

- (a) a receiver or receiver and manager of all or part of the person's property; or

- (b) for a corporation's property—a liquidator;
or
- (c) for an individual's property—
 - (i) the individual's trustee in bankruptcy;
or
 - (ii) the individual's personal representative.

garnishee see section 333L(1)(b).

garnishee amount see section 333L(3).

garnishee notice see section 333L(3).

liable person see section 333L(1)(a).

333J Particular administrators to notify Minister of appointment

- (1) A person who is appointed as administrator for the property of a person by whom a royalty-related amount is payable must, before the required date, give written notice to the Minister of the appointment.
Maximum penalty—40 penalty units.
- (2) For subsection (1), the *required date* is—
 - (a) the date 14 days after the administrator becomes aware, or should reasonably have become aware, the royalty-related amount is payable by the person even if the extent of the liability is not then ascertainable; or
 - (b) the later date allowed by the Minister.
- (3) However, notice is not required in the circumstances prescribed under a regulation.

[s 32]

333K Administrator's liability for payment

- (1) The Minister has the same powers and remedies in relation to the administrator for the property of a person by whom a royalty-related amount is payable as the Minister would have in relation to the person.
- (2) However, an administrator is liable for payment of a royalty-related amount payable by a person only to the extent of the realised value of all property that—
 - (a) the administrator has taken possession of as administrator; and
 - (b) was, at any time, available to the administrator for the payment of the royalty-related amount.

333L Collection of amounts from a garnishee

- (1) This section applies if—
 - (a) under a royalty provision, a debt is payable by a person (the *liable person*); and
 - (b) the Minister reasonably believes a person (the *garnishee*)—
 - (i) holds or may receive an amount for or on account of the liable person; or
 - (ii) is liable or may become liable to pay an amount to the liable person; or
 - (iii) has authority to pay an amount to the liable person.
- (2) Subsection (1)(b) applies even though the liable person's entitlement to the amount may be subject to unfulfilled conditions.
- (3) The Minister may, by written notice given to the garnishee (the *garnishee notice*), require the

garnishee to pay to the Minister by a stated date a stated amount (the *garnishee amount*).

- (4) Without limiting subsection (3), the garnishee notice may require the garnishee to pay to the Minister an amount out of each payment the garnishee is or becomes liable, from time to time, to make to the liable person.
- (5) However, if, on the date for payment under the garnishee notice, the garnishee amount is not held for, or is not liable to be paid to, the liable person by the garnishee, the notice has effect as if the date for payment were immediately after the date the amount is held for, or is liable to be paid to, the liable person by the garnishee.
- (6) The garnishee amount must not be more than the debt.
- (7) The garnishee must comply with the garnishee notice unless the garnishee has a reasonable excuse.
Maximum penalty—40 penalty units.
- (8) The Minister must give to the liable person—
 - (a) a copy of the garnishee notice; and
 - (b) details in writing of the liable person's debt to which the notice relates.

333M Duration of garnishee notice

The garnishee notice has effect until the garnishee amount is paid or the Minister, by written notice given to the garnishee, withdraws the notice.

333N Effect of discharge of debt on garnishee notice

- (1) This section applies if—

[s 32]

- (a) the liable person's debt to which the garnishee notice relates is discharged, whether completely or partly, before the date for payment of the garnishee amount; and
 - (b) the discharge affects the amount to be recovered from the garnishee.
- (2) The Minister must give written notice to the garnishee and the liable person—
- (a) informing them of the extent of the discharge of the debt; and
 - (b) stating the amount payable under the garnishee notice is reduced accordingly; and
 - (c) if the liable person's debt is fully discharged—withdrawing the garnishee notice.

3330 Effect of payment by garnishee

If the garnishee pays an amount to the Minister under a garnishee notice, the garnishee—

- (a) is taken to have acted under the authority of the liable person and all other persons concerned; and
- (b) if the garnishee is under an obligation to pay an amount to the liable person—is to be taken to have satisfied the obligation to the extent of the payment.

Division 7 Use of approved information system for particular decisions

333P Approved information system

The Minister may approve an information system for a royalty provision.

333Q Minister may arrange for use of an approved information system to make particular decisions

- (1) The Minister may arrange for the use of an approved information system for any purposes for which the Minister may make a relevant decision under a royalty provision.
- (2) A relevant decision made by the operation of an approved information system under an arrangement made under subsection (1) is taken to be a decision made by the Minister.
- (3) In this section—

relevant decision means a decision that does not involve the exercise of the Minister's discretion.

Part 3A Investigations relating to royalty provisions

Division 1 Preliminary

333R Powers to be exercised only for administering and enforcing royalty provisions

A power conferred on the Minister or a royalty investigator under this part may be exercised only for

[s 32]

the administration or enforcement of a provision of this Act administered by the Minister responsible for administering the *Taxation Administration Act 2001* (a **royalty provision**).

Note—

On the commencement of this section, the Minister responsible for administering the *Taxation Administration Act 2001* was responsible for administering this Act to the extent that it was relevant to royalties.

Division 2 Royalty investigators

333S Appointment

The Minister may appoint an appropriately qualified public service employee as a royalty investigator.

333T Appointment conditions and limit on powers

- (1) A royalty investigator holds office on any conditions stated in—
 - (a) the royalty investigator's instrument of appointment; or
 - (b) a signed notice given to the royalty investigator; or
 - (c) a regulation.
- (2) The instrument of appointment, a signed notice given to the royalty investigator or a regulation may limit the royalty investigator's powers under this part.
- (3) In this section—

signed notice means a notice signed by the Minister.

333U Issue of identity card

- (1) The Minister must issue an identity card to each royalty investigator.
- (2) The identity card must—
 - (a) contain a recent photo of the royalty investigator; and
 - (b) contain a copy of the royalty investigator's signature; and
 - (c) identify the person as a royalty investigator under this Act; and
 - (d) state an expiry date for the card.
- (3) This section does not prevent the issue of a single identity card to a person for this Act and other purposes.

333V Production of identity card

- (1) In exercising a power mentioned in the *Taxation Administration Act 2001*, part 7, division 2, subdivision 3 or 4 as applied under division 3 of this Act in relation to a person, a royalty investigator must—
 - (a) first produce his or her identity card for the person's inspection before exercising the power; or
 - (b) have the identity card displayed so it is clearly visible to the person when exercising the power.
- (2) However, if it is not practicable to comply with subsection (1), the royalty investigator must produce the identity card for the person's inspection at the first reasonable opportunity.
- (3) For subsection (1), a royalty investigator does not exercise a power in relation to a person only because the investigator has entered a place as

[s 32]

mentioned in the *Taxation Administration Act 2001*, section 90(1)(b) or (2), as applied under division 3 of this Act.

333W When royalty investigator ceases to hold office

- (1) A royalty investigator ceases to hold office if any of the following happens—
 - (a) the term of office stated in a condition of office ends;
 - (b) under another condition of the office, the royalty investigator ceases to hold office;
 - (c) the royalty investigator's resignation under section 333X takes effect.
- (2) Subsection (1) does not limit the ways a royalty investigator may cease to hold office.
- (3) In this section—

condition of office means a condition on which a royalty investigator holds office under section 333T.

333X Resignation

- (1) A royalty investigator may resign by signed notice given to the Minister.
- (2) However, if holding office as a royalty investigator is a condition of the investigator holding another office, the investigator may not resign as a royalty investigator without resigning from the other office.

333Y Return of identity card

A person who ceases to be a royalty investigator must return the person's identity card to the Minister within

21 days after ceasing to be a royalty investigator unless the person has a reasonable excuse.

Maximum penalty—40 penalty units.

Division 3 Powers of royalty investigators

333Z Application of *Taxation Administration Act 2001*, pt 7

- (1) The Minister and a royalty investigator have and may exercise—
 - (a) the same powers as those conferred on the commissioner or an investigator under the *Taxation Administration Act 2001*, part 7, division 2, subdivisions 2 to 6 (the ***taxation investigation provisions***); and
 - (b) another power conferred on a royalty investigator under this part.
- (2) The taxation investigation provisions apply, with all necessary changes, including those mentioned in subsection (3), and with the modifications made under subsection (4)—
 - (a) to and in relation to the exercise of the powers under the taxation investigation provisions by the Minister or a royalty investigator; and
 - (b) to and in relation to a person in relation to whom the powers are exercised.

Note—

Under the *Acts Interpretation Act 1954*, section 7, a reference to a provision of a law includes a reference to the statutory instruments made or in force under the provision.

[s 32]

- (3) For subsection (2), necessary changes to the taxation investigation provisions include the following, subject to the modifications made under subsection (4)—
 - (a) a reference to a tax law were a reference to a royalty provision;
 - (b) a reference to an investigator were a reference to a royalty investigator;
 - (c) a reference to an identity card were a reference to an identity card issued under division 2;
 - (d) a reference to the commissioner were a reference to the Minister, other than the reference in the *Taxation Administration Act 2001*, section 106;
 - (e) a reference in the *Taxation Administration Act 2001*, section 88(7) to a taxpayer were a reference to a person required to pay royalty under section 320;
 - (f) the reference in the *Taxation Administration Act 2001*, section 106 to the commissioner were a reference to the State.
- (4) For subsection (2), the taxation investigation provisions are modified in the following ways—
 - (a) the *Taxation Administration Act 2001*, part 7, division 2, subdivision 5 applies subject to section 333ZA; and
 - (b) the *Taxation Administration Act 2001*, section 99(2) does not apply.
- (5) To remove any doubt, it is declared that an offence against a TAA offence provision as applied by subsection (2) committed by a person is an offence committed by the person under this Act.

(6) In this section—

TAA offence provision means—

- (a) the *Taxation Administration Act 2001*, section 88(6); or
- (b) the *Taxation Administration Act 2001*, section 96(2) or (4).

333ZA Forfeiture of thing seized for testing

- (1) A royalty investigator may carry out, or arrange to have carried out, scientific or other tests on a sample of a thing the royalty investigator reasonably considers is a mineral, seized under the *Taxation Administration Act 2001*, part 7, division 2, subdivision 5 as applied by section 333Z(2).
- (2) The testing may have the effect of destroying the thing.
- (3) The *Taxation Administration Act 2001*, section 99(1) does not apply in relation to a thing seized and tested under this section.

33 Omission of s 334 (Furnishing false particulars etc.)

Section 334—

omit.

34 Amendment of s 342 (Powers of authorised officers)

Section 342(11), ‘section 328’—

omit, insert—

section 333E

[s 35]

35 Amendment of s 412A (Liability of executive officer—particular offences committed by company)

Section 412A(5), definition *executive liability provision*—

insert—

- section 333B(1)
- section 333C(1)
- section 333D(1)

36 Insertion of new ss 822 and 823

Chapter 15, part 9—

insert—

822 Application of ch 11, pt 3, divs 2 and 3 for royalty payable for period occurring before 1 July 2014

- (1) Chapter 11, part 3, divisions 2 and 3, as in force on and from 1 July 2014, applies in relation to a royalty-related amount payable by a person for a period even if—
 - (a) the period started before 1 July 2014;
 - (b) a person is liable to pay a royalty penalty amount because of a particular act or omission mentioned in section 331F, and that occurred before 1 July 2014.

Example—

The Minister may make an assessment, reassessment or default assessment of a royalty-related amount payable by a person for a period under chapter 11, part 3, division 2 as in force on and from 1 July 2014, even if the period started before 1 July 2014.

- (2) For applying subsection (1) in relation to royalty payable for a period occurring before 1 July 2014, a reference in chapter 11, part 3 to an assessment, original assessment or a

reassessment includes a reference to an assessment or reassessment made by the Minister under the Act as in force before 1 July 2014.

- (3) Subsection (4) applies if—
- (a) the royalty paid by a person for a period that ended before 1 July 2014 is less than the royalty payable by the person for the period (a *royalty shortfall*); and
 - (b) before 31 December 2014, the person gives the Minister notice, in the approved form, of the royalty shortfall, including the amount of the royalty shortfall; and
 - (c) before the person gives the Minister the notice, the Minister has not already notified the person of the royalty shortfall; and
 - (d) after the commencement, the Minister makes a default assessment or reassessment of the royalty payable by the person for the period.
- (4) The person is not, under section 331E, liable for a royalty penalty amount in relation to the royalty shortfall under the default assessment or reassessment.

823 Application of s 333J to particular administrators

Section 333J applies to an administrator appointed before the commencement as if the required date for section 333J(1) were the later of the following—

- (a) the date 14 days after the commencement;
or
- (b) the required date for section 333J(1).

[s 37]

37 Amendment of sch 2 (Dictionary)

Schedule 2—

insert—

administrator, for chapter 11, part 3, division 6, see section 333L.

assessment, for chapter 11, part 3, see section 331.

assessment notice, for chapter 11, part 3, see section 331D(1).

civil penalty means a civil penalty provided for under a regulation made under section 321A.

default assessment, for chapter 11, part 3, see section 331A(2).

garnishee, for chapter 11, part 3, division 6, see section 333L(1)(b).

garnishee amount, for chapter 11, part 3, division 6, see section 333L(3).

garnishee notice, for chapter 11, part 3, division 6, see section 333L(3).

liable person, for chapter 11, part 3, division 6, see section 333L(1)(a).

original assessment, for chapter 11, part 3, see section 331.

reassessment, for chapter 11, part 3, see section 331.

royalty investigator means a person appointed as a royalty investigator under section 333S.

royalty provision see section 333R.

royalty penalty amount see section 331E(1).

royalty-related amount see section 331.

Part 5 Amendment of Payroll Tax Act 1971

38 Act amended

This part amends the *Payroll Tax Act 1971*.

39 Amendment of s 14 (Exemption from payroll tax)

(1) Section 14(2)—

insert—

(da) by the following entities—

- (i) a department, except to the extent those wages are paid or payable by a commercialised business unit; or
- (ii) a Hospital and Health Service established for Queensland under the *Hospital and Health Boards Act 2011*, section 17; or

(2) Section 14(9)—

insert—

commercialised business unit means a division, branch or other part of a department carrying on a significant business activity under the *Queensland Competition Authority Act 1997*, section 39.

department means a department under the *Financial Accountability Act 2009*, section 8.

[s 40]

Part 6 **Amendment of Petroleum and Gas (Production and Safety) Act 2004**

Division 1 **Preliminary**

40 **Act amended**

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

Division 2 **Provisions commencing on assent**

41 **Insertion of new ch 6, pt 3A**

Chapter 6—

insert—

Part 3A **Records**

604B Requirement to keep proper records

- (1) A petroleum producer to whom section 590 applies must keep the records necessary to enable the petroleum royalty payable by the person to be ascertained.

Maximum penalty—100 penalty units.

- (2) For subsection (1), the Minister may, by written notice given to a petroleum producer, require the producer to keep a particular record stated in the notice.

- (3) The producer must not fail, without reasonable excuse, to comply with the notice.

Maximum penalty—100 penalty units.

604C Accessibility of records

A petroleum producer who is required under this part to keep a record must keep the record in a way that it is able to be readily produced to the Minister if required by the Minister.

Maximum penalty—100 penalty units.

604D Form of records

A petroleum producer who is required under this part to keep a record must keep the record—

- (a) in the form of a document written in English with information about amounts expressed in Australian currency; or
- (b) in a form that can be readily converted or translated into the form mentioned in paragraph (a).

Maximum penalty—100 penalty units.

604E Period for keeping records

A petroleum producer who is required under this part to keep a record must keep it until the later of the following—

- (a) 5 years has elapsed after it was made or obtained;
- (b) 5 years has elapsed after the completion of the transaction or matter to which it relates.

Maximum penalty—100 penalty units.

604F Wilfully damaging records

- (1) A person must not wilfully damage a record that is required to be kept under this part.

Maximum penalty—100 penalty units.

[s 41]

Note—

This provision is an executive liability provision—see section 814.

- (2) In this section—
damage includes destroy.

604G Minister may require translation or conversion of document or information

- (1) The Minister may, by written notice given to a person, require the person to translate or convert into a written document in the English language and Australian currency any document or information the Minister reasonably believes is relevant to the administration or enforcement of a royalty provision.

- (2) The notice must state the reasonable time for compliance with the requirement.

- (3) The person must not fail, without reasonable excuse, to comply with the requirement.

Maximum penalty—100 penalty units.

- (4) If the person does not comply with the requirement, the Minister may have the document or information translated or converted.

- (5) The costs and expenses incurred under subsection (4) are a debt payable to the State by the person and may be recovered by the State in a court of competent jurisdiction.

- (6) In this section—

royalty provision means a provision of this Act administered by the Minister responsible for administering the *Taxation Administration Act 2001*.

42 Amendment of s 814 (Liability of executive officer—particular offences committed by corporation)

Section 814(5), definition *executive liability provision*—
insert—

- section 604F(1)

Division 3 Provisions commencing on 1 July 2014

43 Amendment of s 81 (Conditions for renewal application)

Section 81(1)(d)—
omit, insert—

- (d) a royalty-related amount payable by the holder;

44 Amendment of s 103 (Applying to divide)

Section 103(3)(d)—
omit, insert—

- (d) a royalty-related amount payable by the holder;

45 Amendment of s 161 (Conditions for renewal application)

Section 161(1)(d)—
omit, insert—

- (d) a royalty-related amount payable by the holder;

46 Amendment of s 171 (Applying to divide)

Section 171(3)(d)—
omit, insert—

[s 47]

- (d) a royalty-related amount payable by the holder;

47 Amendment of s 487 (Operation and purpose of pt 1)

Section 487(2)(c)(i) and (ii)—

omit, insert—

- (i) unpaid interest on unpaid petroleum royalty or annual rent;
- (ii) unpaid civil penalty or royalty penalty amount;

48 Amendment of ch 6, pt 2, hdg (Royalty returns)

Chapter 6, part 2, heading, ‘returns’—

omit, insert—

administration

49 Insertion of new ch 6, pt 2, div 1 and ch 6, pt 2, div 2, hdg

Chapter 6, part 2, before section 593—

insert—

Division 1 Preliminary

592A Definitions for pt 2

In this part—

assessment means a determination made under this part of a royalty-related amount payable by a petroleum producer for a royalty return period or annual return period, for which an assessment notice is given, and includes a reassessment.

assessment notice see section 599E(1).

default assessment see section 599B(2).

original assessment, for a royalty-related amount payable by a petroleum producer for a period, means the first assessment by the Minister of the royalty-related amount payable by the producer for the period.

reassessment means a determination made under this part of a variation of the royalty-related amount payable by a petroleum producer for a period, for which an assessment notice is given.

royalty penalty amount see section 601(1).

royalty-related amount means any of the following amounts—

- (a) an amount of petroleum royalty;
- (b) an amount of unpaid royalty interest;
- (c) a royalty penalty amount;
- (d) an amount of a civil penalty imposed under a regulation under section 604A;
- (e) if a prescribed fee must accompany a royalty return under section 595(3)—the amount of the prescribed fee.

Division 2 Royalty returns

50 Amendment of s 593 (Application of pt 2)

- (1) Section 593, heading, ‘pt 2’—

omit, insert—

div 2

- (2) Section 593(1) and (2), ‘This part’—

omit, insert—

This division

[s 51]

51 Amendment of s 594 (Obligation to lodge royalty return)

(1) Section 594(1)—

omit.

(2) Section 594(2), ‘stored,’—

omit, insert—

stored (the *ordinary due date*), or an earlier day required by the Minister under subsections (2) and (3),

(3) Section 594(2), penalty—

omit.

(4) Section 594—

insert—

(2A) Subsection (3) applies if the Minister considers that, for the protection of the public revenue, a royalty return should be lodged on a day that is earlier than the ordinary due date.

(2B) The Minister may, by notice, require the producer to lodge the royalty return on a stated day that is at least 7 days after the day the Minister gives the producer the notice.

(5) Section 594(2) to (4)—

renumber as section (1) to (5).

52 Amendment of s 595 (Fee for late lodgement of royalty return)

Section 595(3), ‘mentioned in’—

omit, insert—

the return is required to be lodged under

53 Omission of ss 596 to 598

Sections 596 to 598—

omit.

54 Amendment of s 599 (Annual royalty returns)

(1) Section 599(2), penalty—

omit.

(2) Section 599(3)(b), ‘relates’

omit, insert—

relates (the *ordinary due date*), or an earlier day required by the Minister under subsection (4) and (5)

(3) Section 599—

insert—

(3A) Subsection (5) applies if the Minister considers that, for the protection of the public revenue, an annual royalty return should be lodged on a day that is earlier than the ordinary due date.

(3B) The Minister may, by notice, require the producer to lodge the annual royalty return on a stated day that is at least 7 days after the day the Minister gives the producer the notice.

(3C) The producer may apply, in the approved form, to the Minister to change the day on which an annual return period for the producer ends (the *return end day*)—

(a) if the producer’s current annual return period ends on 30 June—to 31 December;
or

(b) if the producer’s current annual return period ends on 31 December—to 30 June.

(3D) The application must be made on or before the end of the producer’s current annual return period

[s 55]

mentioned in subsection (6), unless the Minister approves, in writing, a later day.

- (3E) If the Minister approves the application, the producer must lodge an additional return (a ***transitional return***) for the period (the ***transitional return period***)—
- (a) starting on the day after the return end day of the producer's current annual return period mentioned in subsection (6); and
- (b) ending on the 30 June or 31 December to first happen after the day mentioned in paragraph (a).
- (3F) This Act applies to a transitional return made under subsection (8) as if the return were an annual royalty return for an annual return period.
- (3G) If the Minister approves the application and the producer complies with subsection (8), the producer's ***annual return period*** for this section is each 12 month period first starting after the producer's transitional return period ends.
- (4) Section 599(4), from 'In this section' to 'means—'—
omit, insert—
- Subject to subsections (6) to (10), a producer's ***annual return period*** is—
- (5) Section 599(3A) to (4)—
renumber as section 599(4) to (11).

55 **Amendment of s 599A (Minister may require royalty estimate)**

Section 599A(2), 'return'—

omit, insert—

document

56 Insertion of new ch 6, pt 2, divs 3 and 4

Chapter 6, part 2, after section 599A—

insert—

**Division 3 Royalty assessments and
reassessments**

599B Assessment of petroleum royalty

- (1) The Minister must make an assessment of a royalty-related amount payable by a petroleum producer for each royalty return and annual royalty return lodged by the producer under this part, even if the amount of royalty payable by the producer is nil.
- (2) Also, the Minister may, at any time, make an assessment of the royalty-related amount payable by a petroleum producer for a royalty return period or annual return period (a *default assessment*), if the Minister is reasonably satisfied—
 - (a) a royalty-related amount is payable by the producer for the period; but
 - (b) the producer has not lodged a return for the period under this part.

599C Reassessment of royalty

- (1) The Minister may make a reassessment of a royalty-related amount payable by a petroleum producer for a royalty return period or annual return period if the Minister is reasonably satisfied the original assessment or an earlier reassessment made for the period was not or is no longer correct.
- (2) The Minister must make a reassessment of a royalty-related amount payable by a petroleum

[s 56]

producer for a royalty return period or annual return period if a provision of this or another Act applies to require the reassessment.

- (3) A reassessment increasing a royalty-related amount payable by a petroleum producer for a royalty return period or annual return period may be made at any time.
- (4) A reassessment decreasing a royalty-related amount payable by a petroleum producer for a royalty return period or annual return period must be made within 5 years after the day the original assessment for the period was made (the *reassessment period*).
- (5) However, a reassessment decreasing a royalty-related amount payable by a petroleum producer for a royalty return period or annual return period may be made after the reassessment period if—
 - (a) within the reassessment period, the producer asks the Minister to reassess a royalty-related amount payable by the producer for the period and the Minister agrees to make the reassessment; or
 - (b) the reassessment is required under a provision of this or another Act.
- (6) A reassessment does not replace the previous assessment of a royalty-related amount payable by a petroleum producer for a royalty return period or annual return period, but merely varies it by—
 - (a) decreasing or increasing the royalty-related amount payable by the producer; or
 - (b) changing the basis on which the royalty-related amount payable by the producer is assessed.

- (7) If an assessment is made for an annual return period—
 - (a) no further reassessments are made for royalty return periods occurring during the annual return period; and
 - (b) any reassessment of a royalty-related amount for the period must be made by reassessment for the annual return period.

599D Making assessments and default assessments in particular circumstances

- (1) The Minister may make an assessment of a royalty-related amount payable by a petroleum producer for a royalty return period or annual return period on the available information the Minister considers relevant.
- (2) Subsection (3) applies if—
 - (a) the Minister makes a default assessment of a royalty-related amount payable by a petroleum producer for a royalty return period or annual return period; or
 - (b) the information given by a petroleum producer in a royalty return or another document relating to the return is insufficient to enable the Minister to determine a royalty-related amount payable by the producer for a royalty return period or annual return period; or
 - (c) a petroleum producer fails to give the Minister information or a document required to enable the Minister to determine a royalty-related amount payable by the producer for a royalty return period or annual return period.

[s 56]

- (3) The Minister may make an assessment for the amount the Minister reasonably believes to be the royalty-related amount payable by the producer for the period.
- (4) If an assessment of a royalty-related amount payable by a petroleum producer is made under subsection (3) because the producer failed to give a document mentioned in subsection (2)(c), the Minister may make an assessment as if the document were in existence and in the Minister's possession.

599E Notice of assessment or reassessment

- (1) The Minister must give notice of an assessment or reassessment of a royalty-related amount payable by a petroleum producer for a royalty return period or annual return period (an *assessment notice*) to the producer.
- (2) If the royalty-related amount already paid by the producer for the period is more than the amount assessed or reassessed as payable for the period, the assessment notice must include the amount of the difference between those amounts.
- (3) Subsection (4) applies if the royalty-related amount already paid by the producer for the period is less than the amount assessed or reassessed as payable for the period.
- (4) The assessment notice must include—
 - (a) the amount of the difference between the royalty-related amount paid and the royalty-related amount payable for the period (the *liability difference*); and
 - (b) the day by which the liability difference must be paid (the *due date*); and

- (c) a statement that, under section 602, unpaid royalty interest is payable on the amount of the liability difference, to the extent it is comprised of royalty unpaid from time to time for the period—
 - (i) starting on, and including, the day after the lodgement day; and
 - (ii) ending on, and including, the day the liability difference is paid in full; and
 - (d) the rate at which the interest is payable; and
 - (e) the royalty penalty amount for which the producer is liable under section 601.
- (5) The due date must be at least the following number of days after the day the Minister gives the notice to the producer—
- (a) for an assessment other than a reassessment or default assessment—7 days;
 - (b) for a reassessment or default assessment—28 days.
- (6) In this section—
- lodgement day*, for a royalty return period or annual return period, means the day a royalty return must be lodged by a petroleum producer for the period.

Division 4 Use of approved information system for particular decisions

599F Approved information system

The Minister may approve an information system for a royalty provision.

[s 57]

599G Minister may arrange for use of an approved information system to make particular decisions

- (1) The Minister may arrange for the use of an approved information system for any purposes for which the Minister may make a relevant decision under a royalty provision.
- (2) A relevant decision made by the operation of an approved information system under an arrangement made under subsection (1) is taken to be a decision made by the Minister.
- (3) In this section—
relevant decision means a decision that does not involve the exercise of the Minister's discretion.

57 Replacement of ss 600–601

Sections 600 and 601—

omit, insert—

Division 1 General

600 Refunds

- (1) This section applies—
 - (a) if, on an assessment of a royalty-related amount payable by a petroleum producer for a royalty return period or annual return period made under section 599B, the royalty-related amount paid for the period is more than the royalty-related amount payable by the producer for the period under the assessment (the difference being an *excess amount*); or
 - (b) if, on a reassessment of a royalty-related amount payable by a petroleum producer for a royalty return period or annual return

period made under section 599C, the royalty-related amount paid for the period is more than the royalty-related amount payable by the producer for the period under the reassessment (the difference also being an *excess amount*); or

- (c) if—
 - (i) a royalty-related amount paid by a petroleum producer for a royalty return period or annual return period is otherwise more than the royalty-related amount payable by the producer under this chapter (the difference also being an *excess amount*); and
 - (ii) the Minister has given the producer a notice stating the excess amount.
- (2) The Minister must refund an excess amount mentioned in subsection (1) by—
 - (a) repaying the excess amount to the producer; or
 - (b) crediting the excess amount against an amount the Minister is reasonably satisfied is, or will be, payable by the producer for a royalty-related amount.
- (3) No interest is payable on the excess amount refunded.

601 Liability for royalty penalty amount

- (1) A petroleum producer is liable to the State for an amount (*royalty penalty amount*) if—
 - (a) the Minister makes a default assessment under section 599B(2); or

[s 57]

- (b) the Minister makes a reassessment and the original assessment was a default assessment under section 599B(2); or
 - (c) the petroleum royalty payable by the producer for a royalty return period or annual return period on a reassessment under section 599C is more than the petroleum royalty assessed as payable by the producer on the original assessment or an earlier reassessment for the period.
- (2) The royalty penalty amount must be assessed as follows—
- (a) if subsection (1)(a) applies—an amount equal to 75% of the petroleum royalty payable;
 - (b) if subsection (1)(b) applies—an amount equal to 75% of the petroleum royalty payable under the reassessment;
 - (c) if subsection (1)(c) applies and the petroleum royalty payable on the reassessment is more than the royalty assessed on the original assessment—an amount equal to 75% of the difference between the 2 amounts;
 - (d) if the petroleum royalty payable on the reassessment is less than the petroleum royalty assessed on the original assessment but more than the petroleum royalty assessed on an earlier reassessment—an amount equal to 75% of the difference between the petroleum royalty payable on the last reassessment and the lowest petroleum royalty assessed on an earlier reassessment.
- (3) The Minister may increase the royalty penalty amount by not more than 20% of the royalty penalty amount assessed under subsection (2) if

the Minister is reasonably satisfied the producer has hindered or prevented the Minister from becoming aware of the nature and extent of the producer's liability to pay petroleum royalty.

601A Royalty penalty amount not payable if proceeding for offence started

- (1) This section applies if a petroleum producer is liable to pay all or part of a royalty penalty amount because of a particular act or omission of the producer.
- (2) If a proceeding is started against the producer for an offence under this Act that is constituted by the particular act or omission and the royalty penalty amount has not been paid, the royalty penalty amount is payable only if the Minister withdraws the proceeding.
- (3) If a proceeding is started against the producer for an offence under this Act that is constituted by the particular act or omission and the royalty penalty amount has been paid, the Minister must make a reassessment remitting the royalty penalty amount to nil.
- (4) However, if the proceeding against the producer is withdrawn, the Minister must make a reassessment to reinstate the royalty penalty amount remitted under subsection (3).

601B Remission of royalty penalty amount

The Minister may remit the whole or part of a royalty penalty amount.

[s 58]

58 Amendment of s 602 (Unpaid royalty interest)

(1) Section 602(1)—

omit, insert—

(1) This section applies if, despite a petroleum producer being required under this Act to pay petroleum royalty, all or part of the royalty (the ***unpaid petroleum royalty***) is unpaid from time to time.

(2) Section 602—

insert—

(7) If a regulation made under subsection (4) provides for unpaid royalty interest to be worked out if royalty is payable by instalments, and the Minister decides to remit to a petroleum producer the whole or part of the interest under subsection (6) payable for an instalment, the Minister must give the producer a notice stating the amount to be remitted.

(8) However, subsection (7) only applies if the amount of unpaid royalty interest is to be remitted before an assessment notice is given for the remittance.

59 Amendment of s 602A (Application of payments)

(1) Section 602A, ‘liability relating to petroleum royalty’—

omit, insert—

royalty-related amount

(2) Section 602A(a)—

omit, insert—

(a) first, a royalty-related amount, other than unpaid royalty interest or petroleum royalty;

-
- (3) Section 602A(b), ‘petroleum’—
omit.

60 Replacement of s 603 (Recovery of unpaid amounts)

Section 603—

omit, insert—

603 Recovery of unpaid amounts

If a petroleum producer does not pay a royalty-related amount payable by the producer under this Act, the State may recover from the producer as a debt the amount of the royalty-related amount.

61 Replacement of s 604 (Certificate of unpaid petroleum royalty)

Section 604—

omit, insert—

604 Earlier time for payment of royalty-related amount

- (1) This section applies despite any other provision of this Act relating to when a royalty-related amount is payable by a petroleum producer for a period.
- (2) The Minister may, in an assessment notice or notice given under this section, state an earlier date than the date the royalty-related amount would otherwise be payable under this Act (the *ordinary due date*), if the Minister reasonably believes the amount may not be recoverable if the ordinary due date were to apply.
- (3) The date stated in the notice mentioned in subsection (2) must not be a date before the notice is given.

[s 62]

62 Amendment of s 604G (Minister may require translation or conversion of document or information)

Section 604G(6)—

omit.

63 Insertion of new ch 6, pt 3, div 2

Chapter 6, part 3, after section 604A—

insert—

**Division 2 Obligations of
administrators and
garnishees**

604AA Definitions for div 2

In this division—

administrator, for a person's property, means another person who is—

- (a) a receiver or receiver and manager of all or part of the person's property; or
- (b) for a corporation's property—a liquidator; or
- (c) for an individual's property—
 - (i) the individual's trustee in bankruptcy; or
 - (ii) the individual's personal representative.

garnishee see section 604AD(1)(b).

garnishee amount see section 604AD(3).

garnishee notice see section 604AD(3).

liable person see section 604AD(1)(a).

604AB Particular administrators to notify Minister of appointment

- (1) A person who is appointed as administrator for the property of a person by whom a royalty-related amount is payable must, before the required date, give written notice to the Minister of the appointment.

Maximum penalty—40 penalty units.

- (2) For subsection (1), the *required date* is—
- (a) 14 days after the administrator becomes aware, or should reasonably have become aware, the royalty-related amount is payable by the person even if the extent of the liability is not then ascertainable; or
- (b) the later date allowed by the Minister.
- (3) However, notice is not required in the circumstances prescribed under a regulation.

604AC Administrator's liability for payment

- (1) The Minister has the same powers and remedies in relation to the administrator for the property of a person by whom a royalty-related amount is payable, as the Minister would have in relation to the person.
- (2) However, an administrator is liable for payment of a royalty-related amount payable by a person only to the extent of the realised value of all property that—
- (a) the administrator has taken possession of as administrator; and
- (b) was, at any time, available to the administrator for the payment of the royalty-related amount.

604AD Collection of amounts from a garnishee

- (1) This section applies if—
 - (a) under a royalty provision, a debt is payable by a person (the *liable person*); and
 - (b) the Minister reasonably believes a person (the *garnishee*)—
 - (i) holds or may receive an amount for or on account of the liable person; or
 - (ii) is liable or may become liable to pay an amount to the liable person; or
 - (iii) has authority to pay an amount to the liable person.
- (2) Subsection (1)(b) applies even though the liable person's entitlement to the amount may be subject to unfulfilled conditions.
- (3) The Minister may, by written notice given to the garnishee (the *garnishee notice*), require the garnishee to pay to the Minister by a stated date a stated amount (the *garnishee amount*).
- (4) Without limiting subsection (3), the garnishee notice may require the garnishee to pay to the Minister an amount out of each payment the garnishee is or becomes liable, from time to time, to make to the liable person.
- (5) However, if, on the date for payment under the garnishee notice, the garnishee amount is not held for, or is not liable to be paid to, the liable person by the garnishee, the notice has effect as if the date for payment were immediately after the date the amount is held for, or is liable to be paid to, the liable person by the garnishee.
- (6) The garnishee amount must not be more than the debt.

- (7) The garnishee must comply with the garnishee notice unless the garnishee has a reasonable excuse.

Maximum penalty—40 penalty units.

- (8) The Minister must give to the liable person—
- (a) a copy of the garnishee notice; and
 - (b) details in writing of the liable person's debt to which the notice relates.

604AE Duration of garnishee notice

The garnishee notice has effect until the garnishee amount is paid or the Minister, by written notice given to the garnishee, withdraws the notice.

604AF Effect of discharge of debt on garnishee notice

- (1) This section applies if—
- (a) the liable person's debt to which the garnishee notice relates is discharged, whether completely or partly, before the date for payment of the garnishee amount; and
 - (b) the discharge affects the amount to be recovered from the garnishee.
- (2) The Minister must give written notice to the garnishee and the liable person—
- (a) informing them of the extent of the discharge of the debt; and
 - (b) stating the amount payable under the garnishee notice is reduced accordingly; and
 - (c) if the liable person's debt is fully discharged—withdrawing the garnishee notice.

604AG Effect of payment by garnishee

If the garnishee pays an amount to the Minister under a garnishee notice, the garnishee—

- (a) is taken to have acted under the authority of the liable person and all other persons concerned; and
- (b) if the garnishee is under an obligation to pay an amount to the liable person—is to be taken to have satisfied the obligation to the extent of the payment.

64 Replacement of ch 6, pt 4 (Monitoring payment of petroleum royalty)

Chapter 6, part 4—

omit, insert—

Part 4 Offences for royalty provisions

605 Failure to comply with information requirement or lodgement requirement

- (1) A person must not fail, without reasonable excuse, to comply with an information requirement or a lodgement requirement.

Maximum penalty—100 penalty units.

Note—

This provision is an executive liability provision—see section 814.

- (2) In this section—

information requirement means a requirement under a royalty provision to give information to the Minister or a royalty investigator.

lodgement requirement means a requirement under a royalty provision to—

- (a) lodge a document; or
- (b) give a document to the Minister or a royalty investigator.

606 False or misleading documents

- (1) A person must not give to the Minister or a royalty investigator a document containing information that the person knows, or should reasonably know, is false or misleading in a material particular.

Maximum penalty—100 penalty units.

Note—

This provision is an executive liability provision—see section 814.

- (2) Subsection (1) does not apply to a person who, when giving the document—
 - (a) tells the Minister or royalty investigator of the extent to which the document is false or misleading; and
 - (b) to the extent the person has, or can reasonably get, the correct information—gives the correct information to the Minister or royalty investigator.

607 False or misleading information

A person must not state anything to the Minister or a royalty investigator that the person knows is false or misleading in a material particular.

Maximum penalty—100 penalty units.

[s 64]

Note—

This provision is an executive liability provision—see section 814.

608 Self-incrimination not a reasonable excuse for failure to comply with particular requirements

- (1) This section applies if, under a royalty provision, a person is required by written notice given to the person to—
 - (a) give information or a document to the Minister or a royalty investigator; or
 - (b) lodge a document.
- (2) It is not a reasonable excuse for the person to fail to comply with the requirement because complying with the requirement might tend to incriminate the person.
- (3) However, evidence of, or evidence directly or indirectly derived from, information or a document given or lodged in compliance with the requirement, by the person that might tend to incriminate the person is not admissible in evidence against the person in a criminal proceeding, other than a proceeding in which the falsity or misleading nature of the information or document is relevant.

609 Obligation to notify Minister if petroleum royalty under assessed

- (1) A person must advise the Minister if the person becomes aware that—
 - (a) an assessment or reassessment of a royalty-related amount payable by the person for a royalty return period or annual return period was not, or is no longer, correct; and

- (b) the correct royalty-related amount payable is more than the amount stated in the assessment notice for the assessment or reassessment for the period.
- (2) The person must comply with subsection (1) within 30 days after becoming aware of the matters mentioned in the subsection.

Maximum penalty—100 penalty units.

610 Obstruction of Minister or royalty investigator

A person must not, without reasonable excuse, obstruct—

- (a) the Minister or a royalty investigator exercising a power under a royalty provision; or
- (b) a person properly helping the Minister or an investigator exercising a power under a royalty provision.

Maximum penalty—100 penalty units.

611 Impersonation of royalty investigator

A person must not pretend to be a royalty investigator.

Maximum penalty—40 penalty units.

Part 4A Investigations relating to royalty provisions

Division 1 Preliminary

612 Powers to be exercised only for administering and enforcing royalty provisions

A power conferred on the Minister or a royalty investigator under this part may be exercised only for the administration or enforcement of a provision of this Act administered by the Minister responsible for administering the *Taxation Administration Act 2001* (a *royalty provision*).

Note—

On the commencement of this section, the Minister responsible for administering the *Taxation Administration Act 2001* was responsible for administering this Act to the extent that it was relevant to petroleum royalties.

Division 2 Royalty investigators

613 Appointment

The Minister may appoint an appropriately qualified public service employee as a royalty investigator.

614 Appointment conditions and limit on powers

- (1) A royalty investigator holds office on any conditions stated in—
 - (a) the royalty investigator's instrument of appointment; or
 - (b) a signed notice given to the royalty investigator; or

- (c) a regulation.
- (2) The instrument of appointment, a signed notice given to the royalty investigator or a regulation may limit the royalty investigator's powers under this part.
- (3) In this section—
signed notice means a notice signed by the Minister.

615 Issue of identity card

- (1) The Minister must issue an identity card to each royalty investigator.
- (2) The identity card must—
 - (a) contain a recent photo of the royalty investigator; and
 - (b) contain a copy of the royalty investigator's signature; and
 - (c) identify the person as a royalty investigator under this Act; and
 - (d) state an expiry date for the card.
- (3) This section does not prevent the issue of a single identity card to a person for this Act and other purposes.

616 Production of identity card

- (1) In exercising a power mentioned in the *Taxation Administration Act 2001*, part 7, division 2, subdivision 3 or 4 as applied under division 3 of this Act in relation to a person, a royalty investigator must—
 - (a) first produce his or her identity card for the person's inspection before exercising the power; or

[s 64]

- (b) have the identity card displayed so it is clearly visible to the person when exercising the power.
- (2) However, if it is not practicable to comply with subsection (1), the royalty investigator must produce the identity card for the person's inspection at the first reasonable opportunity.
- (3) For subsection (1), a royalty investigator does not exercise a power in relation to a person only because the investigator has entered a place as mentioned in the *Taxation Administration Act 2001*, section 90(1)(b) or (2), as applied under division 3 of this Act.

616A When royalty investigator ceases to hold office

- (1) A royalty investigator ceases to hold office if any of the following happens—
 - (a) the term of office stated in a condition of office ends;
 - (b) under another condition of the office, the royalty investigator ceases to hold office;
 - (c) the royalty investigator's resignation under section 616B takes effect.
- (2) Subsection (1) does not limit the ways a royalty investigator may cease to hold office.
- (3) In this section—

condition of office means a condition on which a royalty investigator holds office.

616B Resignation

- (1) A royalty investigator may resign by signed notice given to the Minister.

- (2) However, if holding office as a royalty investigator is a condition of the investigator holding another office, the investigator may not resign as a royalty investigator without resigning from the other office.

616C Return of identity card

A person who ceases to be a royalty investigator must return the person's identity card to the Minister within 21 days after ceasing to be a royalty investigator unless the person has a reasonable excuse.

Maximum penalty—40 penalty units.

Division 3 Powers of royalty investigators

616D Application of *Taxation Administration Act 2001*, pt 7

- (1) The Minister and a royalty investigator have and may exercise—
- (a) the same powers as those conferred on the commissioner or an investigator under the *Taxation Administration Act 2001*, part 7, division 2, subdivisions 2 to 6 (the ***taxation investigation provisions***); and

Note—

Under the *Acts Interpretation Act 1954*, section 7, a reference to a provision of a law includes a reference to the statutory instruments made or in force under the provision.

- (b) another power conferred on a royalty investigator under this part.
- (2) The taxation investigation provisions apply, with all necessary changes, including those mentioned

[s 64]

- in subsection (3), and with the modifications made under subsection (4)—
- (a) to and in relation to the exercise of the powers under the taxation investigation provisions by the Minister or a royalty investigator; and
 - (b) to and in relation to a person in relation to whom the powers are exercised.
- (3) For subsection (2), necessary changes to the taxation investigation provisions include the following, subject to the modifications made under subsection (4)—
- (a) a reference to a tax law were a reference to a royalty provision;
 - (b) a reference to an investigator were a reference to a royalty investigator;
 - (c) a reference to an identity card were a reference to an identity card issued under division 2;
 - (d) a reference to the commissioner were a reference to the Minister, other than the reference in the *Taxation Administration Act 2001*, section 106;
 - (e) a reference in the *Taxation Administration Act 2001*, section 88(7) to a taxpayer were a reference to a person required to pay petroleum royalty under section 590;
 - (f) the reference in the *Taxation Administration Act 2001*, section 106 to the commissioner were a reference to the State.
- (4) For subsection (2), the taxation investigation provisions are modified in the following ways—
- (a) the *Taxation Administration Act 2001*, part 7, division 2, subdivision 5 applies subject to section 617; and

-
- (b) the *Taxation Administration Act 2001*, section 99(2) does not apply.
- (5) To remove any doubt, it is declared that an offence against a TAA offence provision as applied by subsection (2) committed by a person is an offence committed by the person under this Act.
- (6) In this section—
TAA offence provision means—
- (a) the *Taxation Administration Act 2001*, section 88(6); or
- (b) the *Taxation Administration Act 2001*, section 96(2) or (4).

617 Forfeiture of thing seized for testing

- (1) A royalty investigator may carry out, or arrange to have carried out, scientific or other tests on a sample of a thing the royalty investigator reasonably considers is petroleum, seized under the *Taxation Administration Act 2001*, part 7, division 2, subdivision 5 as applied by 616D(2).
- (2) The testing may have the effect of destroying the thing.
- (3) The *Taxation Administration Act 2001*, section 99(1) does not apply in relation to a thing seized and tested under this section.

65 Amendment of s 736 (Functions)

Section 736(2)(a), after ‘other than’—
insert—

royalty provisions,

[s 66]

66 Amendment of s 813 (False or misleading information)

Section 813—

insert—

- (3) 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.

67 Amendment of s 814 (Liability of executive officer—particular offences committed by corporation)

Section 814(5), definition *executive liability provision*—

insert—

- section 605(1)
- section 606(1)
- section 607(1)

68 Amendment of s 851AA (Place or way for making applications or giving or lodging documents)

Section 851AA(4)(d)(iii) and (v)—

omit.

69 Insertion of new ch 15, pt 18

Chapter 15—

insert—

Part 18

**Transitional provisions
for Revenue Legislation
Amendment Act 2014**

988 Application of assessment and royalty penalty provisions for petroleum royalty payable for period occurring before 1 July 2014

- (1) The assessment and royalty penalty provisions apply in relation to petroleum royalty payable by a petroleum producer for a royalty return period or annual return period even if—
 - (a) the period started before 1 July 2014; and
 - (b) the producer is liable to pay a royalty penalty amount because of a particular act or omission mentioned in section 601A, and the act or omission occurred before 1 July 2014.

Example—

The Minister may make an assessment, reassessment or default assessment of a royalty-related amount payable by a petroleum producer for a period under chapter 6, part 2, division 3 as in force on and from 1 July 2014, even if the period started before 1 July 2014.

- (2) For applying subsection (1) in relation to royalty payable for a royalty return period or annual return period occurring before 1 July 2014, a determination by the Minister of the petroleum royalty payable on lodgement of a royalty return or annual royalty return for the period under this Act, as in force before 1 July 2014, is taken to be an assessment of royalty payable for the period.
- (3) Subsection (4) applies if—
 - (a) the petroleum royalty paid by a petroleum producer for a royalty return period or annual return period that ended before 1 July 2014 is less than the petroleum royalty payable by the producer for the period (a **royalty shortfall**); and
 - (b) before 31 December 2014, the producer gives the Minister notice, in the approved

[s 70]

form, of the royalty shortfall, including the amount of the royalty shortfall; and

- (c) before the producer gives the Minister the notice, the Minister has not already notified the producer of the royalty shortfall; and
 - (d) after the commencement, the Minister makes a default assessment or reassessment of the royalty payable by the producer for the period.
- (4) The producer is not, under section 601, liable for a royalty penalty amount in relation to the royalty shortfall under the default assessment or reassessment.
- (5) In this section—
- assessment and royalty penalty provisions* means the following provisions—
- (a) chapter 6, part 2, divisions 1 and 3;
 - (b) sections 601 to 601B.

989 Application of s 604AB to particular administrators

Section 604AB applies to an administrator appointed before 1 July 2014 as if the required date under section 604AB(1) were the later of the following—

- (a) the date 14 days after the commencement; or
- (b) the required date for section 604AB(1).

70 Amendment of sch 2 (Dictionary)

- (1) Schedule 2—

insert—

administrator, for chapter 6, part 3, division 2, see section 604AA.

annual royalty return means an annual royalty return lodged under section 599.

assessment, for chapter 6, see section 592A.

assessment notice, for chapter 6, see section 599E(1).

default assessment, for chapter 6, see section 599B(2).

garnishee, for chapter 6, part 3, division 2, see section 604AD(1)(b).

garnishee amount, for chapter 6, part 3, division 2, see section 604AD(3).

garnishee notice, for chapter 6, part 3, division 2, see section 604AD(3).

liable person, for chapter 6, part 3, division 2, see section 604AD(1)(a).

original assessment, for chapter 6, see section 592A.

reassessment, for chapter 6, see section 592A.

royalty investigator means a person appointed as a royalty investigator under section 613.

royalty penalty amount see section 601(1).

royalty provision see section 612.

royalty-related amount, for chapter 6, see section 592A.

(2) Schedule 2, definition *annual return period*, ‘section 599(4)’—

omit, insert—

section 599(11)

(3) Schedule 2, definition *royalty information*, ‘section 594(4)’—

[s 71]

omit, insert—

section 594(5)

- (4) Schedule 2, definition *royalty return*, ‘section 594(3)’—

omit, insert—

section 594(4)

Part 7 Amendment of State Penalties Enforcement Act 1999

71 Act amended

This part amends the *State Penalties Enforcement Act 1999*.

72 Amendment of s 10 (Registrar and other staff of SPER)

- (1) Section 10, heading—

omit, insert—

10 Staff and contractors

- (2) Section 10(3), ‘enforcing’—

omit, insert—

the administration and enforcement of

- (3) Section 10(5) to (7)—

omit.

73 Insertion of new ss 10A–10C

After section 10—

insert—

10A Service contractors

(1) This section applies if, under section 10(3)(b), the registrar engages an entity (the *service contractor*) under a contract (the *service contract*) to provide services to assist the registrar in the administration and enforcement of this Act.

(2) The service contract may—

(a) state the services (each, an *authorised service*) the service contractor is required to provide; and

(b) impose a condition on the provision of an authorised service by the service contractor; and

Example for paragraph (b)—

a condition requiring the service contractor to obtain the registrar's approval before providing a particular authorised service

(c) include a delegation by the registrar under section 10C(1) or (3); and

(d) authorise the service contractor to subcontract the provision of an authorised service; and

(e) impose a condition on the service contractor's authority to subcontract.

Example for paragraph (e)—

a condition requiring the service contractor to subcontract only with subcontractors approved by the registrar

(3) When providing an authorised service in accordance with the service contract, the service contractor may—

(a) use the name of SPER; and

(b) do anything necessary for, or incidental to, the provision of the authorised service.

[s 73]

- (4) In the performance of an authorised service by the service contractor in accordance with the service contract—
 - (a) laws applying to the registrar, other than a law prescribed by regulation, apply to the service contractor as if the service contractor were the registrar; and
 - (b) laws applying to SPER, other than a law prescribed by regulation, apply to the service contractor as if the service contractor were SPER.
- (5) Anything done—
 - (a) by the service contractor in accordance with the service contract; or
 - (b) in relation to the service contractor in relation to an authorised service;is taken to have been done by or in relation to the registrar or SPER, as the case requires.
- (6) However, the engagement of the service contractor under the service contract does not relieve the registrar of the registrar’s obligations in relation to the proper administration and enforcement of this Act.

10B Service subcontractors

- (1) This section applies if, in accordance with a service contract, the service contractor subcontracts with another entity (the *service subcontractor*) for the provision of an authorised service.
- (2) The contract (the *service subcontract*) between the service contractor and the service subcontractor must comply with any condition imposed by the service contract in relation to subcontracting an authorised service.

- (3) The service subcontract—
 - (a) must state the authorised service the service subcontractor is required to provide; and
 - (b) may impose a condition on the service subcontractor's provision of the authorised service.
- (4) If the service contract includes a delegation under section 10C(1), the service subcontract may include a delegation of the prescribed function to the service subcontractor that complies with the delegation in the service contract.
- (5) If the service contract includes a delegation under section 10C(3), the service subcontract may include a subdelegation of the prescribed function to the service subcontractor that complies with the delegation in the service contract.
- (6) When providing an authorised service in accordance with the service subcontract, the service subcontractor may—
 - (a) use the name of SPER; and
 - (b) do anything necessary for, or incidental to, the provision of the authorised service.
- (7) In the performance of an authorised service by the service subcontractor in accordance with the service subcontract—
 - (a) laws applying to the registrar, other than a law prescribed by regulation, apply to the service subcontractor as if the service subcontractor were the registrar; and
 - (b) laws applying to SPER, other than a law prescribed by regulation, apply to the service subcontractor as if the service subcontractor were SPER.
- (8) Anything done—

[s 73]

- (a) by the service subcontractor in compliance with the service subcontract; or
 - (b) in relation to the service subcontractor in relation to an authorised service;
- is taken to have been done by or in relation to the registrar or SPER, as the case requires.
- (9) However, the engagement of the service subcontractor under the service subcontract does not relieve—
 - (a) the registrar of the registrar’s obligations in relation to the proper administration and enforcement of this Act; or
 - (b) the service contractor of the service contractor’s obligations under the service contract.
 - (10) In this section—
prescribed function see section 10C(6).

10C Delegation of prescribed functions

- (1) The registrar may delegate the registrar’s power to delegate a prescribed function to a service contractor.

Note—

For the registrar’s power to delegate, see section 161.

- (2) A delegation under subsection (1) can not permit the subdelegation of the delegated power.
- (3) Also, the registrar may delegate a prescribed function to a service contractor.
- (4) A delegation under subsection (3) may permit the subdelegation of the prescribed function by the service contractor.

- (5) However, the service contractor must not delegate or subdelegate a prescribed function to anyone other than—
- (a) an appropriately qualified agent, employee or executive officer of the service contractor; or
 - (b) an appropriately qualified subcontractor engaged by the service contractor; or
 - (c) an appropriately qualified agent, employee or executive officer of a service subcontractor mentioned in paragraph (b).
- (6) In this section—

prescribed function means a function or power of the registrar, or of SPER, under this Act that is prescribed by regulation for this section.

74 Insertion of new ss 11A and 11B

After section 11—

insert—

11A Identity cards

- (1) The registrar must issue an identity card to each enforcement officer.
- (2) The identity card must—
 - (a) contain a recent photograph of the enforcement officer; and
 - (b) contain a copy of the enforcement officer's signature; and
 - (c) identify the person as an enforcement officer appointed under this Act; and
 - (d) state an expiry date for the card.

[s 75]

- (3) This section does not prevent the issue of a single identity card to a person for this Act and other purposes.

11B Return of identity card

If the office of a person as an enforcement officer ends, the person must return the person's identity card to the registrar within 21 days after the office ends unless the person has a reasonable excuse.

Maximum penalty—40 penalty units.

75 Amendment of s 148 (Electronic transmission of particular documents)

Section 148(1)—

insert—

Note—

For service of documents under this Act, see section 158.

76 Amendment of s 152G (Disclosure of confidential information—information acquired by an official in official's capacity)

Section 152G(6), definition *official*, after 'Act'—

insert—

, including a person who is providing, or has provided, an authorised service under a service contract or service subcontract

77 Amendment of s 158 (Service of document)

(1) Section 158(1)—

omit, insert—

- (1) A document may be served under this Act—

-
- (a) as provided for under the *Acts Interpretation Act 1954*, part 10; or
 - (b) if a person gives the person's email address to SPER or the registrar—by sending the document by email to the person's email address; or
 - (c) in another way prescribed by regulation.
- (2) Section 158—

insert—

- (4) A document is taken to have been served on a person—
 - (a) for a document served by email under subsection (1)(b)—
 - (i) on the day the email is sent to the person; or
 - (ii) if the email is sent after 5pm—on the following business day; or
 - (b) for a document served in a way prescribed by regulation—the day prescribed by regulation for the method of service.

Note—

For the time of giving a document by post, see the *Acts Interpretation Act 1954*, section 39A(1)(b).

78 Amendment of s 161 (Delegation by registrar)

Section 161(1)—

omit, insert—

- (1) Subject to section 10C, the registrar may delegate functions and powers of the registrar, or of SPER, under this Act to an appropriately qualified person.

[s 79]

79 Amendment of s 165 (Regulation-making power)

Section 165—

insert—

- (8) A regulation may prescribe a law to be a law that does not apply to—
 - (a) a service contractor under section 10A(4);
or
 - (b) a service subcontractor under section 10B(7).
- (9) A regulation may prescribe a function or power of the registrar, or of SPER, under this Act to be a prescribed function for section 10C.
- (10) A regulation may be made about—
 - (a) the way in which a document may be served under this Act; and
 - (b) when a document is taken to have been served under this Act.

80 Amendment of sch 2 (Dictionary)

- (1) Schedule 2, definitions *appropriately qualified* and *public service officer*—

omit.

- (2) Schedule 2—

insert—

authorised service see section 10A(2).

service contract see section 10A(1).

service contractor see section 10A(1).

service subcontract see section 10B(2).

service subcontractor see section 10B(1).

- (3) Schedule 2, definition *enforcement officer*—

[s 84]

176 Application of s 7

Section 7, as in force on the day this section commences, is taken to have had effect on and from 19 February 2014.

84 Amendment of sch 2 (Dictionary)

Schedule 2, definition *senior executive*—
omit.

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