



Petroleum Act 1923

**Reprinted as in force on 3 March 2005
(includes commenced amendments up to 2005 Act No. 3)**

Reprint No. 6A

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This page is specific to this reprint. See previous reprints for information about earlier changes made under the Reprints Act 1992. A table of reprints is included in the endnotes.

Also see endnotes for information about—

- **when provisions commenced**
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Queensland

Petroleum Act 1923

Contents

		Page
Part 1	Preliminary	
1	Short title	19
2	Definitions	19
3	Relationship with Mineral Resources Act	37
4	Relationship with Nature Conservation Act 1992	38
7	Application of Act	39
7A	Act applies out to coastal waters of the State	39
7AA	Qualification of 1923 Act petroleum tenure holders	39
7B	Notes in text	39
Part 3	Rights and powers of the Crown	
9	Petroleum the property of the Crown	40
10	Reservations in grants	40
Part 4	Authorities to prospect	
Division 1	General provisions	
18	Authority to prospect	40
18A	Minister's power to decide excluded land for authority to prospect	41
19	Variation of authority to prospect	42
20	Area of authority to prospect reduced on grant of lease	42
21	Surrender of authority to prospect	43
24	Miscellaneous rights	44
Division 2	Work programs	
Subdivision 1	Requirements for proposed later work programs	
25	Operation of sdiv 1	44
25A	General requirements	44
25B	Program period	46
Subdivision 2	Approval of proposed later work programs	
25C	Application of sdiv 2	46

25D	Authority taken to have work program until decision on whether to approve proposed work program	47
25E	Deciding whether to approve proposed program	47
25F	Steps after, and taking effect of, decision.	48
Subdivision 3	Amending work programs	
25G	Restrictions on amending work program	48
25H	Applying for approval to amend	50
25I	Requirements for making application	50
25J	Deciding application	50
25K	Steps after, and taking effect of, decision.	52
Division 3	Renewals	
25L	Conditions for renewal application	52
25M	Requirements for making application	53
25N	Continuing effect of authority for renewal application	55
25O	Deciding application	55
25P	Term and area of renewed authority.	56
25Q	Other provisions and taking effect of renewed authority	57
25R	Criteria for decisions.	58
25S	Information notice about refusal	58
25T	When refusal takes effect.	58
Division 4	Expiry of part	
25U	Expiry of pt 4 and ending of authorities to prospect.	58
Part 6	Provisions relating to leases	
Division 1	General provisions for leases	
40	Lease to holder of authority to prospect	59
40A	Continuing effect, for s 40 application, of authority to prospect and its work program	60
40B	Minister's power to decide excluded land for lease	61
44	Form etc. of lease.	62
45	Entitlement to renewal of lease	62
46	Annual rent.	64
46A	Application of GST to rents	65
47	Reservations, conditions and covenants of lease	65
48	Commencement of drilling	66
51	Use and occupation of mining area on private or improved land	67
52	Surrender and determination of lease	68
52A	Application of 2004 Act provisions about coextensive natural underground reservoirs	69

Division 2	Development plans	
Subdivision 1	Requirements for proposed later development plans	
53	Operation of sdiv 1	70
53A	General requirements.	70
53B	Plan period	72
Subdivision 2	Approval of proposed later development plans	
53C	Application of sdiv 2	72
53D	Lease taken to have development plan until decision on whether to approve proposed development plan.	72
53E	Deciding whether to approve proposed plan	73
53F	Power to require relinquishment.	73
53G	Steps after, and taking effect of, decision.	74
Division 3	Miscellaneous provision	
54	Signing of applications	75
57	Ascertainment of value.	75
61	Obstruction of 1923 Act petroleum tenure holder.	75
65	Reservations in favour of State	76
73	Recovery of amounts payable to the State.	76
Part 6A	Key mandatory conditions and related provisions	
Division 1	Preliminary	
74	Operation of div 1	77
Division 2	Specific mandatory conditions for authorities to prospect and related provisions	
Subdivision 1	Standard relinquishment condition and related provisions	
74A	Standard relinquishment condition	78
74B	Consequence of failure to comply with relinquishment condition .	79
74C	Part usually required to be relinquished	79
74D	Sub-blocks that can not be counted towards relinquishment	79
74E	Adjustments for sub-blocks that can not be counted	80
74F	Relinquishment must be by blocks	81
74G	Ending of authority to prospect if all of area relinquished	81
Subdivision 2	Work programs	
74H	Requirement to have work program	81
74I	Compliance with exploration activities in work program	82
74J	Penalty relinquishment if work program not completed within extended period	82
74K	Obligation to lodge proposed later work program.	82

74L	Consequence of failure to comply with notice to lodge proposed later work program	84
Subdivision 3	Miscellaneous conditions	
74M	Restriction on flaring or venting	84
74N	Petroleum royalty and annual rent	85
Division 3	Specific mandatory conditions for leases and related provisions	
Subdivision 1	Development plans	
74O	Requirement to have development plan	85
74P	Compliance with development plan	86
74Q	Obligation to lodge proposed later development plan	86
74R	Consequence of failure to comply with notice to lodge proposed later development plan	88
Subdivision 2	Other mandatory conditions for leases	
74S	Restriction on flaring or venting	88
74T	Obligation to commence production	89
Division 4	Provisions for all 1923 Act petroleum tenures	
Subdivision 1	Preliminary	
74U	Application of div 4	89
Subdivision 2	General mandatory conditions	
74V	Obligation to consult with particular owners and occupiers	90
74W	Civil penalty for nonpayment of annual rent	90
74X	Obligation to prevent spread of declared pests	91
74Y	Requirement to consider using formed roads	92
74Z	Obligation to comply with Act and prescribed standards	92
75	Obligation to survey if Minister requires	92
Division 5	Mandatory conditions and related provisions for when 1923 Act petroleum tenure ends or area reduced	
75A	Obligation to decommission pipelines	93
75B	Obligation to remove equipment and improvements	94
75C	Authorisation to enter to facilitate compliance with s 74X or this division	95
Part 6B	Provisions relating to authorised activities	
75D	General restriction on carrying out authorised activities	96
75E	Who may carry out authorised activity for holder	96
Part 6C	Commercial viability assessment	
75F	Minister's power to require commercial viability report	97
75G	Required content of commercial viability report	97

75H	Minister's power to obtain independent viability assessment	98
75I	Costs of independent viability assessment	99
Part 6CA	Existing Water Act bores	
Division 1	Preliminary	
75IA	Simplified outline of pt 6CA	100
75IB	What is an existing Water Act bore	100
75IC	When an existing Water Act bore is unduly affected	101
75ID	When an existing Water Act bore has an impaired capacity	102
75IE	What are restoration measures	102
75IF	References to 1923 Act petroleum tenure holder in pt 6CA	103
Division 2	Obligation to make good for existing Water Act bores	
75IG	The make good obligation	103
75IH	Provisions for application of make good obligation.	104
Division 3	Underground water impact reports	
Subdivision 1	Fixing of trigger threshold for aquifers	
75II	Operation of sdiv 1	105
75IJ	Request for trigger threshold and action on request	105
75IK	Provisions for fixing trigger threshold	105
75IL	Fixed trigger threshold applies for all taking of water necessarily taken as part of petroleum production.	106
Subdivision 2	Lodging report	
75IM	Lodging report	106
75IN	Requirements for report	107
75IO	Exemption from underground water flow model	108
Subdivision 3	Consideration of underground water impact report	
75IP	Power to require amendment of report.	109
75IQ	Decision on report	110
Division 4	Pre-closure report	
75IR	Obligation to lodge pre-closure report	111
75IS	Requirements for report	112
75IT	Power to require amendment of report.	112
75IU	Effect of lodgment of report	113
Division 5	Monitoring and review reports	
75IV	Operation of div 5	113
75IW	Obligation to lodge monitoring reports	114
75IX	Obligation to lodge review reports	114
75IY	Effect of lodgment of review report.	115

75IZ	Chief executive's power to change frequency of reports	115
75IZA	Chief executive's power to change reporting days	116
75IZB	Power to require amendment of review report	116
Division 6	Complying with make good obligation	
Subdivision 1	Obligation to negotiate	
75IZC	1923 Act petroleum tenure holder's obligation to negotiate	117
Subdivision 2	Tribunal decision on how the obligation must be complied with	
75IZD	Application of sdiv 2	117
75IZE	Applying to tribunal	117
75IZF	Provisions for making decision	118
75IZG	Provisions for deciding compensation	119
Subdivision 3	Miscellaneous provisions	
75IZH	Make good agreement or tribunal's decision binds successors and assigns	120
75IZI	Reviews by tribunal	120
75IZJ	Right of entry after 1923 Act petroleum tenure ends to comply with make good obligation	121
75IZK	Advice from Water Act regulator.	121
Part 6D	Wells, water supply bores and water observation bores	
Division 1	Restrictions on drilling	
75J	Requirements for drilling well	122
75K	Restriction on who may drill water observation bore or water supply bore.	122
Division 2	Converting well to water supply bore	
75L	Restrictions on making conversion.	122
75M	Notice of conversion.	123
Division 3	Transfers of wells, water observation bores and water supply bores	
Subdivision 1	General provisions	
75N	Operation of div 3	123
75O	Transfer only permitted under div 3	124
75P	Effect of transfer	124
Subdivision 2	Permitted transfers	
75Q	Transfer of water observation bore or water supply bore to landowner	124
75R	Transfer of well to holder of geothermal exploration permit or mining tenement	125

75S	Transfer of water observation bore to petroleum tenure holders or water monitoring authority holder	126
Subdivision 3	Notice of transfer	
75T	Notice of transfer to Water Act regulator or Mineral Resources Act chief executive	126
Division 4	Decommissioning of wells, water observation bores and water supply bores	
75U	Obligation to decommission	127
75V	Right of entry to facilitate decommissioning	128
75W	Responsibility for well or bore after decommissioning	129
Division 5	Water monitoring authorities	
Subdivision 1	Obtaining water monitoring authority	
75WA	Who may apply for water monitoring authority	130
75WB	Requirements for making application	130
75WC	Deciding application for water monitoring authority	131
Subdivision 2	Key authorised activities	
75WD	Operation of sdiv 2	131
75WE	Water monitoring activities	132
75WF	Limited right to take or interfere with underground water	132
75WG	Authorisation for Water Act	132
75WH	Water Act not otherwise affected	133
75WI	Restriction on carrying out authorised activities	133
75WJ	No right to petroleum discovered	133
Subdivision 3	Miscellaneous provisions	
75WK	Term of authority	133
75WL	Provision for who is the authority holder if only 1 related petroleum tenure	133
75WM	Additional condition of relevant petroleum tenure	134
75WN	Amending water monitoring authority by application	134
Part 6E	Reporting	
Division 1	General reporting provisions	
75X	Requirement to report outcome of testing	135
75Y	Notice about discovery and commercial viability	135
75Z	Relinquishment report	136
76	End of tenure report	137
Division 2	Records and samples	
76A	Requirement to keep records and samples	138
76B	Requirement to lodge records and samples	139

Division 3	Releasing required information	
76C	Meaning of required information	140
76D	Public release of required information	140
76E	Chief executive may use required information	141
76F	Obligation to lodge annual reports	141
76G	Power to require information or reports about authorised activities to be kept or given	142
Part 6F	Provisions for coal seam gas	
Division 1	Preliminary	
Subdivision 1	Introduction	
76H	Main purposes of pt 6F	143
76I	How main purposes are achieved	144
76J	Relationship with other provisions of Act	145
Subdivision 2	Definitions for pt 6F	
76K	What is coal seam gas and incidental coal seam gas	146
76L	What is oil shale	146
76M	What is a coal exploration tenement and a coal mining lease	146
76N	What is an oil shale exploration tenement and an oil shale mining lease	147
76O	What is a coal or oil shale mining tenement	147
Division 2	Additional provisions for authorities to prospect	
Subdivision 1	Grant of authority to prospect in area of coal or oil shale exploration tenement	
76P	Provisions for authority to prospect	148
Subdivision 2	Restriction on authorised activities on coal or oil shale mining lease land	
76Q	Application of sdiv 2	148
76R	Restriction	148
Subdivision 3	Condition	
76S	Compliance with obligations under Mineral Resources Act	149
Division 3	Renewal provisions	
76T	Application of div 1	149
76U	Additional requirements for making application	150
76V	Content requirements for CSG statement	151
76W	Applicant's obligations	152
76X	Minister may require further negotiation	153
76Y	Consequence of applicant not complying with obligations or requirement	153

76Z	Obligations of coal or oil shale exploration tenement holder	154
77	Submissions by coal or oil shale exploration tenement holder . . .	154
Division 4	Other additional provisions for leases	
Subdivision 1	Conditions	
77N	Compliance with obligation to negotiate with coal or oil shale mining lease applicant	155
77O	Requirement for giving of copy of relinquishment report	155
77P	Cessation of relinquishment condition for area not overlapping with coal or oil shale exploration tenement.	156
Subdivision 2	Amendment of relinquishment condition by application	
77Q	Application of sdiv 2	156
77R	Conditions for applying to amend.	156
77S	Obligation of coal or oil shale exploration tenement holder to negotiate	157
77T	Requirements for making application	157
77U	Notice of application.	159
77V	Submissions by coal or oil shale exploration tenement holder . . .	159
77W	Minister may require further negotiation.	160
77X	Deciding amendment application	160
Subdivision 3	Restriction on amendment of other conditions	
77Y	Interests of relevant coal or oil shale mining tenement holder to be considered	161
Division 5	Restrictions on particular transfers	
77Z	Requirement for coordination arrangement to transfer lease in tenure area of mining lease	161
Division 6	Additional provisions for development plans	
Subdivision 1	Additional requirements for proposed later development plans	
77ZA	Operation of sdiv 1	161
77ZB	Statement about interests of coal or oil shale exploration tenement holder	162
77ZC	Requirement to optimise petroleum production	162
77ZD	Consistency with coal or oil shale mining lease, development plan and relevant coordination arrangement	162
Subdivision 2	Other additional provisions for proposed later development plans	
77ZE	Application of sdiv 2	162
78	Additional criteria for approval	163
Division 7	Confidentiality of information	
78A	Application of div 7	163

78B	Confidentiality obligations	164
78C	Civil remedies	164
Part 6G	Security	
78D	Operation and purpose of pt 6G	164
78E	Power to require security for 1923 Act petroleum tenure	165
78F	Minister's power to require additional security	166
78G	Interest on security	167
78H	Power to use security	167
78I	Replenishment of security	167
78J	Security not affected by change in holder	168
78K	Retention of security after 1923 Act petroleum tenure ends	168
Part 6H	Private land	
Division 1	Preliminary	
78L	Application of pt 6H	169
Division 2	Requirement for entry notice for entry to private land in area of 1923 Act petroleum tenure	
78M	Requirement for entry notice to carry out authorised activities	169
78N	Waiver of entry notice	170
78O	Required contents of entry notice	170
78P	Giving entry notice by publication	171
Division 3	Requirement for further notice before carrying out authorised activities on private land	
78Q	Application of div 3	172
78R	Requirement to give further notice	172
78S	Failure to give further notice	172
Division 4	Provisions for dealings or change in ownership or occupancy	
78T	Entry notice or waiver of entry notice not affected by permitted dealing	173
78U	Change in ownership or occupancy	173
Division 5	Periodic notice after entry of land	
78V	Notice to owners and occupiers	174
Division 6	Access to carry out rehabilitation or environmental management	
78W	Right of access for authorised activities includes access for rehabilitation and environmental management	175

Part 6I	Public land	
Division 1	Public roads	
Subdivision 1	Preliminary	
78X	Significant projects excluded from div 1	175
78Y	What is a notifiable road use	176
Subdivision 2	Notifiable road uses	
78Z	Notice of notifiable road use	176
79	Directions about notifiable road use	177
79A	Obligation to comply with road use directions	178
Subdivision 3	Compensation for notifiable road uses	
79B	Liability to compensate public road authority	178
79C	Compensation agreement	179
79D	Deciding compensation through tribunal	180
79E	Criteria for decision	180
79F	Tribunal review of compensation	181
79G	Compensation to be addressed before carrying out notifiable road use	182
79H	Compensation not affected by change in administration or holder	182
Division 2	Other public land	
79I	Requirement for entry notice to carry out authorised activities . .	183
79J	Waiver of entry notice.	183
79K	Required contents of entry notice.	184
79L	Conditions public land authority may impose	185
Part 6J	Access to land in area of another 1923 Act petroleum tenure or a mining tenement	
79M	Application of pt 6J	186
79N	Access to land in area of lease under this Act, a 2004 Act lease or a mining lease	186
79O	Access to land in area of another type of mining tenement or 1923 Act petroleum tenure	187
Part 6K	General compensation provisions	
79P	General liability to compensate	187
79Q	Compensation agreement	188
79R	Deciding compensation through tribunal	189
79S	Tribunal review of compensation	190
79T	Orders tribunal may make	191
79U	Compensation to be addressed before entry to private land	191

79V	Compensation not affected by change in ownership or occupancy	192
Part 6L	Ownership of pipelines, equipment and improvements	
Division 1	Pipelines	
79W	Application of div 1	193
79X	General provision about ownership while tenure is in force for pipeline	193
79Y	Ownership afterwards	194
Division 2	Equipment and improvements	
79Z	Application of div 2	194
80	Ownership of equipment and improvements	195
Part 6M	Petroleum register	
80A	Petroleum register	196
80B	Keeping of register	196
80C	Access to register	197
80D	Chief executive may correct register	197
Part 6N	Dealings	
Division 1	Permitted dealings	
80E	What is a permitted dealing	198
80F	Dealings other than permitted dealings of no effect	199
80G	Conditions for permitted dealings	199
Division 2	Obtaining approval for permitted dealing	
80H	Minister may give indication for proposed permitted dealing	199
80I	Applying for approval	200
80J	Deciding application	200
80K	Criteria for decision	202
Part 6O	Enforcement of end of tenure and area reduction obligations	
80L	Power of authorised person to ensure compliance	203
80M	Requirements for entry to ensure compliance	204
80N	Duty to avoid damage in exercising remedial powers	204
80O	Notice of damage because of exercise of remedial powers	205
80P	Compensation for exercise of remedial powers	205
80Q	Ownership of thing removed in exercise of remedial powers	205
80R	Recovery of costs of and compensation for exercise of remedial power	206

Part 6P	Noncompliance procedure	
Division 1	Introduction	
80S	Operation of pt 6P	207
Division 2	Noncompliance action	
80T	Types of noncompliance action that may be taken	207
80U	When noncompliance action may be taken	209
Division 3	Procedure for noncompliance action	
80V	Application of div 3	210
80W	Notice of proposed noncompliance action	210
80X	Considering submissions	211
80Y	Decision on proposed noncompliance action	211
80Z	Notice and taking effect of decision	212
81	Consequence of failure to comply with relinquishment requirement	212
Part 6Q	Other common provisions for 1923 Act petroleum tenures	
83	Restrictions on location of drills	213
84	Prevention of waste etc.	213
85	Casing well	214
86	Water rights	214
88	Conduct of operations on land	215
89	Compliance with Act etc.	215
90	Regulations may prescribe further provisions	216
92	Delivery of premises in case of forfeiture	216
93	Right to mine for other minerals	216
95	Limits on use of water from natural source	216
96	Who bound by terms of 1923 Act petroleum tenure	217
100	Union of leases	217
101	Minister's power to ensure compliance by 1923 Act petroleum tenure holder	218
102	Interest on amounts owing to the State under this Act	219
103	Recovery of unpaid amounts	219
Part 7	Appeals	
104	Who may appeal	220
105	Period to appeal	220
106	Starting appeal	220
107	Stay of operation of decision	221
108	Hearing procedures	221

109	Tribunal's powers on appeal	222
Part 8	Evidence and legal proceedings	
Division 1	Evidentiary provisions	
110	Application of div 1	222
111	Appointments and authority	222
112	Signatures	223
113	Other evidentiary aids	223
Division 2	Offence proceedings	
114	Offences under Act are summary	224
115	Statement of complainant's knowledge	224
116	Allegations of false or misleading matters	224
117	Conduct of representatives	225
118	Additional orders that may be made on conviction	226
Part 9	Miscellaneous	
Division 1	Applications	
119	Application of div 1	227
120	Substantial compliance with application requirements may be accepted	227
121	Additional information may be required about application	227
122	Amending applications	228
123	Withdrawal of application	228
124	Minister's power to refund application fee	229
Division 2	Miscellaneous provisions for 1923 Act petroleum tenures	
125	Power to correct or amend	229
126	Replacement of instrument for tenure	229
127	Joint and several liability for conditions and for debts to State	230
128	Notice of agent	230
Division 3	Other miscellaneous provisions	
129	Name and address for service	230
130	Additional information about reports and other matters	231
131	References to right to enter	231
132	Application of provisions	232
133	Protection from liability for particular persons	232
134	Delegation by Minister or chief executive	232
135	Approved forms	233
142	All statements to be verified	233

143	Points etc. to be ascertained by reference to Australian Geodetic Datum	233
144	Interference with pipeline or petroleum activities under this Act. .	234
147	Penalties.	234
148	Other rights of action not affected	234
149	Regulation-making power.	234
150	Declaration about certain 1923 Act petroleum tenures	235
Part 10	Transitional provisions for 1923 Act petroleum tenures from 2004 Act start day	
Division 1	General transitional provisions	
Subdivision 1	Particular unfinished applications	
151	Unfinished authority to prospect applications for which a Commonwealth Native Title Act s 29 notice has been given	236
152	Additional condition of authority to prospect granted under s 151	237
153	Lapsing of unfinished former s 42 applications	238
Subdivision 2	Authorities to prospect	
154	Area of land in area of coal or oil shale mining lease becomes excluded land	238
155	Conditions of an authority to prospect about expenditure or work becomes its work program.	238
Subdivision 3	Leases	
156	Program for development and production for a lease becomes its development plan	239
Subdivision 4	Conflict between 1923 Act petroleum tenure conditions and relevant environmental conditions	
157	Environmental conditions prevail	240
Subdivision 5	Securities	
158	Provision for existing demands for additional or alternative security under former s 43(8)	240
159	Monetary securities	241
160	Non-monetary securities	241
Subdivision 6	Notices of entry under Petroleum Regulation 1966 relating to 1923 Act petroleum tenure	
161	Conversion to entry notice	242
Subdivision 7	Compensation	
162	Accrued compensation rights relating to 1923 Act petroleum tenure	243
163	Existing compensation agreements relating to 1923 Act petroleum tenure	243

Subdivision 8	Continuation of former cancellation provision in particular circumstances	
164	Continued application of former s 22 for previous acts or omissions	244
Subdivision 9	Existing road uses	
165	Exclusion of pt 6l, div 1 for continuance of particular existing road uses	244
Subdivision 9A	Provisions for existing Water Act bores	
165A	Exemption from, or deferral of, reporting provisions for existing 1923 Act petroleum tenure holders	245
165B	Make good obligation only applies for existing Water Act bores on or from the 2004 Act start day	246
Subdivision 10	Miscellaneous provisions	
166	Provision for cancellation of particular conditions of lease 191	247
167	Application of s 3 to particular existing mining tenements	247
168	Deferral of s 52A for existing leases	247
169	Deferral of s 79l for particular 1923 Act petroleum tenure holders	248
Division 2	Relinquishment condition until first renewal after 2004 Act start day, and related provisions	
170	Application of div 2	248
171	What is the current term of an authority to prospect	248
172	What are the transitional notional sub-blocks of an authority to prospect	249
173	Relinquishment condition if authority includes a reduction requirement	249
174	Relinquishment condition if authority does not include a reduction requirement	250
Division 3	Leases overlapping with an existing or proposed mineral development licence	
Subdivision 1	Preliminary	
175	Definitions for div 3	250
176	Application of div 3	251
Subdivision 2	Additional provisions	
177	Obligation of lessee to give access to MDL holder	251
178	Additional requirements for later development plans for lease	252
179	Minister may require further negotiation	254
Subdivision 3	Confidentiality of information	
180	Application of s div 3	254
181	Confidentiality obligations	255

182	Civil remedies	255
Part 11	Transitional provisions for Petroleum and Other Legislation Amendment Act 2005	
183	S 86 water bores	256
184	Decommissioning wells and bores	256
Schedule	Decisions subject to appeal	257
 Endnotes		
1	Index to endnotes	259
2	Date to which amendments incorporated	259
3	Key	260
4	Table of reprints	260
5	Tables in earlier reprints	261
6	List of legislation	261
7	List of annotations	265
8	List of forms notified or published in the gazette	305
9	Table of renumbered provisions	306

Petroleum Act 1923

[as amended by all amendments that commenced on or before 3 March 2005]

An Act to make better provision for encouraging and regulating the mining for petroleum and natural gas in the State and the conveying of petroleum and natural gas, wherever recovered

Part 1 Preliminary

1 Short title

This Act may be cited as the *Petroleum Act 1923*.

2 Definitions

In this Act—

1923 Act petroleum tenure means an authority to prospect or lease under this Act.

2004 Act means the *Petroleum and Gas (Production and Safety) Act 2004*.

2004 Act ATP means an authority to prospect under the 2004 Act.

2004 Act lease means a petroleum lease under the 2004 Act.

2004 Act petroleum authority see the 2004 Act, section 18(2).

2004 Act petroleum tenure means a 2004 Act ATP or 2004 Act lease.

2004 Act start day means the day the 2004 Act, section 32, commences.

appeal period, for a decision, means the period provided for under section 105 for starting an appeal against the decision.

area—

- 1 The *area* of a 1923 Act petroleum tenure is any land to which the tenure is subject, as recorded in the petroleum register.
- 2 However, the *area* of a 1923 Act petroleum tenure does not include any excluded land for the tenure.
- 3 The *area* of a 2004 Act petroleum tenure is the land to which the tenure is subject, as recorded in the petroleum register under that Act.
- 4 The *area* of a mining tenement is the land to which the tenement is subject.

authorised activity—

- 1 An *authorised activity*, for a 1923 Act petroleum tenure or water monitoring authority, is an activity that its holder is, under this Act, the tenure or authority, entitled to carry out in relation to the tenure or authority.
- 2 An authorised activity, for a coal or oil shale mining tenement, is an activity that its holder is, under the Mineral Resources Act or the tenement, entitled to carry out in relation to the tenement.

authority to prospect means an authority to prospect under this Act.¹

block means the land, identified in the way approved by the chief executive, resulting from a notional division of the earth's surface—

- (a) by 2 meridians of longitude 5 minutes apart, each meridian being a multiple of 5 minutes of longitude from the meridian of Greenwich; and
- (b) by 2 parallels of latitude 5 minutes apart, each parallel being a multiple of 5 minutes of latitude from the equator.

capability criteria, for a 1923 Act petroleum tenure, means the extent to which the Minister is of the opinion that its

¹ See section 18 (Authority to prospect).

holder is capable of carrying out authorised activities for the tenure, having regard to the holder's—

- (a) financial and technical resources; and
- (b) ability to manage petroleum exploration and production.

coal exploration tenement see section 76M(1).

coal mining lease see section 76M(2).

coal or oil shale mining lease means a coal mining lease or oil shale mining lease under the Mineral Resources Act.

coal or oil shale mining tenement means a coal mining or oil shale mining tenement under the Mineral Resources Act.

coal seam gas see section 76K(1).

commercial viability report see section 75F(1).

Commonwealth Native Title Act means the *Native Title Act 1993* (Cwlth).

compensation agreement—

- (a) for part 6I—see section 79C(1).
- (b) for part 6K—see section 79Q(1).

compensation liability—

- (a) for part 6I—see section 79B(2); or
- (b) for part 6K—see section 79P(3).

conditions of a 1923 Act petroleum tenure means—

- (a) the conditions stated in it from time to time; and
- (b) the tenure holder's obligations under this Act; and
- (c) any condition of the tenure under this Act; and
- (d) a condition that a tenure holder must ensure each person acting for the holder who carries out an authorised activity for the tenure complies with its conditions to the extent they apply to the carrying out of the activity.²

coordinated development agreement see section 177(4).

² For who may carry out an authorised activity for the holder, see section 75E (Who may carry out authorised activity for holder).

coordination arrangement means a coordination arrangement under the 2004 Act.

crude oil means petroleum oil in its natural state before it has been refined or otherwise treated but from which water and other foreign substances may have been extracted.

CSG assessment criteria see section 76U(1)(b).

CSG statement see section 76U(1)(a).

current term, of an authority to prospect, see section 171.

dangerous situation means a situation relating to petroleum, or fuel gas as defined under the 2004 Act, in which an inspector under the 2004 Act reasonably believes an imminent risk of material harm to persons or property is likely if action is not taken to avoid, eliminate or minimise the risk.

development plan—

- 1 The *development plan* for a lease is—
 - (a) for a lease in force before the 2004 Act start day—its current program for development and production under former section 50 that, under section 156, is taken to be its development plan; or
 - (b) for a lease granted after the 2004 Act start day—the proposed program for development and production of petroleum for the application for the lease, lodged under section 40(2)(b).
- 2 However, if, under part 6, division 2, a later development plan is approved for the lease, the later development plan is the development plan for the lease.

drill, other than for sections 48, 83, 84 and 89—

- (a) includes to bore; and
- (b) for, a water supply bore, includes excavating the bore.

drilling means drilling, for sections 48, 83, 84 and 89, or boring.

eligible claimant, for compensation, see section 79P(2).

enter a place includes the exercise of the rights in relation to the place under section 74X.

entry notice—

- (a) for part 6H—see section 78M(1)(a); and
- (b) for part 6I—see section 79I.

entry period—

- (a) for part 6H—see section 78O(1)(b); and
- (b) for part 6I—see section 79K.

Environmental Protection Act means the *Environmental Protection Act 1994*.

excluded land for—

- (a) an authority to prospect, means excluded land for the authority, decided under section 18A; or
- (b) a lease, means excluded land for the lease, decided under section 40C.³

existing Water Act bore see section 75IB.

explore, for petroleum, means to carry out an activity for the purpose of finding petroleum in a natural underground reservoir.

Examples—

- conducting a geochemical, geological or geophysical survey
- drilling a well for petroleum or the investigation of the geological structure or stratigraphy in the well
- carrying out testing in relation to a well
- taking a sample for chemical or other analysis

fee includes tax.

first tenure, for part 6J, see section 79M(1).

geothermal exploration permit means a geothermal exploration permit under the *Geothermal Exploration Act 2004*.

holder, of a 1923 Act petroleum tenure, means each person recorded in the petroleum register as its holder.

³ See also section 154 (Area of land in area of coal mining lease or oil shale mining lease becomes excluded land).

impaired capacity, for an existing Water Act bore, see section 75ID.

incidental coal seam gas see section 76K(2).

independent viability assessment see section 75H(2).

information notice, for a decision, means a notice stating each of the following—

- (a) the decision, and the reasons for it;
- (b) all appeal rights under this Act;
- (c) the period in which any appeal under this Act must be started;
- (d) how appeal rights under this Act are to be exercised;
- (e) that a stay of a decision the subject of an appeal under this Act may be applied for under this Act.

interfere with includes tamper.

land includes land covered by water, and whether by sea or otherwise.

later development plan requirements see section 53.

later work program requirements see section 25.

lease means a petroleum lease granted under this Act.

lessee means the holder of a petroleum lease.

licensed water bore driller means an individual who holds a water bore driller's licence under the Water Act.

make good agreement see section 75IZC(1).

make good obligation, for an existing Water Act bore, see section 75IG.

mandatory condition for—

- (a) an authority to prospect, means a condition of the authority imposed under part 6A, division 2 or 4 as a mandatory condition or prescribed under section 90; or
- (b) a lease, means—
 - (i) a condition of the lease imposed under part 6A, division 3 or 4 as a mandatory condition or

Petroleum Act 1923

prescribed under section 90 as a mandatory condition; or

- (ii) the reservations, conditions and covenants of the lease imposed under section 47.

Mineral Resources Act means the *Mineral Resources Act 1989*.

mining interest means—

- (a) a mining tenement under the Mineral Resources Act; or
- (b) a tenure held from the State under another Act about mining, under which the holder is authorised to carry out mining or a related mineral or energy resources activity under the Mineral Resources Act.

mining lease see the Mineral Resources Act, schedule.

mining tenement means a mining tenement under the Mineral Resources Act.

monitoring report means a report under section 75IW.

natural gas means gas consisting primarily of hydrocarbons, and obtained from boreholes or from crude oil.

natural underground reservoir—

- 1 A *natural underground reservoir* is a part of a geological formation or structure—
 - (a) in which petroleum has accumulated; or
 - (b) that is suitable to store petroleum.
- 2 A geological formation or structure mentioned in item 1 does not cease to be a *natural underground reservoir* merely because it has been modified for petroleum production or storage.
- 3 In items 1 and 2, a geological formation includes a coal seam.

noncompliance action means action of a type mentioned in section 80T.

notice means a written notice.

notifiable road use, for a 1923 Act petroleum tenure, see section 78Y(1).

occupier, of a place, means a person—

- (a) who, under an Act, has a right to occupy the place, other than under a mining interest; or
- (b) to whom an occupier under paragraph (a) has given the right to occupy the place.

oil shale see section 76L.

oil shale exploration tenement see section 76N(1).

oil shale mining lease see section 76N(2).

on, land or another place, includes across, attached to, in, under or over the land or place.

operate, a pipeline—

- 1 *Operate*, a pipeline, includes use, inspect, test, maintain, repair, alter, add to and replace the pipeline.
- 2 For item 1, using a pipeline includes using it to transport petroleum.

operating plant see the 2004 Act, section 670.⁴

original notional sub-blocks of an authority to prospect—

- 1 The *original notional sub-blocks*, of an authority to prospect, are the sub-blocks stated in the instrument for the authority at the following time—
 - (a) if the authority was granted before the 2004 Act start day—immediately after its first renewal after that day;
 - (b) if the authority was granted after the 2004 Act start day—when it was originally granted.
- 2 However, the *original notional sub-blocks* do not include any sub-block stated in the instrument that is completely within the area of a lease under this Act or a 2004 Act lease.
- 3 For item 1, if the instrument—
 - (a) states that the authority’s area includes land within a block; but

⁴ 2004 Act, section 670 (What is an *operating plant*)

Petroleum Act 1923

- (b) does not include or exclude any particular sub-block within that block;

the reference to the block is a reference to all sub-blocks within the block, other than any sub-block that is completely within the area of another 1923 Act petroleum tenure or a 2004 Act petroleum tenure.

owner—

- 1 An *owner*, of land, means each person as follows in relation to the land—
- (a) for freehold land—a registered owner;
 - (b) for land for which a person is, or will on performing conditions, be entitled to a deed of grant in fee simple—the person;
 - (c) if an estate in fee simple of land is being purchased from the State—the purchaser;
 - (d) for a public road—the public road authority for the road;
 - (e) for land that is busway land, light rail land, rail corridor land or a cane railway or other railway—the public land authority for the land;
 - (f) for required land under the *Transport Infrastructure Act 1994*, section 436—the chief executive of the department in which that Act is administered;
 - (g) for a forest entitlement area, State forest or timber reserve under the *Forestry Act 1959*—the chief executive of the department in which that Act is administered;
 - (h) for a conservation park or resources reserve under the *Nature Conservation Act 1992* (the *NCA*) for which there are trustees—
 - (A) if, under the *NCA*, the park or reserve has trustees whose powers are not restricted—the trustees; or

Petroleum Act 1923

- (B) otherwise—the chief executive of the department in which the NCA is administered;
- (i) for DOGIT land under the *Aboriginal Land Act 1991* or the *Torres Strait Islander Land Act 1991*—a trustee for the land;
 - (j) for land held under a lease under the *Local Government (Aboriginal Lands) Act 1978*, section 3⁵—a relevant local government;
 - (k) for Torres Strait Islander land under the *Torres Strait Islander Land Act 1991* that is taken to be a reserve because of section 84(2) or 84(4)(b)⁶ of that Act—each grantee of the land;
 - (l) for land under the *Land Act 1994* for which there are trustees—a trustee;
 - (m) for transport land under the *Transport Planning and Coordination Act 1994*—the chief executive of the department in which that Act is administered;
 - (n) for land vested in the Minister administering the *Education (General Provisions) Act 1989*—that Minister;
 - (o) for land vested in the Queensland Housing Commission or another Minister or a chief executive responsible for constructing public buildings—the Minister administering the relevant Act;
 - (p) for land held from the State under another Act under an interest less than fee simple (other than occupation rights under a permit under the *Land Act 1994*)—the person who holds the interest;
 - (q) for any of the following land under the NCA, the chief executive of the department in which the NCA is administered—

5 *Local Government (Aboriginal Lands) Act 1978*, section 3 (Grant of leases to councils)

6 *Torres Strait Islander Land Act 1991*, section 84 (Application of Mineral Resources Act)

Petroleum Act 1923

- (i) a national park;
 - (ii) a national park (Aboriginal land);
 - (iii) a national park (scientific);
 - (iv) a national park (Torres Strait Islander land);
 - (v) a national park (recovery);
 - (vi) a forest reserve.
- 2 Also, a mortgagee of land is the *owner* of land if—
- (a) the mortgagee is acting as mortgagee in possession of the land and has the exclusive management and control of the land; or
 - (b) the mortgagee, or a person appointed by the mortgagee, is in possession of the land and has the exclusive management and control of the land.
- 3 The *owner* of an existing Water Act bore is—
- (a) the person who owns the land on which the bore is located; or
 - (b) any person who holds a lease over the land.
- 4 If land has more than 1 owner, a reference in this Act to its owner of the land is a reference to each of its owners.

payable, as applied to petroleum, means petroleum of such quantity and quality that it can under ordinary circumstances be won with profit.

permitted dealing see section 80E.

petroleum means any—

- (a) naturally occurring hydrocarbon, whether in a gaseous, liquid or solid state; or
- (b) naturally occurring mixture of hydrocarbons, whether in a gaseous, liquid or solid state; or
- (c) naturally occurring mixture of 1 or more hydrocarbons, whether in a gaseous, liquid, or solid state, and 1 or more of the following—
 - (i) hydrogen sulphide;
 - (ii) nitrogen;

Petroleum Act 1923

- (iii) helium;
- (iv) carbon dioxide;

and includes any petroleum defined by paragraphs (a) to (c) that has been returned to a natural reservoir, but does not include, and is hereby declared never did include—

- (d) shale from which mineral oil may be extracted or produced;
- (e) mineral oil extracted or produced from shale or coal or other rock by some chemical or thermal process;
- (f) hydrocarbons and other substances or matter occurring in association with shale or coal and necessarily mined, extracted, produced or released by or in connection with mining for shale or coal or the extraction or production of mineral oil therefrom;
- (g) alginite;
- (h) coal;
- (i) lignite;
- (j) peat;
- (k) shale or other rock from which a gasification or retorting product as defined in the 2004 Act may be extracted or produced;
- (l) torbanite.

petroleum deposits means the petroleum-producing or petroleum-bearing sands or strata.

petroleum register means the register the chief executive keeps under section 80C.

petroleum royalty means petroleum royalty imposed under the 2004 Act, section 590.

pipeline means the whole or part of a pipe or a system of pipes for conveying petroleum, wherever recovered, and all ancillary equipment and works connected therewith, including flow lines from wells, gathering lines and main lines and installations in connection therewith such as tanks, reservoirs, pumps, racks and loading facilities, structures supporting the line, pump houses, and apparatus to afford

protection against corrosion, but does not include flare lines and similar pipelines at wells being drilled for petroleum.

place includes land.

plan period, for a development plan, means the period for which the plan applies.

private land—

- 1 *Private land* is—
 - (a) freehold land; or
 - (b) an interest in land less than fee simple held from the State under another Act.
- 2 However, land is not *private land* to the extent of any of the following interests in relation to the land—
 - (a) a mining interest;
 - (b) an occupation right under a permit under the *Land Act 1994*;
 - (c) land owned by a public land authority.

produced, for petroleum, means to recover or release it to ground level from a natural underground reservoir in which it has been contained or from which it is extracted.

program period, for a work program, means the period for which the program applies.

provisions of a 1923 Act petroleum tenure—

- 1 A reference in this Act to a 1923 Act petroleum tenure includes a reference to its provisions.
- 2 A reference in this Act to the provisions of a 1923 Act petroleum tenure is a reference to its mandatory or other conditions and any thing written in it.

public land means land other than—

- (a) private land; or
- (b) land to the extent of any of the following interests in relation to land—
 - (i) a mining interest;

Petroleum Act 1923

- (ii) an occupation right under a permit under the *Land Act 1994*.

public land authority means—

- (a) for a public road—the road authority for the road; or
- (b) if a local government or other authority is, under an Act, charged with the control of the land—the local government or other authority; or
- (c) otherwise—the chief executive of the department administering the Act under which entry to the land is administered.

public road means an area of land that—

- (a) is open to, or used by, the public; and
- (b) is developed for, or has as one of its main uses—
- (i) the driving or riding of motor vehicles; or
- (ii) pedestrian traffic; and
- (c) is controlled by a public road authority.

Examples of an area of land that may be included in a road—

- a bridge, culvert, ford, tunnel or viaduct
- a pedestrian or bicycle path

public road authority, for a public road, means—

- (a) for a State-controlled road—the chief executive of the department in which the *Transport Infrastructure Act 1994* is administered; or
- (b) for another public road—the local government having the control of the road.

recipient, for part 6F, see section 78A(1).

relevant environmental authority, for a 1923 Act petroleum tenure or water monitoring authority, means an environmental authority under the Environmental Protection Act granted for all of the authorised activities for the tenure or authority that are environmentally relevant activities under the Environmental Protection Act.

relinquishment condition—

- 1 Generally, the *relinquishment condition*, for an authority to prospect is the relinquishment condition under section 74A(1).
- 2 However if part 10, division 2 applies and the authority is an authority to which section 173 or 174 applies, the *relinquishment condition* for the authority is the *relinquishment condition* under that section.
- 3 The *relinquishment condition* for a lease is the relinquishment condition under section 77M(4).

remedial powers see section 80L(2).

report means a written report.

required information, for part 6E, division 3, see section 76C.

restoration measures, for an existing Water Act bore, see section 75IE.

review report means a report under section 75IX.

road use direction see section 79(1).

safety management plan see the 2004 Act, schedule 2.

second tenure, for part 6J, see section 79M(1).

security includes bond, deposit of an amount as security, guarantee, indemnity or other surety, insurance, mortgage and undertaking.

services of the State has the same meaning that the term has in relation to the State of Queensland under the *Copyright Act 1968* (Cwlth), section 183(1).⁷

share, of a 1923 Act petroleum tenure, means any interest held by a person as a holder of the tenure in all of the area of the tenure.

specific purpose mining lease means a mining lease that, under the Mineral Resources Act, section 234(1)(b), is granted for a purpose other than mining.

⁷ *Copyright Act 1968* (Cwlth), section 183 (Use of copyright material for the services of the Crown)

State-controlled road see *Transport Infrastructure Act 1994*, schedule 6.

structure means anything built or constructed, whether or not attached to land.

sub-block means the land, identified in the way approved by the chief executive, resulting from a notional division of a block into 25 areas, each sub-block being bounded by 2 meridians of longitude 1 minute apart and 2 parallels of latitude 1 minute apart.

sublease, for a lease over land covered by a coordination arrangement, means a sublease of all or part of—

- (a) the leased land; or
- (b) petroleum produced under the lease.

submission means a written submission.

the public interest means a consideration of each of the following—

- (a) government policy;
- (b) value of commodity production (including time value);
- (c) employment creation;
- (d) total return to the State and to Australia (including royalty and rent), assessed on both a direct and indirect basis, so that, for example, downstream value adding is included;
- (e) social impacts;
- (f) the overall economic benefit for the State, or a part of the State, in the short and long term;
- (g) impacts on aesthetic, amenity, cultural or environmental values.

transfer, of a well, water observation bore or water supply bore, see section 75N(2).

transitional notional sub-blocks, of an authority to prospect, see section 172.

tribunal means the Land and Resources Tribunal.

trigger threshold, for an aquifer, means the trigger threshold for the aquifer under part 6CA, division 3, subdivision 1.

unallocated State land has the same meaning as in the *Land Act 1994*.

underground water means water that occurs naturally in, or is introduced artificially into, an aquifer, whether or not it would, if tapped by a bore, flow naturally to the surface.

underground water flow model, for existing Water Act bores, means an underground water flow model that complies with section 75IN.

underground water impact report means an underground water impact report lodged under section 75IM, as amended by any review report.

unduly affected for an existing Water Act bore, see section 75IC.

usual relinquishment see section 74C(3).

waiver of entry notice—

- (a) for part 6H—see section 78M(3); and
- (b) for part 6I—see section 79J.

Water Act means the *Water Act 2000*.

Water Act regulator means the chief executive of the department that administers the Water Act.

water monitoring authority means an authority granted under section 75WC.

water observation bore—

- 1 A water observation bore is a bore to monitor water levels.
- 2 A reference to a water observation bore includes its casing, wellhead and any other works constructed in connection with the bore.

water supply bore means a water bore drilled under section 86 with the permission of the Minister.

well—

- 1 A *well* is a hole in the ground made or being made by drilling, boring or any other means—
 - (a) to explore for or produce petroleum; or
 - (b) to inject petroleum into a natural underground reservoir; or
 - (c) through which petroleum may be produced.
- 2 A *well* includes the casing for the well and any wellhead for the well attached to it.
- 3 To remove any doubt, it is declared that a *well* does not include any of the following—
 - (a) a water observation bore;
 - (b) a water supply bore;
 - (c) an existing Water Act bore;
 - (d) a seismic shot hole or shallow hole drilled to work out a geological structure.

wellhead means the casing head, and includes any casing hanger or spool, or tubing hanger, and any flow control equipment up to and including the wing valves.

work program, for an authority to prospect means—

- (a) its work program as approved under section 151; or
- (b) its conditions about expenditure or work that, under section 155, are taken to be a later work program for the authority; or

- (c) its later work program approved under part 4, division 2, as amended from time to time under that division.⁸

3 Relationship with Mineral Resources Act

- (1) This section does not apply to a coal or oil shale mining tenement.⁹
- (2) Subject to subsections (3) to (6), the Mineral Resources Act does not limit or otherwise affect—
- (a) the power under this Act to grant or renew a lease or renew an authority to prospect over land (the *overlapping land*) in the area of a mining tenement under the Mineral Resources Act; or
- (b) a lease or authority to prospect already granted under this Act over land (also the *overlapping land*) in the area of an existing mining tenement.
- (3) If the mining tenement is a mining lease (other than a transportation mining lease), an authorised activity for the authority to prospect or lease under this Act may be carried out on the overlapping land only if—
- (a) the mining lease holder has agreed in writing to the carrying out of the activity; and
- (b) a copy of the agreement has been lodged at the following office (the *relevant office*)—
- (i) the office of the department for lodging the agreement, as stated in a gazette notice by the chief executive;
- (ii) if no office is gazetted under subparagraph (i)—the office of the chief executive; and

8 See also sections 25D (Authority taken to have work program until decision on whether to approve proposed work program), 25N (Continuing effect of authority for renewal application) and 155 (Conditions of an authority to prospect about expenditure or work becomes its work program).

9 See also the Mineral Resources Act, section 3A (Relationship with petroleum legislation).

For the relationship between this Act and the Mineral Resources Act in relation to coal or oil shale mining tenements, see part 6F (Provisions for coal seam gas).

- (c) the agreement is still in force.
- (4) If the mining tenement is an exploration permit, mineral development licence or transportation mining lease, an authorised activity for the authority to prospect may be carried out on the overlapping land only if—
 - (a) the mining tenement holder has agreed in writing to the carrying out of the activity, a copy of the agreement has been lodged at the relevant office and the agreement is still in force; or
 - (b) carrying out the activity does not adversely affect the carrying out of an authorised activity for the tenement that has already started.
- (5) If the mining tenement is an exploration permit or a mineral development licence and the overlapping land is in the area of the lease under this Act, an authorised activity for the mining tenement may be carried out on the overlapping land only if—
 - (a) the lessee has agreed in writing to the carrying out of the activity; and
 - (b) a copy of the agreement has been lodged at the relevant office; and
 - (c) the agreement is still in force.
- (6) In this section—

transportation mining lease means a mining lease granted under the Mineral Resources Act section 316.¹⁰

4 Relationship with Nature Conservation Act 1992

This Act is subject to the *Nature Conservation Act 1992*, sections 27 and 79QA.¹¹

¹⁰ Mineral Resources Act section 316 (Mining lease for transportation through land)

¹¹ *Nature Conservation Act 1992*, sections 27 (Prohibition on mining) and 79QA (Prohibition on mining in forest reserves)

7 Application of Act

- (2) To the extent necessary to give operation and effect to the provisions of the *Amoco Australia Pty. Limited Agreement Act 1961*, and the agreement to which that Act relates, and to ensure that no provision of this Act shall affect or prejudice in any way that Act or that agreement, it is hereby declared that every provision of this Act shall be read subject to the *Amoco Australia Pty. Limited Agreement Act 1961*, and the agreement to which that Act relates.
- (3) If there is an inconsistency between a provision of this Act and the Gas Pipelines Access (Queensland) Law, the Law prevails to the extent of the inconsistency.

7A Act applies out to coastal waters of the State

This Act applies to land and land covered by water that is seaward of the coastline of the State at mean low water and landward of the inner limit of the territorial sea of Australia.

7AA Qualification of 1923 Act petroleum tenure holders

The following persons shall be qualified to apply for and hold a 1923 Act petroleum tenure, namely—

- (a) any natural person;
- (b) any company;
- (ba) any government owned corporation;
- (c) any lawful association of the abovementioned persons.

7B Notes in text

A note in the text of this Act is part of this Act.

Part 3 **Rights and powers of the Crown**

9 **Petroleum the property of the Crown**

Notwithstanding anything to the contrary contained in any Act or in any grant, instrument of title, or other document, it is hereby declared that petroleum on or below the surface of all land in Queensland, whether alienated in fee simple or not so alienated from the Crown, and if so alienated whensoever alienated, is and always has been the property of the Crown.

10 **Reservations in grants**

All grants, leases, licences, and other instruments of tenure under any Act relating to unallocated State land, other than leases under this Act, issued after the passing of this Act shall contain a reservation of all petroleum on or below the surface of the land comprised therein, and also a reservation of all rights of access for the purpose of searching for and for the operations of obtaining petroleum in any part of the land, and all rights of way for access and for pipelines and other purposes requisite for obtaining and conveying petroleum in the event of petroleum being obtained in any part of the land.

Part 4 **Authorities to prospect**

Division 1 **General provisions**

18 **Authority to prospect**

- (2) The area to be held under an authority to prospect, the terms, rent, and the conditions, provisions, and stipulations as to labour and other matters shall be fixed by the Minister.

- (3) Failure to comply with any conditions, provisions, and stipulations so fixed shall render the authority liable to be cancelled by the Minister.
- (4) Such authority shall entitle the holder, upon payment in advance of the rent fixed as aforesaid, and survey fee if necessary, to undertake exploration or prospecting, or geological or geological and geophysical investigation or testing, of favourable geological structures, or generally to do all things in respect of the search for and discovery of petroleum or for the due development of the industry during the term of such authority.
- (7) The Minister may thereupon call upon the holder of the authority to apply for a lease of the land or such part thereof as the Minister may deem advisable or to continue prospecting operations.

18A Minister's power to decide excluded land for authority to prospect

- (1) The Minister may decide excluded land for an authority to prospect.
- (2) However, the power under subsection (1) may be exercised only when the Minister is deciding whether to—
 - (a) grant or renew the authority; or
 - (b) approve any later work program for the authority.
- (3) Also, excluded land—
 - (a) must be within the sub-blocks stated in the instrument for the authority; and
 - (b) can not be—
 - (i) a whole block; or
 - (ii) land in the area of another 1923 Act petroleum tenure.
- (4) For subsection (3)(a), if the instrument—
 - (a) states that the authority's area includes land within a block; but

- (b) does not include or exclude any particular sub-block within that block;

the reference to the block is a reference to all sub-blocks within the block, other than any sub-block that is completely within the area of another 1923 Act petroleum tenure or a 2004 Act petroleum tenure.

- (5) Excluded land may be described in a way the Minister considers appropriate, including, for example, by area or by reference to a stated type of land.
- (6) Land ceases to be excluded land for an authority to prospect if—
 - (a) the block in which the land is located is relinquished or, for any other reason, ceases to be in the area of the authority; or
 - (b) a lease under this Act or a 2004 Act lease is granted over any of the area of the authority and the land is excluded land for the lease.

19 Variation of authority to prospect

- (1) The Minister may pursuant to agreement with the holder of an authority to prospect, from time to time vary any condition, provision or stipulation as specified in the authority whereupon, until a further variation is duly made, the condition, provision or stipulation as so varied is taken to be the condition, provision or stipulation specified in the authority.
- (2) A copy of every variation is to be given to the holder of the authority.

20 Area of authority to prospect reduced on grant of lease

- (1) Land ceases to be included in the area of an authority to prospect if a lease is granted over the land.
- (2) If a lease is granted over all of the area of an authority to prospect, the authority ends.

21 Surrender of authority to prospect

- (1) The holder of an authority to prospect may, with the Minister's approval, at any time surrender the holder's interest in an authority to prospect or any part of the land comprising the authority to prospect but a surrender in respect of part of the land comprising an authority to prospect may only be surrendered if that part can be identified from the land comprising the balance of the authority to prospect by the same or similar means whereby the land comprising the authority to prospect is described and identified by the authority to prospect.
- (1A) However, the Minister's approval is not required if the surrender is the surrender of a part of the area of the authority that overlaps with the area of a lease under this Act or a 2004 Act lease.
- (2) Where an authority to prospect is surrendered in respect of part only of the land comprising the authority to prospect, the authority to prospect is to be amended by excising that part and otherwise as may be required to conform with this Act and the authority to prospect continues in respect of the balance of the area.
- (3) In the case of a surrender of an authority to prospect (in whole or in part) all adjustments between the Crown and the holder in respect of the payment of rental, fees or other moneys are at the discretion of the Minister who, for this purpose, may demand of the holder such sums as the Minister specifies and recover the same by action as a debt due to the Crown.
- (4) The holder may obtain the approval only by an application—
 - (a) made in the approved form; and
 - (b) lodged at—
 - (i) the office of the department for lodging authority to prospect surrender applications, as stated in a gazette notice by the chief executive; or
 - (ii) if no office is gazetted under subparagraph (i)—the office stated in the approved form; or
 - (iii) if the approved form does not state an office—the office of the chief executive; and

- (c) accompanied by—
 - (i) the fee prescribed under a regulation; and
 - (ii) a report by the applicant about authorised activities for the authority carried out on the area the subject of the application, and the results of the activities.

24 Miscellaneous rights

The holder of an authority to prospect shall have the right—

- (b) to cut and use any timber on such land for building or construction works or firewood or other necessary purposes; and
- (c) to depasture on such land all stock used in connection with the holder's prospecting and mining operation;

subject, however, to any conditions prescribed with respect to payment for water, timber, or agistment in cases where the making of such payment is deemed necessary.

Division 2 Work programs

Subdivision 1 Requirements for proposed later work programs

25 Operation of sdiv 1

This subdivision provides for requirements (the *later work program requirements*) for a proposed work program for an authority to prospect.¹²

25A General requirements

- (1) The proposed program must include each of the following—

¹² For initial work programs see sections 151 (Unfinished authority to prospect applications for which a Commonwealth Native Title Act s 29 notice has been given) and 155 (Conditions of an authority to prospect about expenditure or work becomes its work program).

Petroleum Act 1923

- (a) an overview of the activities proposed to be carried out under the authority or proposed authority during all of its term;
 - (b) for each year of the program period, a statement about—
 - (i) the extent and nature of petroleum exploration and testing for petroleum production proposed to be carried out during the year; and
 - (ii) generally where the activities are proposed to be carried out; and
 - (iii) the estimated cost of the activities;
 - (c) maps that show where the activities are proposed to be carried out;
 - (d) any other information relevant to the matters mentioned in section 25E(2);¹³
 - (e) reasons that the program is considered appropriate;
 - (f) a statement about the extent to which the current work program for the authority to prospect has been complied with;
 - (g) if there have been any amendments to the authority or its current work program, a statement about—
 - (i) whether the changes have been incorporated in the proposed program; and
 - (ii) any effect the changes have on the proposed program;
 - (h) a statement about the effect of any petroleum discovery on the proposed program;
 - (i) another matter prescribed under a regulation.
- (2) A regulation may impose requirements about the form in which the matters mentioned in subsection (1) must be given.
- (3) In this section—
year, of the program period, means—

13 Section 25E (Deciding whether to approve proposed program)

- (a) the period starting on the day the program period starts and ending on the first anniversary of that day; and
- (b) each subsequent period of 12 months or less during the program period, starting on each anniversary of that day and ending on—
 - (i) the next anniversary of that day; or
 - (ii) if the program period ends before the next anniversary—the day the program period ends.

25B Program period

- (1) The proposed program must state its period.
- (2) The period must not be longer than—
 - (a) if the term of the rest, or the renewed term, of the authority is less than 4 years—the rest of its term or renewed term; or
 - (b) if the term of the rest, or the renewed term, of the authority is 4 years or more, the following—
 - (i) generally—4 years from the start of the period;
 - (ii) if the Minister approves a longer period—the longer period.
- (3) However, the Minister can not approve a period longer than the rest of the term or renewed term of the authority.

Subdivision 2 Approval of proposed later work programs

25C Application of sdiv 2

This subdivision applies if, under this Act, a proposed later work program is lodged for approval.¹⁴

¹⁴ For requirements to lodge a proposed later work program, see sections 25M (Requirements for making application), 74K (Obligation to lodge proposed later work program) and 80T (Types of noncompliance action that may be taken).

25D Authority taken to have work program until decision on whether to approve proposed work program

- (1) This section applies until—
 - (a) if the proposed program is approved—the authority to prospect holder is given notice of the approval; or
 - (b) if approval of the proposed program is refused—when the refusal takes effect.¹⁵
- (2) Despite the ending of the program period for the current work program for the authority to prospect—
 - (a) the authority is taken to have a work program; and
 - (b) the holder may carry out any authorised activity for the authority.

25E Deciding whether to approve proposed program

- (1) The Minister may approve or refuse to approve the proposed program.
- (2) The matters that must be considered in deciding whether to approve the proposed program include each of the following—
 - (a) the appropriateness of the proposed program, having regard to—
 - (i) the potential of the area of the authority to prospect for petroleum discovery; and
 - (ii) the extent and nature of the proposed petroleum exploration;
Examples—
 - proposed geological, geophysical or geochemical surveying
 - the number of wells the authority to prospect holder proposes to drill, and their type
 - (iii) when and where the authority to prospect holder proposes to carry out the exploration;

¹⁵ For when the decision takes effect, see section 25F (Steps after, and taking effect of, decision).

- (b) the capability criteria;
- (c) the extent to which the current work program has been complied with;
- (d) any amendments made to the authority or its current work program, and the reasons for the changes;
- (e) any notice under section 75Y,¹⁶ commercial viability report or independent viability assessment for the authority.

25F Steps after, and taking effect of, decision

- (1) On approval of the proposed later work program, the holder must be given notice of the approval.
- (2) On refusal to approve the later work program, the holder must be given an information notice about the decision to refuse.
- (3) An approval takes effect when the holder is given the notice or, if the notice states a later day of effect, on that later day.
- (4) A refusal does not take effect until the end of the appeal period for the refusal.¹⁷

Subdivision 3 Amending work programs

25G Restrictions on amending work program

- (1) An authority to prospect holder may amend the work program for the authority only if—
 - (a) an application for approval of the amendment has been made under this subdivision and the amendment has been approved under this subdivision; and
 - (b) if the amendment is to extend the period of the work program—the requirements under subsection (2) have been complied with.

¹⁶ Section 75Y (Notice about discovery and commercial viability)

¹⁷ See sections 105 (Period to appeal) and 107 (Stay of operation of decision).

Petroleum Act 1923

- (2) For subsection (1)(b), the requirements are each of the following—
- (a) the work program can not be the initial work program for the authority;
 - (b) the period of the work program, or any earlier work program for the authority, must not have previously been extended;
 - (c) the extension can not be for a term that ends after—
 - (i) 1 year after the current period of the work program; or
 - (ii) 12 years after the authority originally took effect;
 - (d) within 3 months before the making of the application—
 - (i) a person (the *designated person*) become a holder of the authority; or
 - (ii) a person (also the *designated person*) applied for approval of a transfer of a share in the authority and the transfer has, under section 25J,¹⁸ been approved;
 - (e) the share, or proposed share, of the designated person in the authority is at least 50%;
 - (f) the designated person is not, under the Corporations Act, section 64B,¹⁹ an entity connected with another person who is a holder of the authority.
- (3) In this section—
- initial work program* means—
- (a) a work program approved under section 151; or
 - (b) conditions about expenditure or work that, under section 155, are taken to be the work program for the authority.

18 Section 25J (Deciding application)

19 Corporations Act, section 64B (Entities connected with a corporation)

25H Applying for approval to amend

- (1) An authority to prospect holder may apply for approval to amend the work program for the authority.
- (2) However, the application can not be made less than 20 business days before the end of the period stated in the plan for carrying out work under the existing work program.

25I Requirements for making application

The application must be—

- (a) lodged at—
 - (i) the office of the department for lodging work program amendment applications, as stated in a gazette notice by the chief executive; or
 - (ii) if no office is gazetted—the office of the chief executive; and
- (b) accompanied by the fee prescribed under a regulation.

25J Deciding application

- (1) If the proposed amendment—
 - (a) does not relate to the work program for the authority to prospect provided for under section 155;²⁰ and
 - (b) is to substitute the carrying out of an authorised activity (the *original activity*) with another authorised activity;the Minister may approve the amendment if satisfied the other activity is at least of an equivalent value to the original activity.
- (2) If the application is to extend the period of the work program for the authority, the Minister may approve the amendment only if satisfied—
 - (a) the requirements under section 25G(2) have been complied with; and

²⁰ Section 155 (Conditions of an authority to prospect about expenditure or work becomes its work program)

- (b) the designated person mentioned in section 25G(2) is likely to provide additional financial or technical resources for the authority; and
- (c) the work program will be completed within the period of the extension.

Note—

For additional provisions about relinquishment that apply if the period is extended, see sections 74A(1)(c) and 74J.²¹

- (3) Otherwise, the Minister may approve the amendment only if satisfied it is necessary because of a circumstance—
 - (a) not related to—
 - (i) the applicant's financial or technical resources or ability to manage petroleum exploration; or
 - (ii) the results of exploration; and
 - (b) the happening of which is or was beyond the applicant's control; and
 - (c) that could not have been prevented by a reasonable person in the applicant's position.
- (4) Also, if the amendment is approved under subsection (2), any relinquishment day for the authority may be deferred for a period that relates to a circumstance mentioned in subsection (3).
- (5) A deferral under subsection (4)—
 - (a) can not be for longer than 12 years after the authority took effect; and
 - (b) does not defer any later relinquishment day for the authority.
- (6) If, under this section, an amendment is approved, a condition may be imposed on the authority requiring its holder to relinquish, by a notice lodged at the following office, at least a stated percentage of the original notional sub-blocks of the authority on or before a stated day—

²¹ Sections 74A (Standard relinquishment condition) and 74J (Penalty relinquishment if work program not completed within extended period)

- (a) the office of the department for lodging relinquishment notices, as stated in a gazette notice by the chief executive;
- (b) if no office is gazetted under paragraph (a)—the office of the chief executive.

25K Steps after, and taking effect of, decision

- (1) On approval of the proposed amendment, the holder must be given notice of the approval.
- (2) On refusal to approve the proposed amendment, the holder must be given an information notice about the decision to refuse.
- (3) An approval takes effect when the holder is given the notice or, if the notice states a later day of effect, on that later day.

Division 3 Renewals

25L Conditions for renewal application

- (1) An authority to prospect holder may apply to renew the authority only if none of the following is outstanding—
 - (a) annual rent for the authority;
 - (b) a civil penalty under section 74W for nonpayment of annual rent;
 - (c) interest payable under section 102²² on annual rent or a civil penalty;
 - (d) petroleum royalty for petroleum produced under the authority and any unpaid petroleum royalty interest on it;
 - (e) security required for the authority, as required under section 78E.²³

22 Section 102 (Interest on amounts owing to the State under this Act)

23 Section 78E (Power to require security for 1923 Act petroleum tenure)

- (2) Also the application can not be made—
- (a) if any of the following provides that the authority is to be replaced under another Act—
 - (i) an agreement mentioned in the Commonwealth Native Title Act, section 31(1)(b);²⁴
 - (ii) an indigenous land use agreement registered on the register of indigenous land use agreement under the Commonwealth Native Title Act;²⁵ or
 - (b) if section 173²⁶ applies and the relinquishment condition under that section has not been complied with; or
 - (c) if a part of the area of the authority overlaps with the area of a lease under this Act or a 2004 Act lease; or
 - (d) more than 60 business days before the end of the term of the authority; or
 - (e) after the authority has ended.

25M Requirements for making application

- (1) The application must—
- (a) be in the approved form; and
 - (b) be lodged at—
 - (i) the office of the department for lodging authority to prospect renewal applications, as stated in a gazette notice by the chief executive; or
 - (ii) if no office is gazetted under subparagraph (i)—the office stated in the approved form; or
 - (iii) otherwise—the office of the chief executive; and
 - (c) state whether or not the work program for the authority to prospect has been complied with; and

24 Commonwealth Native Title Act, section 31 (Normal negotiation procedure)

25 See the 2004 Act, section 908 (Right to apply for petroleum tenure).

26 Section 173 (Relinquishment condition if authority includes a reduction requirement)

- (d) if the work program has not been complied with—state details of, and the reasons for, each noncompliance; and
 - (e) include a proposed later work program for the renewed authority; and
 - (f) include a statement about how and when the applicant proposes to consult with, and keep informed, each owner and occupier of private or public land on which authorised activities for the renewed authority are, or are likely to be, carried out;²⁷ and
 - (g) address the capability criteria; and
 - (h) include information about the matters that, under sections 80J and 80K,²⁸ must or may be considered in deciding the application; and
 - (i) state whether or not the applicant has complied with part 6E,²⁹ for reports required to be lodged in relation to the authority; and
 - (j) be accompanied by—
 - (i) the application fee prescribed under a regulation; and
 - (ii) if the application is made less than 20 business days before end of the term of the authority—an amount that is 10 times the application fee.
- (2) The proposed work program must comply with the later work program requirements.³⁰
- (3) An authority to prospect holder can not apply to renew the authority if section 173 applies and the relinquishment condition under that section has not been complied with.

27 See section 74V (Obligation to consult with particular owners and occupiers).

28 Sections 80J (Deciding application) and 80K (Criteria for decision)

29 Part 6E (Reporting)

30 See division 2, subdivision 1 (Requirements for proposed later work programs).

For approval of the proposed program, see part 4, division 2, subdivision 2 (Approval of proposed later work programs).

- (4) However, to the extent the application is for a whole sub-block in the area of a petroleum lease or 2004 Act lease, the application is invalid.

25N Continuing effect of authority for renewal application

- (1) This section applies if before the application is decided the term of the authority to prospect ends.
- (2) Despite the ending of the term, the authority continues in force until the earlier of the following to happen—
- (a) the start of any renewed term of the authority;
 - (b) a refusal of the application takes effect;³¹
 - (c) the application is withdrawn;
 - (d) the authority is cancelled under this Act.³²
- (3) If the authority is renewed, subsection (2) is taken never to have applied for the period from the end of the term of the authority being renewed, as stated in that authority.³³

25O Deciding application

- (1) The Minister may grant or refuse the renewal.
- (2) However—
- (a) before deciding to grant the renewal, the Minister must decide whether to approve the applicant's proposed later work program for the renewed authority to prospect;³⁴ and
 - (b) the renewal can not be granted unless—
 - (i) the proposed program has been approved; and
 - (ii) the applicant satisfies the capability criteria; and

31 See section 25T (When refusal takes effect).

32 See also section 25D (Authority taken to have work program until decision on whether to approve proposed work program).

33 See section 25Q (Other provisions and taking effect of renewed authority).

34 See part 4, division 2, subdivision 2 (Approval of proposed later work programs).

- (iii) the Minister is satisfied the applicant has substantially complied with the authority to prospect being renewed; and
 - (iv) a relevant environmental authority for the renewed authority to prospect has been issued.
- (3) The Minister may, as a condition of deciding to grant the application, require the applicant to do all or any of the following within a stated reasonable period—
 - (a) pay the annual rent for the first year of the renewed authority;
 - (b) give security for the renewed authority, as required under section 78E.³⁵
- (4) If the applicant does not comply with the requirement, the application may be refused.

25P Term and area of renewed authority

- (1) Each renewed authority to prospect must state its term and area.
- (2) The term can not—
 - (a) end after—
 - (i) 1 November 2021; or
 - (ii) 12 years from when the renewed authority to prospect takes effect under section 25Q.
 - (b) be longer than the term of the authority that immediately preceded the renewed term.
- (3) Subsection (2)(b) applies despite—
 - (a) whether the authority to prospect has previously been renewed; and
 - (b) any previous renewal of the authority.
- (4) The area can not be more than the area of the authority to prospect being renewed immediately before the renewed authority is to take effect.

35 Section 78E (Power to require security for 1923 Act petroleum tenure)

25Q Other provisions and taking effect of renewed authority

- (1) A renewed authority to prospect may state—
 - (a) conditions or other provisions of the renewed authority, other than conditions or provisions that are—
 - (i) inconsistent with the mandatory conditions for authorities to prospect; or
 - (ii) the same as, or substantially the same as, or inconsistent with, any relevant environmental condition for the renewed authority; and
 - (b) relinquishment days for the renewed authority.
- (2) To remove any doubt, it is declared that the conditions of the renewed authority may be different from the conditions or other provisions of the authority to prospect being renewed.
- (3) The provisions of the renewed authority may exclude or restrict the carrying out of an authorised activity for the renewed authority.
- (4) The first relinquishment day for the renewed authority must not be later than 4 years after the day the renewed authority is to take effect.
- (5) If relinquishment days are not stated, its relinquishment days are taken to be—
 - (a) the day that is the fourth anniversary of the day the renewed authority starts under subsection (6) or (7); and
 - (b) each day during its term that is a 4 yearly interval after that day.
- (6) If the renewed authority is decided before the end of the term of the authority to prospect being renewed as stated in that authority (the *previous term*), the term of the renewed authority is taken to start from the end of the previous term.
- (7) If the renewed authority is decided after the previous term, the term of the renewed authority starts immediately after the end of the previous term, but—
 - (a) the conditions of the renewed authority do not start until the authority holder is given notice of them; and

- (b) until the notice is given, the conditions of the authority to prospect being renewed apply to the renewed authority as if they were its conditions.

25R Criteria for decisions

- (1) The matters that must be considered in deciding whether to grant the renewal or deciding the provisions of the renewed authority include—

- (a) the matters mentioned in section 25E(2);³⁶ and
- (b) whether the applicant continues to satisfy the capability criteria.

- (2) In this section—

satisfies, the capability criteria, means the Minister continues to have the opinion mentioned in the definition of capability criteria in section 2 about the holder of the authority to prospect being renewed.

25S Information notice about refusal

On refusal of the application, the applicant must be given an information notice about the decision to refuse.

25T When refusal takes effect

A refusal of the application does not take effect until end of the appeal period for the decision to refuse.³⁷

Division 4 Expiry of part

25U Expiry of pt 4 and ending of authorities to prospect

- (1) This part expires on 1 November 2021.
- (2) All authorities to prospect still in force immediately before 1 November 2021 expire on that day.

³⁶ Section 25E (Deciding whether to approve proposed program)

³⁷ See sections 105 (Period to appeal) and 107 (Stay of operation of decision).

Part 6 Provisions relating to leases

Division 1 General provisions for leases

40 Lease to holder of authority to prospect

- (1) Subject to subsection (5), a holder of an authority to prospect may apply to the Minister for the grant to the applicant, or to the applicant and other qualified persons nominated by the applicant, of a lease or leases of such area of land as is reasonably required to develop and produce payable deposits of petroleum within the land the subject of the authority to prospect.
- (1A) The right to apply under subsection (1) applies only to the extent that the area of the proposed lease is not in the area of a coal or oil shale mining tenement.³⁸
- (2) If the applicant and any other persons nominated by the applicant are qualified persons and the applicant—
 - (a) declares that deposits of petroleum that the applicant believes on reasonable grounds to be payable have been discovered within the land the subject of the application; and
 - (b) lodges with the Minister a proposed program for developing and producing petroleum from any field within the land;the applicant is entitled to have a lease granted to the applicant and the other persons (if any) nominated by the applicant.
- (3) On compliance with subsection (2), the relevant land is taken, for the purposes of subsection (1), to contain payable deposits of petroleum capable of development and production.
- (4) A lease is to be granted by the Governor in Council.
- (4A) The lease can not have a term of more than 30 years.

³⁸ For an authority to prospect in the area of a coal or oil shale mining tenement, see the 2004 Act, chapter 15, part 3, division 4 (Transition, by application, from 1923 Act ATP to petroleum lease under this Act).

- (5) The lands in respect of which a lease is granted under subsection (4)—
 - (a) shall not exceed 260 km² in area; and
 - (b) unless otherwise approved by the Governor in Council shall be bounded by boundaries which are a rectilinear figure the sides whereof (which may be of any number) are formed by parts of meridians of longitude and by chords, each subtending a minute of arc, of parallels of latitude and described by whole minutes of latitude and longitude; and
 - (c) shall be described and marked on a plan in such manner that they can be readily identified.
- (6) The Governor in Council may, if in the Governor in Council's opinion the special circumstances of the particular case render it necessary or desirable so to do, approve that lands which are not contiguous may be included in one lease.
- (7) The applicant for the lease shall, when and as required by the Minister, and may at the applicant's option (but in either case at the applicant's own expense) survey and mark upon the ground, in accordance with the relevant regulations, all or any portion of the boundaries of the lease.
- (8) When such survey and marking is accepted as correct by the Minister, the boundaries or portion of the boundaries as so marked shall be the boundaries or, as the case may be, that portion of the boundaries of the lease.
- (9) This section expires on 1 November 2021.

40A Continuing effect, for s 40 application, of authority to prospect and its work program

- (1) This section applies if, other than for subsection (2), the relevant authority to prospect would, other than by cancellation under this Act, end before an application under section 40 is granted.
- (2) The authority continues in force in relation to the area the subject of the application until the earlier of the following—
 - (a) the start of the term of the lease the subject of the application;

- (b) the application is withdrawn.
- (3) While the authority continues in force under subsection (2), and despite any ending of the program period for its work program—
 - (a) the authority is taken to have a work program; and
 - (b) its holder may carry out any authorised activity for the authority.

40B Minister's power to decide excluded land for lease

- (1) The Minister may, at any time, decide excluded land for a lease or a lease proposed to be granted under section 40.
- (2) However, the power under subsection (1) may be exercised only when the Minister is deciding whether to—
 - (a) grant or renew the lease; or
 - (b) approve any later development plan for the lease.
- (3) However, excluded land—
 - (a) must be within any sub-block that the lease states is included in the area of the lease; and
 - (b) can not be a whole sub-block.
- (4) For subsection (3)(a), if the instrument—
 - (a) states that the lease's area includes land within a block; but
 - (b) does not include or exclude any particular sub-block within that block;

the reference to the block is a reference to all sub-blocks within the block, other than any sub-block that is completely within the area of another 1923 Act petroleum tenure or a 2004 Act petroleum tenure.
- (5) Excluded land may be described in a way the Minister considers appropriate, including, for example, by area or by reference to a stated type of land.
- (6) Land ceases to be excluded land for a lease if, for any reason, the sub-block in which the land is located ceases to be in the area of the lease.

44 Form etc. of lease

Every lease shall—

- (a) be in the form prescribed, with such variations as the Governor in Council may in special cases approve; and
- (b) confer upon the lessee the exclusive right to prospect for, mine, extract, recover, remove, and dispose of all petroleum in or under the land demised, with the right to construct and maintain thereon all works buildings plant waterways (including any pipelines for conveying water) roads pipelines reservoirs tanks pumping stations and other structures necessary to the full enjoyment thereof; and
- (c) be for a term no longer than the period nominated (with reasons for the nomination) by the applicant as an appropriate term for producing in an economically viable way the petroleum from the fields within the land the subject of the lease; and
- (d) be subject to the mandatory conditions for leases and any conditions decided by the Governor in Council.

45 Entitlement to renewal of lease

(1AA) This section does not apply to a lease that ends after 1 November 2021.

- (1) The lessee of a lease who has substantially complied with this Act and the 2004 Act, chapter 6,³⁹ and the terms and conditions of the lease, in relation to that lease, at the expiration of the lease, is entitled, subject to subsection (2), to a renewal of the lease.

(1A) However, subsection (1) only applies if—

- (a) the lease is a lease that has any number as follows—
 - (i) 1 to 18, inclusive;
 - (ii) 21 to 93, inclusive;
 - (iii) 98;

39 2004 Act, chapter 6 (Petroleum royalty)

Petroleum Act 1923

-
- (iv) 101;
 - (v) 115 to 117, inclusive;
 - (vi) 204; or
 - (b) the lease is prescribed under a regulation notified before the 2004 Act start day; or
 - (c) the lease is not a lease mentioned in paragraph (a) or (b) and, before the 2004 Act start day, a notice under the Commonwealth Native Title Act, section 29,⁴⁰ was given for the renewal; or
 - (d) a following agreement, whether made before or after the commencement of this paragraph, provides for the renewal of the lease under this Act and the negotiations for the agreement started before the 2004 Act start day—
 - (i) an agreement mentioned in the Commonwealth Native Title Act, section 31(1)(b);⁴¹
 - (ii) an indigenous land use agreement registered on the register of indigenous land use agreement under the Commonwealth Native Title Act.⁴²
 - (2) A lessee referred to in subsection (1), before the expiration of the lease, is to by an application—
 - (a) declare whether deposits of petroleum, that the lessee believes on reasonable grounds to be payable, exist within the land the subject of the lease; and
 - (b) state whether or not the development plan for the lease⁴³ has been complied with; and
 - (c) if the development plan for the lease has not been complied with—state details of, and the reasons for, each noncompliance.
 - (2A) The application must—

40 Commonwealth Native Title Act section 29 (Notification of parties affected)

41 Commonwealth Native Title Act, section 31 (Normal negotiation procedure)

42 See the 2004 Act, section 908 (Right to apply for petroleum tenure).

43 See also section 156 (Program for development and production for a lease becomes its development plan).

- (a) be in the approved form; and
 - (b) include a proposed later development plan for the renewed lease; and
 - (c) be lodged at—
 - (i) the office of the department for lease renewal applications, as stated in a gazette notice by the chief executive; or
 - (ii) if no office is gazetted under subparagraph (i)—the office stated in the approved form; or
 - (iii) if the approved form does not state an office—the office of the chief executive; and
 - (d) be accompanied by—
 - (i) the application fee prescribed under a regulation; and
 - (ii) if the application is made less than 40 business days before the end of the term of the lease—an amount that is 10 times the application fee.
- (2B) The proposed plan must comply with the later development plan requirements.
- (3) The renewed lease must be for a term no longer than the period nominated (with reasons for the nomination) by the lessee as an appropriate term for producing in an economically viable way the petroleum from the fields within the land the subject of the lease.
- (4) The law relating to the amount and payment of royalties and of rent in force at the time of renewal applies to the renewed lease.

46 Annual rent

- (1) A lessee must pay the State the annual rent, as prescribed under a regulation.
- (2) The annual rent must be paid in the way, and on or before the day, prescribed under a regulation.

46A Application of GST to rents

- (1) If rent payable under section 46 for a lease is for a supply for which GST is payable, the rent payable from the relevant day for the lease is the total of—
 - (a) the rent that would have been payable if the rent were not for a supply for which GST is payable; and
 - (b) 10% of the rent that would have been payable if the rent were not for a supply for which GST is payable.
- (2) In this section—

relevant day, for a lease, means—

 - (a) for a lease granted before 8 July 1999—1 July 2005; or
 - (b) for a lease granted on or after 8 July 1999—25 August 2000.

47 Reservations, conditions and covenants of lease

- (1) Every lease shall contain the following reservations, covenants and conditions—
 - (a) a reservation of power to authorise mining on the land for any purpose other than the production or obtaining of petroleum or petroleum products, but not such as to interfere with, encroach upon, or endanger operations for producing or obtaining petroleum;
 - (b) a covenant by the lessee to pay the prescribed rent in accordance with this Act;
 - (c) a covenant by the lessee to pay the State petroleum royalty, as required under the 2004 Act, chapter 6;⁴⁴
 - (d) a covenant by the lessee to work the land demised by the lease in accordance with recognised good oilfield practice and in compliance with this Act, unless exemption or partial exemption is granted in such manner as may be prescribed;
 - (e) a covenant by the lessee that, if directed by the Minister not to dispose of any petroleum or petroleum products

44 2004 Act, chapter 6 (Petroleum royalty)

- for use or consumption outside Australia, the lessee will not so dispose of any petroleum or petroleum products;
- (f) a covenant by the lessee to comply with the provisions of this Act;
 - (g) a covenant by the lessee to use the land bona fide exclusively for the purpose for which it is demised and in accordance with this Act, unless prevented from so doing by circumstances beyond the lessee's power and control;
 - (h) a covenant by the lessee not to assign, transfer, sublet, mortgage or make the subject of any trust the lease or the land or any part thereof otherwise than in accordance with this Act;
 - (i) a condition for the forfeiture of the lease in the event of any breach of any covenant or condition by the lessee and the failure of the lessee completely to remedy the same within 3 months (or such further time as the Minister may in the Minister's discretion, allow) after the Minister shall have given to the lessee notice in writing to make good the same.
- (2) When an application for a lease has been approved and notwithstanding that the instrument of lease has not been executed and whether or not the applicant shall have entered upon the land as provided for in this Act, the applicant and the applicant's assigns shall be deemed to have entered into the covenants and to have accepted the reservations and conditions provided for in subsection (1) and shall in all respects be bound thereby.

48 Commencement of drilling

- (1) The lessee shall each year expend on the lease in respect of drilling for petroleum or such other work as the Minister may in writing approve a total sum of money calculated at the rate of \$1 550 per square kilometre for each square kilometre or part thereof contained in the lease.
- (2) The total sum is to be reduced by the value at the wellhead, as agreed or determined under section 57, of all petroleum produced from the lease in the year.

- (3) Subsections (1) and (2) are complied with in relation to each of the leases that are the subject of a unitisation arrangement if those subsections are complied with in relation to the leases taken as a whole.
- (4) The Minister may grant exemption in writing from the requirements of subsection (1) for such period and under such conditions as the Minister may fix.
- (5) If a conservation authority appointed under this Act restricts production from the lease then the value at the wellhead mentioned in subsection (2) shall be determined on production that, in the opinion of the conservation authority, reasonably could have been expected from the lease had production not been so restricted.
- (6) The lessee shall drill all necessary wells fairly to offset the wells of others on adjoining land on petroleum deposits.

51 Use and occupation of mining area on private or improved land

- (1) With respect to the use and occupation by a lessee of any of the land demised, every lessee shall—
 - (a) as against the owner or occupier only of any such land, but not otherwise, be and be deemed to be in occupation of only such area of such land as the lessee from time to time requires for effectively carrying on and adequately protecting all the mining operations and the storing, refining, transporting, and communication works in connection with all the lessee's mining operations carried on or to be carried on from time to time or at any time during the term of the lease or any extension thereof, together with all rights and easements incidental to such occupation;
 - (b) during such time have the right personally or by agents or workers, to cut and use any timber on any such land for building purposes, construction works, firewood, or other necessary purposes; and may depasture on such land all stock used in connection with all such mining or other operations or used by workers or employees of such lessee; subject however to any conditions prescribed with respect to payment for water timber or

agistment in cases where the making of such payment is deemed necessary;

- (c) cause to be surveyed and securely fenced each surface area on any such land which the lessee requires so as to effectively carry on and adequately protect the lessee's mining operations and works.
- (2) However, subsection (1)(c) shall not apply in relation to any unallocated State land except in so far as the Minister, in relation to any such land contained in a lease, by notice in writing to the lessee concerned, so directs.
- (3) In this section—

occupier means the person in actual occupation of any private land or improved land, or, if there is no person in actual occupation, the person entitled to possession thereof.

52 Surrender and determination of lease

- (1) The lessee may, with the consent of the Minister in writing, surrender and terminate the lease upon the payment of all rents royalties and other obligations due and payable to the Crown and upon payment of all wages and moneys due and payable to the workers employed by the lessee and upon proof satisfactory to the Minister that the public interest will not be impaired, but in no case shall such surrender be effective until the lessee has made full provision for conservation and protection of the property.
- (1A) The consent may be given only on the application of the lessee.
- (1B) The application must be—
 - (a) in the approved form; and
 - (b) lodged at—
 - (i) the office of the department for lease surrender applications, as stated in a gazette notice by the chief executive; or
 - (ii) if no office is gazetted under subparagraph (i)—the office stated in the approved form; or

- (iii) if the approved form does not state an office—the office of the chief executive; and
 - (c) be accompanied by—
 - (i) the fee prescribed under a regulation; and
 - (ii) a report by the applicant about the activities carried out on the area the subject of the application, and the results of the activities.⁴⁵
- (2) Upon the acceptance of such surrender by the Minister the lessee shall be relieved of all future obligations under the lease.
- (3) The lessee may with the like consent surrender to the Crown any legal subdivision of the area comprised within the lease.

52A Application of 2004 Act provisions about coextensive natural underground reservoirs

The 2004 Act, chapter 2, part 2, division 1, subdivision 2⁴⁶ applies to a lease as if a reference in the subdivision to a petroleum lease were a reference to a lease under this Act.⁴⁷

45 For provisions about applying to convert the surrendered authority, or part of the surrendered authority, to a 2004 Act ATP, see the 2004 Act chapter 15, part 3, division 7 (Later grant of petroleum tenure to replace equivalent 1923 Act petroleum tenure).

46 2004 Act, chapter 2, part 2, division 1, subdivision 2 (Provisions for coextensive natural underground reservoirs)

47 See however section 168 (Deferral of s 52A for existing leases).

Division 2 Development plans

Subdivision 1 Requirements for proposed later development plans

53 Operation of sdiv 1

This subdivision provides for requirements (the *later development plan requirements*) for a proposed later development plan for a lease.⁴⁸

53A General requirements

- (1) The proposed plan must provide for each of the following—
 - (a) an overview of the activities proposed to be carried out under the lease or proposed lease during all of its term;
 - (b) for each year of the plan period—
 - (i) the nature and extent of activities proposed to be carried out under the lease or proposed lease during the year; and
 - (ii) where the activities are proposed to be carried out; and
 - (iii) the estimated cost of the activities;
 - (c) for each natural underground reservoir in the area of the lease of which the applicant is aware, each of the following—
 - (i) the location and a verifiable estimate of the amount of petroleum in the reservoir;
 - (ii) the standards and procedures used to make the estimate;

⁴⁸ For the requirements to lodge a proposed later development plan, see sections 40 (Lease to holder of authority to prospect), 45 (Entitlement to renewal of lease), 74Q (Obligation to lodge proposed later development plan) and 80T (Types of noncompliance action that may be taken).

Petroleum Act 1923

- (iii) the rate and amount of production proposed from the reservoir;
 - (iv) approximately when the proposed production is to start;
 - (v) a schedule for the proposed production during the plan period;
 - (d) maps that show the matters mentioned in paragraph (b)(i) and (ii) and (c)(i);
 - (e) any other information relevant to the development plan criteria;
 - (f) reasons that the plan is considered appropriate;
 - (g) another matter prescribed under a regulation.
- (2) Also, the proposed plan must—
- (a) highlight any significant changes from the current development plan for the lease; and
 - (b) if the current development plan for the lease has not been complied with—state the details of, and the reasons for, each noncompliance.
- (3) If the effect of the proposed plan is to significantly change an activity provided for under the current development plan, the proposed plan must also state reasons for the change.
- (4) Also, for a significant change that is a cessation or reduction of petroleum production, the proposed plan must include an evaluation of—
- (a) petroleum production potential in the area of the lease; and
 - (b) market opportunities for petroleum production in the area of the lease.
- (5) A regulation may impose requirements about the form of the proposed plan.
- (6) In this section—
- year*, of the plan period, means—
- (a) the period starting on the day the plan period starts and ending on the first anniversary of that day; and

- (b) each subsequent period of 12 months or less during the plan period, starting on each anniversary of that day and ending on—
 - (i) the next anniversary of that day; or
 - (ii) if the plan period ends before the next anniversary—the day the plan period ends.

53B Plan period

- (1) The proposed plan must state its period.
- (2) The period must not be longer than—
 - (a) if the remaining term, or the renewed term, of the lease is less than 5 years—the term of the lease; or
 - (b) if the remaining term, or the renewed term, of the lease is 5 years or more—5 years from the start of the term.

Subdivision 2 Approval of proposed later development plans**53C Application of sdiv 2**

This subdivision applies if under this Act, a proposed later development plan is lodged for approval.⁴⁹

53D Lease taken to have development plan until decision on whether to approve proposed development plan

- (1) This section applies until—
 - (a) if the proposed plan is approved—the holder is given notice of the approval; or
 - (b) if approval of the proposed plan is refused—when the refusal takes effect.⁵⁰

⁴⁹ See section 74Q (Obligation to lodge proposed later development plan)

⁵⁰ For when the decision takes effect, see section 53G (Steps after, and taking effect of, decision).

- (2) Despite the ending of the plan period for the current development plan for the lease—
 - (a) the lease is taken to have a development plan; and
 - (b) the holder may carry out any authorised activity for the lease.

53E Deciding whether to approve proposed plan

- (1) The Minister may approve or refuse to approve the proposed plan.
- (2) The matters that must be considered in deciding whether to approve the proposed plan include each of the following—
 - (a) the potential of the area of the lease for petroleum production and related activities;
 - (b) the nature and extent of the activities;
 - (c) when and where the activities are proposed to be carried out;
 - (d) whether petroleum production sought under the lease will be optimised in the best interests of the State, having regard to the public interest;
 - (e) the extent to which the current development plan for the lease has been complied with;
 - (f) if the proposed plan provides for a significant change that is a cessation or reduction of petroleum production—
 - (i) whether the cessation or reduction is reasonable; and
 - (ii) whether the lessee has taken all reasonable steps to prevent the cessation or reduction.

53F Power to require relinquishment

- (1) This section applies if the proposed plan provides for a significant change that is a cessation or reduction of petroleum production.
- (2) The Minister may approve the proposed plan, but—

- (a) decide (a *deferral decision*)—
 - (i) to defer the taking of effect of the approval until the lessee relinquishes, by a notice lodged at the following office (the *relevant office*), a stated part or percentage of the area of the lease on or before a stated day—
 - (A) the office of the department for lodging relinquishment notices, as stated in a gazette notice by the chief executive;
 - (B) if no office is gazetted under subsubparagraph (A)—the office of the chief executive; and
 - (ii) that the decision to approve the proposed plan is replaced by a decision not to approve it if the notice is not lodged on or before the stated day; or
 - (b) impose a condition on the lease requiring its holder to relinquish, by a notice lodged at the relevant office, a stated part or percentage of the area of the lease at stated times or intervals.
- (3) The public interest must be considered before making a deferral decision or imposing the condition.
 - (4) A relinquishment under subsection (2)(a)(i) takes effect on the day after the notice is lodged.

53G Steps after, and taking effect of, decision

- (1) On approval of the proposed later development plan, the holder must be given notice of the approval.
- (2) The approval takes effect when the holder is given the notice or, if the notice states a later day of effect, on that later day.
- (3) The holder must be given an information notice about—
 - (a) a decision to refuse to approve the proposed plan; or
 - (b) a decision, under section 53F, to make a deferral decision or impose a condition.

- (4) A refusal does not takes effect until the end the appeal period for the decision to refuse.⁵¹

Division 3 Miscellaneous provision

54 Signing of applications

- (1) Every application for a permit or lease made by an individual person or association of persons must be signed in person by the person or by each of them, as the case may be.
- (2) Every application for a permit or lease by a company or corporation must be made by a duly authorised attorney, under power of attorney in that behalf.

57 Ascertainment of value

For the purposes of this Act, the value at the wellhead of any petroleum is such amount as is agreed between the Minister and the person who produces the petroleum or, failing such agreement within a period allowed by the Minister (either generally or in a particular case) as is determined by the Minister as being that value.

61 Obstruction of 1923 Act petroleum tenure holder

- (1) A person must not, without reasonable excuse, obstruct a 1923 Act petroleum tenure holder from—
- (a) entering or crossing land to carry out an authorised activity for the tenure if part 6H or 6I, to the extent it is relevant,⁵² has been complied with in relation to the entry; or
- (b) carrying out an authorised activity for the tenure on the land.

Maximum penalty—100 penalty units.

51 See sections 105 (Period to appeal) and 107 (Stay of operation of decision).

52 Part 6H (Private land) or 6I (Public land)

- (2) If a person has obstructed a 1923 Act petroleum tenure holder from carrying out an activity mentioned in subsection (1) and the holder decides to proceed with the carrying out of the activity, the holder must warn the person that—
- (a) it is an offence to obstruct the holder unless the person has a reasonable excuse; and
 - (b) the holder considers the person's conduct is an obstruction.
- (3) In this section—
- obstruct* includes assault, hinder or resist and attempt or threaten to assault, hinder or resist.

65 Reservations in favour of State

- (1) Each lease or authority to prospect is taken to contain a reservation to the State of the right to grant the easements or rights of way, over land covered by the lease or authority, the Governor in Council considers desirable for—
- (a) developing or working the land or other land containing petroleum deposits; or
 - (b) treating and transporting petroleum deposits by or for the Government, or a lessee or authority holder; or
 - (c) another public purpose associated with a purpose mentioned in paragraph (a) or (b).
- (2) Easements and rights of way under this section may be granted for joint or several use.

73 Recovery of amounts payable to the State

- (1) An amount payable to the State under this Act may be recovered as a debt in a court having jurisdiction up to the amount of the debt.
- (2) The starting of a proceeding to recover an amount owing to the State does not limit the right of the State to recover another amount that may become payable under this Act because the failure continues.

- (3) If the State starts a proceeding to recover part only of an amount payable at a particular time, the State is taken to have abandoned the remainder of the amount payable at the time.

Part 6A Key mandatory conditions and related provisions

Division 1 Preliminary

74 Operation of div 1

This division provides for the key mandatory conditions for 1923 Act petroleum tenures.

Note—

1. Parts 4, 6, 6B to 6K and 10 also impose mandatory conditions on 1923 Act petroleum tenures.
2. For what is a ‘mandatory condition’, see the definition of that term in section 2.

Division 2 Specific mandatory conditions for authorities to prospect and related provisions

Subdivision 1 Standard relinquishment condition and related provisions

Note—

For an authority to prospect in force immediately before the 2004 Act start day, see part 10, division 2.⁵³

53 Part 10, division 2 (Relinquishment condition until first renewal after 2004 Act start day, and related provisions)

74A Standard relinquishment condition

- (1) It is a condition (the *relinquishment condition*) of each authority to prospect that its holder must relinquish part of its area, as provided for under this subdivision—
 - (a) on or before each of its relinquishment days; and
 - (b) if section 74E(3)⁵⁴ applies—on the day provided for under that subsection; and
 - (c) if, under part 4, division 2, subdivision 3,⁵⁵ the period of the work program for the authority has been extended—the day on which the extended period ends.
- (2) However, if, under section 25J(4),⁵⁶ a relinquishment day for the authority (the *original day*) is deferred for a stated period, for the relinquishment condition—
 - (a) the relinquishment that was required on or before the original day is taken to have been deferred until the end of the stated period; but
 - (b) the relinquishments required under the relinquishment condition on any later relinquishment days for the authority must be made as if the deferral has not been granted.
- (3) A relinquishment required under the relinquishment condition—
 - (a) must be made by notice (the *relinquishment notice*) lodged at—
 - (i) the office of the department for lodging relinquishment notices, as stated in a gazette notice by the chief executive; or
 - (ii) if no office is gazetted under subparagraph (i)—the office of the chief executive; and
 - (b) takes effect on the day after lodgment under paragraph (a).

54 Section 74E (Adjustments for sub-blocks that can not be counted)

55 Part 4, division 2, subdivision 3 (Amending work programs)

56 Section 25J (Deciding application)

- (4) This section does not prevent the holder from relinquishing, by relinquishment notice, more than the part provided for under this subdivision.

74B Consequence of failure to comply with relinquishment condition

- (1) If the holder does not comply with the relinquishment condition the holder must be given a notice requiring the holder to comply with the condition within 20 business days after the giving of the notice.
- (2) If the holder does not comply with the requirement, the authority to prospect is cancelled.
- (3) However, the cancellation does not take effect until the holder is given a notice stating that the authority to prospect is cancelled because of the operation of subsection (2).

74C Part usually required to be relinquished

- (1) This section is subject to section 74E.⁵⁷
- (2) The relinquishment for each relinquishment day, and any other day mentioned in section 74A(1)(b) or (c) that applies to the authority, must be such that by that day at least 8.33% of the original notional sub-blocks of the authority to prospect have been relinquished for each year that has passed since the authority originally took effect.
- (3) The sub-blocks required to be relinquished under this section is the *usual relinquishment*.

74D Sub-blocks that can not be counted towards relinquishment

- (1) The following can not be counted as sub-blocks relinquished for the relinquishment condition—
- (a) sub-blocks relinquished under a condition imposed under section 25J(6);⁵⁸

57 Section 74E (Adjustments for sub-blocks that can not be counted)

58 Section 25J (Deciding application).

- (b) sub-blocks in an area that, under section 20,⁵⁹ has ceased to be included in the area of an authority to prospect;
 - (c) sub-blocks the subject of a lease application or an application for a 2004 Act lease;
 - (d) sub-blocks relinquished under a penalty relinquishment.
- (2) In this section—
- penalty relinquishment* means a relinquishment that is—
- (a) made under section 74J or under a requirement under section 80T(1)(b);⁶⁰ and
 - (b) more than the sub-blocks required to be relinquished under the relinquishment condition.

74E Adjustments for sub-blocks that can not be counted

- (1) This section applies for a relinquishment day if, after taking away all sub-blocks that, under section 74D, can not be counted for the relinquishment condition, the balance of the sub-blocks of the authority to prospect are less than the sub-blocks required to be relinquished under the usual relinquishment.
- (2) The relinquishment condition is taken to have been complied with if the authority holder gives a relinquishment notice for all of the balance.
- (3) However, if—
 - (a) a sub-block not counted for the relinquishment condition was the subject of a lease application; and
 - (b) the result of the application is that it is refused;
 the authority holder must, within 20 business days after the appeal period for the decision to refuse, give a relinquishment notice for that sub-block.

⁵⁹ Section 20 (Area of authority to prospect reduced on grant of lease)

⁶⁰ Sections 74J (Penalty relinquishment if work program not completed within extended period) and 80T (Types of noncompliance action that may be taken)

74F Relinquishment must be by blocks

- (1) A relinquishment under the relinquishment condition can only be by blocks.
- (2) However, if a block contains an area that, under section 74D, can not be counted as a relinquishment, subsection (1) is complied with if all of the rest of the land within the block is relinquished.

74G Ending of authority to prospect if all of area relinquished

If all of the area of an authority to prospect is relinquished, the authority ends.

Subdivision 2 Work programs**74H Requirement to have work program**

The holder of an authority to prospect must have a work program for the authority.

Note—

- 1 The only ‘work program’ for an authority to prospect is its current initial work program provided for under section 151 or 155 or its later work program, as approved under part 4, division 2. See the definition of that term in section 2.
- 2 For the requirements to lodge a proposed later work program see sections 25M, 74K and 80T.
- 3 For approval of proposed later development plans see part 4, division 2, subdivision 2.⁶¹

61 Sections 2 (Definitions), 151 (Unfinished authority to prospect applications for which a Commonwealth Native Title Act s 29 notice has been given) and 155 (Conditions of an authority to prospect about expenditure or work becomes its work program)

Sections 25M (Requirements for making application), 74K (Obligation to lodge proposed later work program) and 80T (Types of noncompliance action that may be taken)

Part 4, division 2, subdivision 2 (Approval of proposed later work programs)

74I Compliance with exploration activities in work program

An authority to prospect holder must carry out the exploration activities proposed in the work program.

74J Penalty relinquishment if work program not completed within extended period

- (1) If—
- (a) under part 4, division 2, subdivision 3,⁶² the period of the work program for an authority to prospect has been extended; and
 - (b) the work program is not completed on or before the day on which the extended period ends;

its holder must relinquish a part of the original notional sub-blocks of the authority that the Minister is satisfied corresponds to the amount of the work under the work program that was not completed.

- (2) The holder must give the chief executive written notice of the relinquishment within 20 business days after the end of the extended period.
- (3) If the holder does not comply with subsection (2), the Minister may take action under section 80T(1)(b).

74K Obligation to lodge proposed later work program

- (1) This section imposes an obligation on an authority to prospect holder to lodge a proposed later work program for the authority.

Note—

- 1 For approval of the proposed program, see part 4, division 2, subdivision 2.
- 2 If the holder wishes to renew the authority, a proposed later work program must be included in the renewal application. See section 25M(1).⁶³

62 Part 4, division 2, subdivision 3 (Amending work programs)

63 Section 25M (Requirements for making application)

- (2) The obligation is complied with only if the proposed later work program—
- (a) is lodged at—
 - (i) the office of the department for lodging proposed later work programs, as stated in a gazette notice by the chief executive;
 - (ii) if no office is gazetted under subparagraph (i)—the office of the chief executive; and
 - (b) complies with the later work program requirements;⁶⁴ and
 - (c) is accompanied by the relevant fee.
- (3) A proposed later work program must be lodged at least 20, but no more than 60, business days before the end of the program period for the current work program for the authority (the ***current work program period***).
- (4) However, if before the end of the current work program period, a decision is made not to approve a proposed later work program lodged under subsection (3), the holder may, within the period, lodge another proposed later work program.
- (5) If the holder does not lodge any proposed later work program before the end of the current plan period or if subsection (4) applies and the holder does not lodge another proposed later work program within the current work program period—
- (a) the holder must be given a notice requiring the holder to lodge a proposed later work program for the authority within 20 business days after the giving of the notice; and
 - (b) the holder must comply with the requirement.
- (6) In this section—
- relevant fee***, for the lodgment of the proposed program, means—

⁶⁴ See part 4, division 2, subdivision 1 (Requirements for proposed later work programs).

- (a) if the proposed program is lodged within the time required under subsection (3)—the fee prescribed under a regulation; or
- (b) if the proposed program is lodged after the time required under subsection (3)—
 - (i) if it is lodged under subsection (4)—nil; or
 - (ii) if it is not lodged under subsection (4) and it is lodged before the end of the current work program period—an amount that is 10 times the prescribed fee; or
 - (iii) if it is not lodged under subsection (4) and it is lodged after the end of the current work program period—an amount that is 20 times the prescribed fee.

74L Consequence of failure to comply with notice to lodge proposed later work program

- (1) If an authority to prospect holder does not comply with a requirement under section 74K(5)(a), the authority is cancelled.
- (2) However, the cancellation does not take effect until the holder is given a notice stating that the authority has been cancelled because of the operation of subsection (1).

Subdivision 3 Miscellaneous conditions

74M Restriction on flaring or venting

- (1) An authority to prospect holder must not flare or vent petroleum in a gaseous state produced under the authority unless the flaring or venting is authorised under this section.
- (2) Flaring the gas is authorised if it is not commercially or technically feasible to use it—
 - (a) commercially under the authority; or
 - (b) for an authorised activity for the authority.
- (3) Venting the gas is authorised if—

- (a) it is not safe to use the gas for a purpose mentioned in subsection (2)(a) or (b) or to flare it; or
- (b) flaring it is not technically practicable.

74N Petroleum royalty and annual rent

- (1) From the 2004 Act start day, the holder must pay the State—
 - (a) petroleum royalty as required under the 2004 Act, chapter 6;⁶⁵ and
 - (b) annual rent, as prescribed under a regulation.
- (2) The annual rent must be paid in the way, and on or before the day, prescribed under a regulation under the 2004 Act.

Division 3 Specific mandatory conditions for leases and related provisions

Subdivision 1 Development plans

74O Requirement to have development plan

A lessee must have a development plan for the lease.

Note—

- 1 For what is the ‘development plan’ for a lease, see the definition of that term in section 2.
- 2 For the requirements to lodge a proposed later development plan see sections 40, 45, 74Q and 80T.
- 3 For approval of proposed later development plans see part 6, division 2, subdivision 2.⁶⁶

65 2004 Act, chapter 6 (Petroleum royalty)

66 Sections 40 (Lease to holder of authority to prospect), 45 (Entitlement to renewal of lease), 74Q (Obligation to lodge proposed later development plan) and 80T (Types of noncompliance action that may be taken)

Part 6, division 2, subdivision 2 (Approval of proposed later development plans)

74P Compliance with development plan

- (1) A lessee must comply with the development plan for the lease.⁶⁷
- (2) However, subsection (1) does not apply to a failure to comply with the plan that is an act or omission by the holder to ensure compliance with an insufficiency of supply direction under the *Gas Supply Act 2003*.

74Q Obligation to lodge proposed later development plan

- (1) This section imposes an obligation on a lessee to lodge a proposed later development plan for the lease.

Note—

- 1 For approval of the proposed plan, see part 6, division 2, subdivision 2.⁶⁸
 - 2 If the holder wishes to renew the lease, a proposed later development plan must be included in the renewal application. See section 25M.⁶⁹
- (2) The obligation is complied with only if the proposed later development plan—
 - (a) is lodged at—
 - (i) the office of the department for lodging proposed later development plans, as stated in a gazette notice by the chief executive; or
 - (ii) if no office is gazetted under subparagraph (i)—the office of the chief executive; and
 - (b) complies with the later development plan requirements; and
 - (c) is accompanied by the relevant fee.
 - (3) A proposed later development plan must be lodged—

67 See also section 53D (Lease taken to have development plan until decision on whether to approve proposed development plan).

68 Part 6, division 2, subdivision 2 (Approval of proposed later development plans)

69 Section 25M (Requirements for making application)

- (a) for a petroleum lease granted after the commencement of this section—within 6 months after the grant; or
- (b) otherwise—
 - (i) at least 40, but no more than 80, business days before the end of the plan period for its current development plan (the *current plan period*); or
 - (ii) as soon as practicable after the holder proposes or becomes aware of a significant change to the nature and extent of an authorised activity that is not already dealt with under the current development plan for the lease.
- (4) However, if before the end of the current plan period, a decision is made not to approve a proposed later development plan lodged under subsection (3), the holder may, within the period, lodge another proposed later development plan.
- (5) If the holder does not lodge any proposed later development plan before the end of the current development plan period or if subsection (4) applies and the holder does not lodge another proposed later development plan within the current development plan period—
 - (a) the holder must be given a notice requiring the holder to lodge a proposed later development plan for the lease within 20 business days after the giving of the notice; and
 - (b) the holder must comply with the requirement.
- (6) In this section—

relevant fee, for the lodgment of the proposed plan, means—

 - (a) if the proposed plan is lodged within the time required under subsection (3)—the fee prescribed under a regulation; or
 - (b) if the proposed plan is lodged after the time required under subsection (3) and—
 - (i) if it is lodged under subsection (4)—nil; or
 - (ii) if it is not lodged under subsection (4) and it is lodged before the end of the current plan

period—an amount that is 10 times the prescribed fee; or

- (iii) it is not lodged under subsection (4) and it is lodged after the end of the current plan period—an amount that is 20 times the prescribed fee.

74R Consequence of failure to comply with notice to lodge proposed later development plan

- (1) If a lessee does not comply with a requirement under section 74Q(5)(a), the lease is cancelled.
- (2) However, the cancellation does not take effect until the holder is given a notice stating that the lease has been cancelled because of the operation of subsection (1).

Subdivision 2 Other mandatory conditions for leases

74S Restriction on flaring or venting

- (1) A lessee must not flare or vent petroleum in a gaseous state produced under the lease unless the flaring or venting is authorised under this section.
- (2) Flaring the gas is authorised if it is not commercially or technically feasible to use it—
 - (a) commercially under the lease; or
 - (b) for an authorised activity for the lease.
- (3) Venting the gas is authorised if—
 - (a) it is not safe to use the gas for a purpose mentioned in subsection (2)(a) or (b) or to flare it; or
 - (b) flaring it is not technically practicable.
- (4) Venting the coal seam gas is also authorised if—
 - (a) it is being used, or is proposed to be used, under a greenhouse abatement scheme; and

- (b) if subsection (1) were to apply, the direct or indirect benefit the holder would otherwise obtain because of the use of the gas under the scheme would be reduced.
- (5) In this section—
- greenhouse abatement scheme*** means—
- (a) the *Electricity Supply Act 1995* (NSW), part 8A;⁷⁰ or
 - (b) the Commonwealth’s Greenhouse Gas Abatement Program; or
 - (c) another scheme about the abatement of greenhouse gases prescribed under a regulation.

74T Obligation to commence production

A lessee must start petroleum production under the lease on or before the later of the following—

- (a) the end of 2 years after the lease takes effect;
- (b) any production commencement day for the lease.

Division 4 Provisions for all 1923 Act petroleum tenures

Subdivision 1 Preliminary

74U Application of div 4

This division applies to any 1923 Act petroleum tenure holder.

⁷⁰ See, in particular, the *Greenhouse Gas Benchmark Rule (Generation) No. 2 of 2003*, paragraph 10.1 (Total greenhouse gas emissions), made under the *Electricity Supply Act 1995* (NSW), section 97K (Greenhouse gas benchmark rules).

Subdivision 2 General mandatory conditions

74V Obligation to consult with particular owners and occupiers

- (1) The holder must consult, or use reasonable endeavours to consult, with each owner and occupier of private or public land on which authorised activities for the tenure are, or are likely to be, carried out.
- (2) The consultation must be about the carrying out of authorised activities for the tenure to the extent they relate to the owners and occupiers.
- (3) The consultation must be carried out in the way and at the times—
 - (a) provided for in the tenure; or
 - (b) if the tenure does not provide for how the consultation must be carried out—approved by the Minister.
- (4) This section does not limit part 6H or 6I.⁷¹
- (5) A failure to comply with this section does not prevent authorised activities for the tenure from being carried out.

74W Civil penalty for nonpayment of annual rent

- (1) If the holder does not pay the annual rent as required under section 46 or 74N, the holder must also pay the State a civil penalty.
- (2) The amount of the penalty is 15% of the rent.
- (3) The penalty—
 - (a) must be paid on the day after the last day for payment of the rent; and
 - (b) is still payable even if the holder later pays the rent.

71 Part 6H (Private land) or 6I (Public land)

74X Obligation to prevent spread of declared pests

- (1) A 1923 Act petroleum tenure holder must take reasonable steps to ensure the holder and anyone else acting for the holder does not disperse the reproductive material of any declared pest when—
 - (a) entering or leaving land in the area of the tenure; or
 - (b) carrying out an authorised activity for the tenure.
- (2) However, subsection (1) does not apply if the dispersal is authorised under the *Land Protection (Pest and Stock Route Management) Act 2002*.
- (3) In this section—

declared pest means any of the following—

- (a) a declared pest animal or declared pest plant under the *Land Protection (Pest and Stock Route Management) Act 2002*;
- (b) an animal or plant declared under a relevant local law to be—
 - (i) a declared pest animal or declared pest plant; or
 - (ii) the equivalent (however called) of a declared pest animal or declared pest plant for the local law.

relevant local law means a local law of a local government the area of which includes the place at which the dispersal takes place.

reproductive material, of an animal or plant, means any part of the animal or plant that is capable of asexual or sexual reproduction.

Examples of reproductive material of an animal—

egg or part of an egg, semen

Examples of reproductive material of a plant—

- 1 seed or part of a seed
- 2 bulb or part of a bulb, rhizome, stolon or tuber
- 3 stem or leaf cutting

74Y Requirement to consider using formed roads

- (1) This section applies if, under this Act, a 1923 Act petroleum tenure holder proposes to enter any land.
- (2) The holder must consider using any formed road that is available for the entry if using the road is practicable.
- (3) If the holder decides not to use the formed road, the holder must take reasonable steps to consult with the owner of the land before entering the land.
- (4) A failure to comply with this section does not invalidate or otherwise affect the entry.

74Z Obligation to comply with Act and prescribed standards

- (1) The holder must—
 - (a) comply with this Act; and
 - (b) in carrying out an authorised activity for the tenure, comply with—
 - (i) any standard that the tenure provides for the activity; and
 - (ii) to the extent that the tenure does not provide a standard for the activity—any standard prescribed under a regulation for carrying out the activity.
- (2) In this section—

standard includes an Australian Standard or a code or protocol.

75 Obligation to survey if Minister requires

- (1) The Minister may, by notice to the holder, require the holder to survey or re-survey the area of the tenure within a stated reasonable period.
- (2) The holder must cause the survey or re-survey to be carried out by a person registered as a cadastral surveyor under the *Surveyors Act 2003*.
- (3) The holder must pay any costs incurred in complying with the notice.

Division 5 Mandatory conditions and related provisions for when 1923 Act petroleum tenure ends or area reduced

75A Obligation to decommission pipelines

- (1) A 1923 Act petroleum tenure holder must, before the decommissioning day, decommission, in the way prescribed under a regulation, any pipeline in the area of the tenure.

Maximum penalty—1 000 penalty units.⁷²

- (2) However, subsection (1) does not apply if—
- (a) the pipeline was constructed or operated under another 1923 Act petroleum tenure or 2004 Act petroleum tenure and the pipeline has not, since its construction, operated under the holder's tenure; and
 - (b) the pipeline is operated as an authorised activity for a 1923 Act petroleum tenure or a 2004 Act petroleum tenure.

- (3) In this section—

decommissioning day means the later of the following days—

- (a) the earlier of the following—
 - (i) the day the tenure ends;
 - (ii) the day the land ceases to be in the area of the tenure;
- (b) if, before the day provided for under paragraph (a), the Minister fixes a day—that day;
- (c) if, before a day fixed under paragraph (b), the Minister fixes a later day—that day.

⁷² See also section 79X(2) and (3) (General provision about ownership while tenure is in force for pipeline).

75B Obligation to remove equipment and improvements

- (1) This section applies for equipment or improvements in the area of the tenure that are being, or have been, used for an authorised activity for the tenure.
- (2) However, this section does not apply for—
 - (a) a well, pipeline, water observation bore or water supply bore;⁷³or
 - (b) equipment or improvements on land that, under section 20,⁷⁴ ceases to be in the area of an authority to prospect.
- (3) The holder of the tenure must, before the removal day, remove the equipment or improvements from the land, unless the owner of the land otherwise agrees.

Maximum penalty—1 000 penalty units.

- (4) To remove any doubt, it is declared that subsection (3) applies even if the equipment or improvements are not owned by the holder.⁷⁵
- (5) In this section—

equipment includes machinery and plant.

removal day means the later of the following days—

- (a) the earlier of the following—
 - (i) the day the tenure ends;
 - (ii) the day the land ceases to be in the area of the tenure;
- (b) if, before the day provided for under paragraph (a), the Minister fixes a day—that day;

73 For wells, water observation bores and supply bores, see part 6D (Wells, water supply bores and water observation bores).

For pipelines, see sections 79X (General provision about ownership while tenure is in force for pipeline) and 75A (Obligation to decommission pipelines).

74 Section 20 (Area of authority to prospect reduced on grant of lease)

75 For ownership of the equipment or improvements see section 80 (Ownership of equipment and improvements).

- (c) if, before a day fixed under paragraph (b), the Minister fixes a later day—that day.

75C Authorisation to enter to facilitate compliance with s 74X or this division

- (1) The Minister may, by notice, authorise a former holder of a 1923 Act petroleum tenure to enter any of the following land to comply with, or remedy a contravention of, section 74X or this division—
- (a) the land to which section 74X or this division applies (*primary land*);
 - (b) any other land (*secondary land*) necessary or desirable to cross for access to the primary land.⁷⁶
- (2) Parts 6H (other than division 3), 6I and 6K⁷⁷ and section 74X and the definition *conditions* in section 2 apply to the former holder for the purpose of the authorisation as if—
- (a) the tenure were still in force (the *notional tenure*); and
 - (b) the former holder is the holder of the notional tenure; and
 - (c) the primary land and any secondary land are in the area of the notional tenure; and
 - (d) the compliance or the remedying of the contravention were authorised activities for the notional tenure.
- (3) However, the power under this section does not include the power to enter a structure, or a part of a structure, used for residential purposes without the consent of the occupier of the structure or part of the structure.
- (4) If the former holder intends to enter the land and any occupier of the land is present at the land, the former holder also must show, or make a reasonable attempt to show, the occupier the former holder's authorisation under this section.

⁷⁶ See also section 80L (Power of authorised person to ensure compliance).

⁷⁷ Parts 6H (Private land), 6I (Public land) and 6K (General compensation provisions)

Part 6B **Provisions relating to authorised activities**

75D **General restriction on carrying out authorised activities**

The carrying out of an authorised activity for a 1923 Act petroleum tenure is subject to—

- (a) the provisions of the tenure; and
- (b) compliance with the tenure holder's rights and obligations under this Act.

75E **Who may carry out authorised activity for holder**

- (1) An authorised activity for a 1923 Act petroleum tenure may be carried out for its holder by any of the following persons acting within the scope of the person's authority from the holder—
 - (a) if the holder is a corporation—its officers and employees;
 - (b) the holder's employees or partners who are individuals;
 - (c) agents of, or contractors for, the holder;
 - (d) officers and employees of, or agents of, or contractors for, agents or contractors mentioned in paragraph (c).

Example—

A lessee may also enter into a coordination arrangement under which another party to the arrangement may carry out an authorised activity for the lease. See the 2004 Act, section 234(1).

- (2) The authority may be express, or implied from—
 - (a) the nature of the relationship between the person and the holder; or
 - (b) the duties the person performs for the holder; or
 - (c) the duties a person mentioned in subsection (1) customarily performs.

Part 6C Commercial viability assessment

75F Minister's power to require commercial viability report

- (1) The Minister may, by notice (a *report requirement*), require a 1923 Act petroleum tenure holder to lodge at the relevant office a written report (a *commercial viability report*) about all or a stated part of the tenure's area if—
 - (a) the holder is not producing petroleum in the area or stated part; and
 - (b) the Minister is of the opinion that—
 - (i) it may be commercially viable to produce petroleum in the area or stated part; or
 - (ii) it may, within the next 15 years, be commercially viable to produce petroleum in the area or stated part.
- (2) The notice must state each of the following—
 - (a) the Minister's opinion under subsection (1)(b)(i) or (ii);
 - (b) the facts and circumstances forming the basis for the opinion;
 - (c) that the Minister requires the holder to give the Minister a commercial viability report about the area;
 - (d) a reasonable period for giving the report.
- (3) In this section—

relevant office means—

 - (a) the office of the department for lodging the commercial viability report, as stated in a gazette notice by the chief executive; or
 - (b) if no office is gazetted under paragraph (a)—the office of the chief executive.

75G Required content of commercial viability report

- (1) A commercial viability report must do all of the following—

- (a) identify each natural underground reservoir in the area the subject of the relevant report requirement;
 - (b) give an estimate of the amount of petroleum in each reservoir;
 - (c) state the standards and procedures used to make the estimate;
 - (d) state whether, in the opinion of the relevant 1923 Act petroleum tenure holder, it is commercially viable to produce petroleum in the area;
 - (e) if the holder's opinion is that it is not commercially viable to produce petroleum in the area—state whether, in the holder's opinion, it will, within the next 15 years, be commercially viable to produce petroleum in the area;
 - (f) give data, and an analysis of the data, that supports each opinion.
- (2) The supporting data and analysis must include—
- (a) technical data relating to the geology of, and natural underground reservoirs in the area; and
 - (b) market and financial data relevant to the opinions.

75H Minister's power to obtain independent viability assessment

- (1) This section applies for a 1923 Act petroleum tenure, whether or not its holder has lodged a commercial viability report about the tenure.
- (2) The Minister may obtain an independent assessment of the commercial viability of petroleum production in all or part of the area of the tenure (an *independent viability assessment*).
- (3) However, before seeking the assessment, the Minister must give the holder a notice stating the following—
 - (a) that the Minister proposes to obtain the assessment;
 - (b) the Minister's reasons for seeking the assessment;
 - (c) the likely costs of obtaining the assessment;

- (d) whether the State will, under section 75I, seek to recover the costs;
- (e) that the holder may, within a stated reasonable period, lodge submissions about the proposed assessment at—
 - (i) the office of the department for lodging the submissions, as stated in a gazette notice by the chief executive; or
 - (ii) if no office is gazetted under subparagraph (i)—the office of the chief executive.
- (4) Any submissions lodged by the holder within the stated period must be considered.
- (5) The Minister must after receiving the assessment, give the holder a copy.

75I Costs of independent viability assessment

If—

- (a) the Minister has incurred costs in obtaining, under section 75H, an independent viability assessment about a 1923 Act petroleum tenure; and
- (b) the notice under section 75H about the assessment stated that the State will seek to recover the costs; and
- (c) the Minister has given the 1923 Act petroleum tenure holder a notice requiring the holder to pay a reasonable amount for the costs;

the holder must pay the State the reasonable amount for the costs.

Part 6CA Existing Water Act bores

Division 1 Preliminary

75IA Simplified outline of pt 6CA

- (1) This part imposes an obligation on each 1923 Act petroleum tenure holder to do either of the following because of the taking of water necessarily taken as part of petroleum production under the tenure—
 - (a) take restoration measures in relation to particular water bores;
 - (b) compensate the owners of particular water bores.
- (2) Division 2 provides for when the obligation arises.
- (3) Divisions 3 and 4 provide for the identification of the bores through underground water impact and pre-closure reports required to be lodged by 1923 Act petroleum tenure holders.
- (4) Division 5 provides for reports by tenure holders to—
 - (a) monitor the taking of water necessarily taken as part of petroleum production; and
 - (b) assess and review underground water impact reports.
- (5) Division 6 provides for agreements for, and for the resolution of disputes about, complying with the obligation.

75IB What is an *existing Water Act bore*

- (1) An *existing Water Act bore*, for a 1923 Act petroleum tenure, is a water bore as defined under the Water Act if—
 - (a) the taking of, or interference with, water from the bore is authorised under the Water Act; and
 - (b) if the *Integrated Planning Act 1997* required a development approval under that Act in relation to the bore for operational work for the taking of, or interfering with, water under the Water Act—that approval has been granted; and

- (c) the bore was in existence at the earlier of the following for the tenure—
 - (i) either—
 - (A) for a lease—the start of petroleum production under the lease for commercial purposes; or
 - (B) for an authority to prospect—the approval, under the instrument for the authority, to produce petroleum;
 - (ii) the start of petroleum production for commercial purposes.
- (2) A replacement of a bore mentioned in subsection (1) to comply with the make good obligation is also an ***existing Water Act bore*** for the 1923 Act petroleum tenure.

75IC When an existing Water Act bore is *unduly affected*

- (1) An existing Water Act bore is ***unduly affected*** by the taking of water necessarily taken as part of petroleum production under a 1923 Act petroleum tenure if—
 - (a) the drop in the level of water in the bore because the taking of water necessarily taken as part of petroleum production under a 1923 Act petroleum tenure is more than the trigger threshold for aquifers in relation to which the taking is carried out; and
 - (b) the bore has an impaired capacity.
- (2) If the exceeding of the trigger threshold was caused by a combination of any of the following activities the existing water Act bore is ***unduly affected*** by each of the activities—
 - (a) the taking of water necessarily taken as part of petroleum production under 1 or more 1923 Act petroleum tenures;
 - (b) the exercise, under the 2004 Act, of underground water rights for 1 or more 2004 Act petroleum tenures.

75ID When an existing Water Act bore has an *impaired capacity*

- (1) An existing Water Act bore has an *impaired capacity* if—
- (a) for a bore used for domestic purposes—it is no longer able to provide a reasonable supply of water for the domestic purpose required at its location; or
 - (b) for a bore used for stock purposes—there is a material reduction in the number of stock able to be watered from the bore, having regard to the stock carrying capacity of the land serviced by the bore; or
 - (c) for a bore from which the taking of or interference with water is authorised under a licence under the Water Act other than for domestic purposes or stock purposes—there is a material reduction in the pumping supply required to service the relevant enterprise or town water supply.

- (2) In this section—

domestic purposes includes irrigating a garden, not exceeding 0.25 ha, being a garden cultivated for domestic use and not for the sale, barter or exchange of goods produced in the garden.

stock purposes means watering stock of a number that would normally be depastured on the land on which the water is, or is to be used.

75IE What are *restoration measures*

Restoration measures, for an existing Water Act bore, means measures to—

- (a) ensure the bore will no longer have an impaired capacity; or
- (b) provide an alternative supply of water to the supply of water from the bore.

Examples of possible restoration measures—

- deepening the bore
- drilling a new bore
- providing a supply of an equivalent amount of water of a suitable quality by piping it from an alternative source

75IF References to 1923 Act petroleum tenure holder in pt 6CA

- (1) This section applies if a 1923 Act petroleum tenure ends.
- (2) If the tenure was an authority to prospect and, under section 40,⁷⁸ the tenure holder became a lease holder, a reference in this part—
 - (a) to the 1923 Act petroleum tenure is a reference to the authority to prospect and the lease; and
 - (b) to the tenure holder includes a reference to the lease holder.
- (3) Otherwise, a reference in this part to the tenure holder includes a reference to the holder of the tenure immediately before it ended.

Division 2 Obligation to make good for existing Water Act bores**75IG The make good obligation**

- (1) If the taking of water necessarily taken as part of petroleum production under a 1923 Act petroleum tenure unduly affects an existing Water Act bore, the holder must—
 - (a) within a reasonable period, take restoration measures to restore the supply of water to the owner of the bore; or
 - (b) compensate the owner for the bore being unduly affected.
- (2) If an existing Water Act bore is likely, after the 1923 Act petroleum tenure ends, to become unduly affected by the taking, the holder must, before the tenure ends, comply with subsection (1) as if the bore is unduly affected by the taking.⁷⁹
- (3) However, subsection (2) does not apply if—

78 Section 40 (Lease to holder of authority to prospect)

79 See however section 75IY (Effect of lodgment of review report).

- (a) the ending of the 1923 Act petroleum tenure happens under the 2004 Act, section 911;⁸⁰ or
 - (b) the 1923 Act petroleum tenure was an authority to prospect and, under section 40, the tenure holder became a lease holder.
- (4) The obligations under subsections (1) and (2) are the *make good obligation*.
- (5) Despite subsections (1) and (2), the make good obligation does not apply for an existing Water Act bore if either of the following happened before the commencement of this section—
- (a) the 1923 Act petroleum tenure has ended;
 - (b) the part of the area of the tenure on which the taking happened ceased to be part of the area of the tenure.

75IH Provisions for application of make good obligation

- (1) The make good obligation applies—
- (a) whether the bore is inside or outside the area of the 1923 Act petroleum tenure; and
 - (b) even if the bore was first unduly affected by the taking of water necessarily taken as part of petroleum production under the tenure after it ends.
- (2) If the make good obligation under this Act or the 2004 Act applies to more than 1 1923 Act or 2004 Act petroleum tenure holder for the same existing Water Act bore, the obligations apply to each of them jointly and severally.
- (3) The make good obligation continues to apply despite the ending of the tenure.⁸¹

80 For what happens if, under the 2004 Act, a replacement tenure for the 1923 Act petroleum tenure takes effect, see also the 2004 Act, section 911A (Provision for continuance of 1923 Act make good obligation).

81 For access to the relevant land after the tenure ends to comply with the make good obligation, see section 75IZJ (Right of entry after 1923 Act petroleum tenure ends to comply with make good obligation).

Division 3 Underground water impact reports

Subdivision 1 Fixing of trigger threshold for aquifers

75II Operation of sdiv 1

- (1) This subdivision provides for the fixing of a trigger threshold for aquifers in the area affected by the taking of water necessarily taken as part of petroleum production under a 1923 Act petroleum tenure.
- (2) The fixing of the trigger threshold allows the tenure holder to prepare an underground water impact report for the tenure.

75IJ Request for trigger threshold and action on request

- (1) The 1923 Act petroleum tenure holder may ask the chief executive what the trigger threshold is for the aquifers.
- (2) The chief executive must—
 - (a) if no trigger threshold already applies for the aquifers—fix a trigger threshold for the aquifers and tell the tenure holder what that trigger threshold is; or
 - (b) if, under section 75IL or the 2004 Act, section 253(2)(a), a trigger threshold already applies for the aquifers—tell the tenure holder what that trigger threshold is.

75IK Provisions for fixing trigger threshold

- (1) A trigger threshold fixed under section 75IJ(2)(a) must be the water level drop in the aquifers that the chief executive considers would be a level that causes a significant reduction in the maximum pumping rate or flow rate of the existing Water Act bores in the area affected by the taking of water necessarily taken as part of petroleum production.
- (2) In fixing the trigger threshold, the chief executive—
 - (a) must consider—

- (i) the permeability and geometry of the aquifers; and
 - (ii) the water levels in the aquifers; and
 - (b) must allow the 1923 Act petroleum tenure holder a reasonable opportunity to make submissions about the trigger threshold proposed by the chief executive; and
 - (c) may ask the tenure holder to give the chief executive documents or information the chief executive reasonably requires to fix the trigger threshold.
- (3) If the request is not complied with the chief executive may fix the trigger threshold using the documents or information available to the chief executive.

75IL Fixed trigger threshold applies for all taking of water necessarily taken as part of petroleum production

- (1) This section applies if, under section 75IJ(2)(a) or the 2004 Act, section 253(2)(a),⁸² a trigger threshold has already been fixed for an aquifer in any part of the area affected by the taking of water necessarily taken as part of petroleum production under a 1923 Act petroleum tenure.
- (2) The trigger threshold applies for any aquifer in the area for the taking of water necessarily taken as part of petroleum production under any other 1923 Act petroleum tenure.

Subdivision 2 Lodging report

75IM Lodging report

- (1) Each 1923 Act petroleum tenure holder must, on or before the relevant time, lodge an underground water impact report at the following office (the *relevant office*)—
 - (a) the office of the department for lodging underground water impact reports, as stated in a gazette notice by the chief executive; or

82 2004 Act section 253 (Request for trigger threshold and action on request)

- (b) if no office is gazetted under paragraph (a)—the office of the chief executive.
- (2) An underground water impact report—
- (a) must comply with section 75IN; and
 - (b) may relate to the taking of water necessarily taken as part of petroleum production under 1 or more 1923 Act or 2004 Act petroleum tenures, held by the same person, or by different persons.
- (3) In this section—
- relevant time** means the earlier of any of the following—
- (a) 20 business days after the end of the first year of—
 - (i) for a lease—the start of petroleum production under the lease for commercial purposes; or
 - (ii) for an authority to prospect—the approval, under the instrument for the authority, to produce petroleum;
 - (b) for a lease—when the lease holder is, under the 2004 Act, section 599,⁸³ first required to lodge a royalty return for petroleum production in the area of the lease.

75IN Requirements for report

- (1) Subject to section 75IO, an underground water impact report must include each of the following—
- (a) the trigger threshold for aquifers in the area affected by the taking of water necessarily taken as part of petroleum production under the 1923 Act petroleum tenure;
 - (b) details of an underground water flow model prepared by the holder to predict the drop in the water level, because of the taking, in aquifers predicted by the holder to be affected by the taking;
 - (c) the area and aquifers predicted by the holder to be affected by the taking;

83 2004 Act, section 599 (Annual royalty returns)

- (d) details of the existing Water Act bores predicted by the holder to be unduly affected by the taking, either alone or in combination with—
 - (i) the taking of water necessarily taken as part of petroleum production under another 1923 Act petroleum tenure; or
 - (ii) the exercise of underground water rights under the 2004 Act for a 2004 Act petroleum tenure;
 - (e) an estimate of when each of the bores will become unduly affected;
 - (f) details of a monitoring program proposed to be carried out by the holder to monitor the impact of the taking;
 - (g) other information or matters prescribed under a regulation.
- (2) The underground water flow model must comply with any requirements prescribed under a regulation.
- (3) If the underground water impact report is for a combination of any of the following activities carried out by different persons, it may state the liability, as between the persons, to comply with the make good obligation under this Act or the 2004 Act for each existing Water Act bore identified in the report if it is, or becomes, unduly affected—
- (a) the taking of water necessarily taken as part of petroleum production under 1 or more 1923 Act petroleum tenures;
 - (b) the exercise, under the 2004 Act, of the underground water rights for 1 or more 2004 Act petroleum tenures.
- (4) However, a statement under subsection (3) does not affect the tenure holders' joint and several liability under section 75IH for the obligation.

75IO Exemption from underground water flow model

Section 75IN(1)(b) need not be complied with if the chief executive is satisfied—

- (a) that, because of the need for data to be collected after the relevant time under section 75IM for lodging the

report, it is not reasonably possible for the holder to prepare an appropriate underground water flow model before that time; or

- (b) the report shows each of the following matters and, that because of the matters, the existing Water Act bores will not be unduly affected by the taking of water necessarily taken as part of petroleum production under the 1923 Act petroleum tenure—
 - (i) if there are existing Water Act bores in an aquifer other than the source aquifer for the taking—the source aquifer is not hydraulically connected to that aquifer;
 - (ii) any existing Water Act bore in the source aquifer is sufficiently separated in distance from the place where the taking is to happen.

Subdivision 3 Consideration of underground water impact report

75IP Power to require amendment of report

- (1) If an underground water impact report (the *original report*) does not include details of an underground water flow model prepared by the 1923 Act petroleum tenure holder, the chief executive may require the tenure holder to, within a stated reasonable period—
 - (a) prepare the model; and
 - (b) lodge an amended underground water impact report that includes details of the model.
- (2) Subsection (1) applies despite any conclusion stated in the original report.
- (3) If the chief executive is satisfied an underground water impact report (also the *original report*) is inadequate in a material particular, the chief executive may require the 1923 Act petroleum tenure holder who lodged the original report to lodge an amended underground water impact report that—
 - (a) amends the original report in a stated way; or

(b) includes stated information or material.

Example of a possible material inadequacy—

In the circumstances, it was appropriate for the water monitoring program detailed in the report to include the construction of a water observation bore. The construction of the bore is not provided for in the report.

- (4) A requirement under this section must be made by a notice to the 1923 Act petroleum tenure holder who lodged the report.
- (5) The notice must state a reasonable period within which the requirement must be complied with.
- (6) An amended underground water impact report must be lodged at the same office at which the original report must be lodged.
- (7) A 1923 Act petroleum tenure holder of whom a requirement under this section has been made must comply with the requirement.
- (8) In this section—

underground water impact report includes an underground water impact report amended under this section.

75IQ Decision on report

- (1) The chief executive must decide whether to accept or reject the underground water impact report.
- (2) However, the chief executive may reject the report only if the chief executive is satisfied it is inadequate in a material particular.
- (3) On rejection of the report, the chief executive must give the 1923 Act petroleum tenure holder an information notice about the decision to reject the report.
- (4) The information notice must—
 - (a) require the tenure holder to lodge, under section 75IM,⁸⁴ another underground water impact report; and
 - (b) state a reasonable period for lodging the other report.
- (5) The tenure holder must comply with the requirement.

84 Section 75IM (Lodging report)

Division 4 Pre-closure report

75IR **Obligation to lodge pre-closure report**

- (1) A 1923 Act petroleum tenure holder must, within 40 business days before the earliest of the following times, lodge a report (a *pre-closure report*) for the tenure that complies with section 75IS—
 - (a) 1 year before the end of the term of the tenure other than under the 2004 Act, section 911;⁸⁵
 - (b) when the holder makes a surrender application for the tenure;
 - (c) an earlier time stated in a notice from the chief executive to the holder.
- (2) However, if at any time before the last time by which the holder can, under this Act, apply to renew the tenure, the holder gives the chief executive a written declaration stating that the holder intends to apply to renew the tenure, subsection (1)—
 - (a) only applies if—
 - (i) the holder does not, before that time, make a renewal application for the tenure; or
 - (ii) a renewal application for the tenure is rejected; and
 - (b) does not apply if a renewal application for the tenure is granted, unless—
 - (i) the holder makes a surrender application for the tenure; or
 - (ii) the chief executive gives the holder a notice stating that the holder must, at a stated time, lodge a pre-closure report.
- (3) The report must be lodged at—

⁸⁵ See however the 2004 Act, section 911A (Provision for continuance of 1923 Act make good obligation).

- (a) the office of the department for lodging pre-closure reports, as stated in a gazette notice by the chief executive; or
- (b) if no office is gazetted under paragraph (a)—the office of the chief executive.

75IS Requirements for report

The pre-closure report must state each of the following—

- (a) the existing Water Act bores that, after the 1923 Act petroleum tenure ends, the tenure holder predicts may become unduly affected by the taking of water necessarily taken as part of petroleum production under the tenure, during its term;
- (b) an estimate of when each of the bores will become unduly affected;
- (c) what steps have been taken to comply with the make good obligation in relation to the bores;
- (d) the information or matters prescribed under a regulation.

75IT Power to require amendment of report

- (1) This section applies if, before the end of the 1923 Act petroleum tenure, the chief executive considers that the effect of the taking of water necessarily taken as part of petroleum production under the tenure is materially different to the effect predicted in the pre-closure report.
- (2) The chief executive may require the tenure holder to lodge, as required under section 75IR, an amended pre-closure report stating a prediction under section 75IS(a) that is appropriate.
- (3) A requirement under this section must include, or be accompanied by, an information notice about the decision to make the requirement.
- (4) The information notice must state a reasonable period for lodging the amended report.

75IU Effect of lodgment of report

- (1) This section applies from the end of the 1923 Act petroleum tenure if the former 1923 Act petroleum tenure holder—
 - (a) was, under section 75IR, required to lodge a pre-closure report; and
 - (b) has lodged a pre-closure report that complies with section 75IS; and
 - (c) has complied with any requirement under section 75IT.
- (2) The existing Water Act bores stated in the pre-closure report are, for section 75IG(2),⁸⁶ taken to be the only existing Water Act bores that are likely, after the 1923 Act petroleum tenure ends, to become unduly affected by the taking of water necessarily taken as part of petroleum production under the tenure.

Division 5 Monitoring and review reports**75IV Operation of div 5**

- (1) This division requires the tenure holder to lodge monitoring reports and review reports.
- (2) The purpose of a monitoring report is to monitor the effect of the taking of water necessarily taken as part of petroleum production for a 1923 Act petroleum tenure.
- (3) The purposes of a review report are to—
 - (a) compare the effect of the taking with the predicted effect in the holder's relevant underground water impact report to show whether the report continues to be appropriate; and
 - (b) amend the underground water impact report to reflect the results of the comparison.

86 Section 75IG (The make good obligation)

75IW Obligation to lodge monitoring reports

- (1) Subject to sections 75IZ and 75IZA, the 1923 Act petroleum tenure holder must when the holder is, under section 76F,⁸⁷ required to lodge an annual report for the tenure, lodge a monitoring report for the tenure.
- (2) The monitoring report must—
 - (a) report on the monitoring program provided for in the tenure holder's impact report; and
 - (b) state the information or matters prescribed under a regulation; and
 - (c) be included in the annual report, or lodged together with it at—
 - (i) the office of the department for lodging monitoring reports, as stated in a gazette notice by the chief executive; or
 - (ii) if no office is gazetted under subparagraph (i)—the office of the chief executive.

75IX Obligation to lodge review reports

- (1) Subject to sections 75IZ and 75IZA, the 1923 Act petroleum tenure holder must lodge review reports about each underground water impact report by the holder before each of the following—
 - (a) the first anniversary from when the underground water impact report was accepted by the chief executive;
 - (b) the third anniversary of the acceptance;
 - (c) the fifth anniversary of the acceptance;
 - (d) the end of each interval of 5 years after the fifth anniversary.
- (2) The review reports must—
 - (a) state the information or matters prescribed under a regulation; and

87 Section 76F (Obligation to lodge annual reports)

- (b) amend the underground water impact report in a way that is consistent with the review report; and
 - (c) be included in the annual report that under section 76F,⁸⁸ must be lodged at the nearest point in time to when the review reports must be lodged under subsection (1).
- (3) For working out the intervals, any transition, under section 40,⁸⁹ of an authority to prospect to a lease must be disregarded.
- (4) The tenure holder may, at any time, lodge a review report at the office at which annual reports must, under section 76F,⁹⁰ be lodged.

75IY Effect of lodgment of review report

On the lodgment of a review report that complies with section 75IX—

- (a) the underground water impact report to which it relates is taken to have been amended as provided in the review report; and
- (b) if the underground water impact report conflicts with a matter provided for in the review report, the underground water impact report is taken to have been amended to agree with the review report.

75IZ Chief executive's power to change frequency of reports

- (1) The chief executive may, by notice to the 1923 Act petroleum tenure holder, change the frequency required under this division for the lodging of monitoring reports or review reports.
- (2) However, the frequency may be changed for review reports only if a review report shows that the effect of the taking of water necessarily taken as part of petroleum production under

88 Section 76F (Obligation to lodge annual reports)

89 Section 40 (Lease to holder of authority to prospect)

90 Section 76F (Obligation to lodge annual reports)

the tenure on existing Water Act bores is materially different to the effect predicted in the holder's underground water impact report.

75IZA Chief executive's power to change reporting days

- (1) The chief executive may, by notice to the 1923 Act petroleum tenure holder, change the day on which monitoring reports or review reports must be lodged under this division.
- (2) However, the changed day must not be more than 1 year after the day the report was otherwise required to be lodged.

75IZB Power to require amendment of review report

- (1) This section applies if the chief executive considers that a review report does not achieve a purpose of a review report, as stated in section 75IV(3).
- (2) The chief executive may require the holder to lodge at the following office an amended review report that does achieve all of the purposes—
 - (a) the office of the department for lodging amended review reports, as stated in a gazette notice by the chief executive;
 - (b) if no office is gazetted under paragraph (a)—the office of the chief executive.
- (3) A requirement under this section must be by a notice that includes an information notice about the decision to make the requirement.
- (4) The information notice must state a reasonable period for lodging the amended report.
- (5) A 1923 Act petroleum tenure holder of whom a requirement under this section has been made must comply with the requirement.
- (6) In this section—

review report includes a review report amended under this section.

Division 6 Complying with make good obligation

Subdivision 1 Obligation to negotiate

75IZC 1923 Act petroleum tenure holder's obligation to negotiate

- (1) A 1923 Act petroleum tenure holder must make reasonable attempts to negotiate an agreement (a *make good agreement*) with an owner of an existing Water Act bore about how the make good obligation for the bore is to be complied with.
- (2) A make good agreement may be included in a compensation agreement under part 6K⁹¹ between the tenure holder and the owner.

Subdivision 2 Tribunal decision on how the obligation must be complied with

75IZD Application of sdiv 2

This subdivision applies if 1 or more 1923 Act or 2004 Act petroleum tenure holders to whom the make good obligation under this Act or the 2004 Act applies in relation to an existing Water Act bore and the owner of the bore can not agree about how the obligation is to be complied with.

75IZE Applying to tribunal

- (1) Any of the tenure holders or the owner may apply to the tribunal for it to decide how the obligation must be complied with.
- (2) If the obligation arose because of a combination of any of the following activities carried out by different persons each of them must be a party to the application—

91 Part 6K (General compensation provisions)

- (a) the taking of water necessarily taken as part of petroleum production under another 1923 Act petroleum tenure;
- (b) the exercise of underground water rights under the 2004 Act for a 2004 Act petroleum tenure.

75IZF Provisions for making decision

- (1) The tribunal may decide how the obligation must be complied with.
- (2) However—
 - (a) the tribunal may make the decision only to the extent the obligation is not the subject of a make good or other agreement between the tenure holder and the owner; and
 - (b) the tribunal may decide the owner must be compensated only if the tribunal considers it is not reasonably feasible to comply with the obligation by the taking of any restoration measures.
- (3) The tribunal may make any order it considers appropriate to meet or enforce its decision on the application.
- (4) If—
 - (a) the obligation arose because of a combination of any of the following—
 - (i) the taking of water necessarily taken as part of petroleum production under 1 or more 1923 Act petroleum tenures;
 - (ii) the exercise, under the 2004 Act, of underground water rights for 1 or more 2004 Act petroleum tenures; and
 - (b) the tenures are held by different persons; and
 - (c) the tenure holders have not agreed between themselves about how much each must contribute to comply with the obligation;

the tribunal may decide their contributions.

- (5) However, a decision under subsection (4) does not affect the tenure holders' joint and several liability under section 75IH⁹² for the obligation.

75IZG Provisions for deciding compensation

- (1) This section applies if the tribunal decides that the obligation is to be complied with by compensation to the owner.
- (2) The compensation may only be for—
- (a) diminution of any of the following because of the taking of water necessarily taken as part of petroleum production—
- (i) the value of the owner's land on which the bore is located;
- (ii) the use the owner has made, or may make, of water from the existing Water Act bore; or
- (b) any cost or loss the owner suffers that is caused by the impaired capacity of the bore.

Example of a possible cost—

the cost of transporting water to the land from an alternative water source

- (3) In deciding the amount of the compensation, the tribunal may consider any restoration measures, successful or otherwise, taken or attempted by the tenure holder.
- (4) The tribunal must, as far as practicable, decide the compensation at the same time as it makes any decision about any compensation liability that the tenure holder has to the owner under part 6K.⁹³

92 Section 75IH (Provisions for application of make good obligation)

93 Part 6K (General compensation provisions)

Subdivision 3 Miscellaneous provisions

75IZH Make good agreement or tribunal's decision binds successors and assigns

- (1) A make good agreement or a decision by the tribunal under subdivision 2 is for the benefit of, and is taken to have been agreed to or decided for and is binding on—
 - (a) the owner of the relevant existing Water Act bore; and
 - (b) each relevant 1923 Act or 2004 Act petroleum tenure holder; and
 - (c) each of their successors and assigns, including successors and assigns of the relevant 1923 Act petroleum tenure.⁹⁴
- (2) Subsection (1) is subject to section 75IZI.

75IZI Reviews by tribunal

- (1) This section applies if, since the making of a make good agreement or a decision by the tribunal under subdivision 2 (the *original agreement or decision*), there has been a material change in circumstances (the *change*).
- (2) Any person mentioned in section 75IZH may apply to the tribunal for it to review the original agreement or decision.
- (3) In carrying out the review, the tribunal may review the agreement or decision only to the extent it is affected by the change.
- (4) The tribunal may, after carrying out the review, decide to confirm the original agreement or decision or amend it in a way the tribunal considers appropriate.
- (5) If the decision is to amend the original agreement or decision, the original agreement or decision, as amended under the decision, is for this Act, taken to be the original agreement or decision.

⁹⁴ See also section 75IF (References to 1923 Act petroleum tenure holder in pt 6CA).

75IZJ Right of entry after 1923 Act petroleum tenure ends to comply with make good obligation

- (1) This section applies if a 1923 Act petroleum tenure holder has not complied with the make good obligation in relation to an existing Water Act bore and the tenure has ended.
- (2) The former tenure holder may enter the land on which the bore is located to comply with the make good obligation.
- (3) Parts 6H, 6I and 6K,⁹⁵ apply to the former tenure holder as if—
 - (a) the tenure were still in force; and
 - (b) the former tenure holder is its holder; and
 - (c) the land is in the area of the tenure; and
 - (d) compliance with the make good obligation is an authorised activity for the tenure.

75IZK Advice from Water Act regulator

- (1) The chief executive must, before deciding any matter under this part, seek advice about the matter from the Water Act regulator.
- (2) A failure to comply with subsection (1) does not invalidate or otherwise affect the decision.

95 Parts 6H (Private land), 6I (Public land) and 6K (General compensation provisions)

Part 6D Wells, water supply bores and water observation bores

Division 1 Restrictions on drilling

75J Requirements for drilling well

- (1) A person drilling a well must comply with any requirements prescribed under a regulation that apply to the drilling of the well.

Maximum penalty—300 penalty units.

- (2) The requirements may include provisions to prevent the drilling adversely affecting the carrying out of safe and efficient mining or future mining of coal under the Mineral Resources Act.

75K Restriction on who may drill water observation bore or water supply bore

A person must not drill a water observation bore or water supply bore unless—

- (a) the person is a licensed water bore driller; or
- (b) the Water Act, section 816(2)(a) or (c)⁹⁶ applies.

Maximum penalty—300 penalty units.

Division 2 Converting well to water supply bore

75L Restrictions on making conversion

A 1923 Act petroleum tenure holder may convert a well in the area of the tenure to a water supply bore only if—

- (a) the well has been modified for the purpose of taking water; and

96 Water Act, section 816 (Unauthorised water bore activities)

- (b) the modification was carried out by a licensed water bore driller; and
- (c) permission for the conversion has been granted under section 86.

Maximum penalty—500 penalty units.

75M Notice of conversion

If a 1923 Act petroleum tenure holder converts a well to a water supply bore, the holder must, within 10 business days after the conversion, lodge a notice at the following office stating the information prescribed under a regulation—

- (a) the office of the department for lodging the notice, as stated in a gazette notice by the chief executive;
- (b) if no office is gazetted under paragraph (a)—the office of the chief executive.

Maximum penalty—50 penalty units.

Division 3 Transfers of wells, water observation bores and water supply bores

Subdivision 1 General provisions

75N Operation of div 3

- (1) This division permits, in particular circumstances, the transfer of the following in relation to a well, water observation bore or water supply bore—
 - (a) the control of, and responsibility for, the well or bore;
 - (b) the ownership of any works constructed in connection with the well or bore.

- (2) In this division, a ***transfer*** of a well, water observation bore or water supply bore is a reference to a transfer in relation to the well or bore mentioned in subsection (1).⁹⁷

75O Transfer only permitted under div 3

A purported transfer of a well, water observation bore or water supply bore is of no effect unless—

- (a) the transfer is permitted under this division; and
- (b) the requirements under this subdivision for making the transfer have been complied with.

75P Effect of transfer

- (1) If a well, water observation bore or water supply bore is transferred under this division, any obligation the transferor had under this Act or another law in relation to the well or bore ceases.
- (2) However, if the transferor is someone other than the State, subsection (1) does not apply to the Environmental Protection Act.⁹⁸

Subdivision 2 Permitted transfers

75Q Transfer of water observation bore or water supply bore to landowner

- (1) A 1923 Act petroleum tenure holder may, by complying with the requirements under subsection (2), transfer a water observation bore or water supply bore in the area of the tenure to the landowner.
- (2) For subsection (1), the requirements are that each of the following have been lodged at the relevant office—

⁹⁷ For the ownership of works mentioned in subsection (1)(b) generally, see section 80 (Ownership of equipment and improvements).

⁹⁸ For transfers by the State, see section 75W (Responsibility for well or bore after decommissioning).

- (a) a notice issued by the Water Act regulator stating—
 - (i) that the construction of the bore was carried out under the Water Act and any relevant water bore driller's licence under that Act;⁹⁹ and
 - (ii) whether or not the Water Act requires the owner to hold a Water Act licence to take water from the bore to be transferred;
 - (b) if the Water Act requires the owner to hold a Water Act licence to take water from the bore to be transferred—a copy of the licence;
 - (c) a notice in the approved form;
 - (d) the transfer fee prescribed under a regulation.
- (3) The approved form must require the signed consent of the Minister and the landowner to the transfer.
- (4) In this section—

construction, for a water supply bore, includes any modification under section 75L.

landowner means the owner of the land on which the bore is located.

relevant office means—

- (a) the office of the department for lodging documents mentioned in subsection (2) under this section, as stated in a gazette notice by the chief executive; or
- (b) if no office is gazetted under paragraph (a)—the office of the chief executive.

75R Transfer of well to holder of geothermal exploration permit or mining tenement

A 1923 Act petroleum tenure holder may transfer a well in the area of the tenure to the holder of a geothermal exploration permit or a mining tenement if—

- (a) the well is in the area of the permit or tenement; and

⁹⁹ For relevant conditions, see the *Water Regulation 2002*, section 23(1) (Conditions of water bore driller's licence—Act s 302).

- (b) a notice in the approved form and the transfer fee prescribed under a regulation have been lodged at—
 - (i) the office of the department for lodging the notice, as stated in a gazette notice by the chief executive; or
 - (ii) if no office is gazetted under subparagraph (i)—the office of the chief executive; and
- (c) the Minister approves the transfer.

75S Transfer of water observation bore to petroleum tenure holders or water monitoring authority holder

A 1923 Act petroleum tenure holder, a 2004 Act petroleum tenure holder or a water monitoring authority holder may transfer a water observation bore in the area of the tenure or authority to the holder of another 1923 Act petroleum tenure, 2004 Act petroleum tenure or a water monitoring authority if—

- (a) the bore is in the area of the other tenure or authority; and
- (b) a notice in the approved form and the transfer fee prescribed under a regulation have been lodged at—
 - (i) the office of the department for lodging the notice, as stated in a gazette notice by the chief executive; or
 - (ii) if no office is gazetted under subparagraph (i)—the office of the chief executive; and
- (c) the Minister approves the transfer.

Subdivision 3 Notice of transfer

75T Notice of transfer to Water Act regulator or Mineral Resources Act chief executive

- (1) If a transfer is made under section 75Q the chief executive must give the Water Act regulator notice of the transfer.

- (2) If a transfer is made under section 75R, the chief executive must give the chief executive that administers the Mineral Resources Act notice of the transfer.
- (3) A failure to comply with subsection (1) or (2) does not invalidate or otherwise affect the transfer.

Division 4 Decommissioning of wells, water observation bores and water supply bores

75U Obligation to decommission

- (1) This section applies to a person (the *responsible person*) who holds a 1923 Act petroleum tenure on which there is a well, water observation bore or water supply bore drilled by or for the tenure holder or that has been transferred to the tenure holder.
- (2) The responsible person must ensure the well or bore is decommissioned from use under this Act before—
 - (a) the tenure ends; or
 - (b) the land on which the well or bore is located ceases to be in the area of the tenure.

Maximum penalty—500 penalty units.

- (3) However subsection (2) does not apply for land that, under section 20,¹⁰⁰ ceases to be in the area of an authority to prospect.
- (4) For subsection (2), the well or bore is decommissioned from use under this Act only if—
 - (a) it has been plugged and abandoned in the way prescribed under a regulation; and
 - (b) for a bore—the decommissioning complies with the Water Act, sections 816 and 817;¹⁰¹ and

100 Section 20 (Area of authority to prospect reduced on grant of lease)

101 Water Act, sections 816 (Unauthorised water bore activities) and 817 (Contravening requirements for mining and petroleum drilling)

- (c) the responsible person has lodged a notice about the decommissioning.¹⁰²
- (4A) Subsection (4)(b) applies only to the extent it is not inconsistent with subsection (4)(a).
- (5) The notice must be—
 - (a) in the approved form; and
 - (b) lodged at—
 - (i) the office of the department for lodging the notice, as stated in a gazette notice by the chief executive; or
 - (ii) if no office is gazetted under subparagraph (i)—the office stated in the approved form; or
 - (iii) otherwise—the office of the chief executive.

75V Right of entry to facilitate decommissioning

- (1) This section applies if—
 - (a) a responsible person under section 75U has not carried out decommissioning on land as required under that section; and
 - (b) the relevant 1923 Act petroleum tenure has ended; or
 - (c) the land on which the well or bore is located is no longer in the area of the tenure.
- (2) The responsible person may enter the following land to carry out the decommissioning—
 - (a) land (the *primary land*) on which the decommissioning must be, or was required to be, carried out;
 - (b) any other land it is reasonably necessary to cross for access to the primary land.
- (3) Parts 6H, 6I and 6K¹⁰³ apply to the responsible person, in the following way—

102 See also section 80L (Power of authorised person to ensure compliance).

103 Parts 6H (Private land), 6I (Public land) and 6K (General compensation provisions)

- (a) if the tenure has ended, as if—
 - (i) it were still in force; and
 - (ii) the responsible person is its holder;
- (b) as if the primary land and other land mentioned in subsection (2)(b) is in the area of the tenure;
- (c) as if the decommissioning is an authorised activity for the tenure.

75W Responsibility for well or bore after decommissioning

- (1) This section applies if a 1923 Act petroleum tenure holder has, under section 75U,¹⁰⁴ decommissioned a well, water observation bore or water supply bore.
- (2) Despite the decommissioning, the holder continues to be responsible under this Act for the well or bore until the earlier of the following times (the *relevant time*)—
 - (a) when the tenure ends;
 - (b) when the land on which the well or bore is located ceased to be in the area of the tenure.
- (3) At the relevant time the well or bore is taken to have been transferred to the State.
- (4) Subsection (3) applies despite—
 - (a) the exploration bore being on or part of land owned by someone else; or
 - (b) the sale or other disposal of the land.
- (5) After the relevant time, the State may transfer the well or bore.
- (6) However—
 - (a) the transfer from the State can only be to—
 - (i) the owner of the land on which the well or bore is located; or

¹⁰⁴ For ownership before decommissioning, see section 75U (Obligation to decommission).

- (ii) the holder of a geothermal exploration permit or mining tenement the area of which includes that land; and
- (b) the transfer from the State and the use of the well or bore by the transferee is subject to this Act and any other relevant Act or law.

Division 5 Water monitoring authorities

Subdivision 1 Obtaining water monitoring authority

75WA Who may apply for water monitoring authority

- (1) A 1923 Act petroleum tenure holder may apply for a water monitoring authority for stated land to allow the holder to comply with, or assess the need to comply with, the make good obligation for the tenure.
- (2) The application may be made or granted for—
 - (a) land in the area of another 1923 Act petroleum tenure or a 2004 Act petroleum authority; and
 - (b) 1 or more tenures or authorities mentioned in paragraph (a) held by the same applicant.

75WB Requirements for making application

The application must be—

- (a) in the approved form; and
- (b) lodged at—
 - (i) the office of the department for lodging water monitoring authority applications, as stated in a gazette notice by the chief executive; or
 - (ii) if no office is gazetted under subparagraph (i)—the office stated in the approved form; or

- (iii) otherwise—the office of the chief executive; and
- (c) accompanied by the fee prescribed under a regulation.

75WC Deciding application for water monitoring authority

- (1) The Minister may grant or refuse the water monitoring authority.
- (2) However, the water monitoring authority must not be granted unless a relevant environmental authority for the water monitoring authority has been issued.
- (3) The authority must state its area and each 1923 Act petroleum tenure or a 2004 Act petroleum tenure to which it relates.
- (4) The authority may also state—
 - (a) conditions or other provisions of the authority, other than conditions or provisions that are—
 - (i) inconsistent with subdivision 2 or section 75WM¹⁰⁵ or any other mandatory condition for water monitoring authorities; or
 - (ii) inconsistent with a condition of any 1923 Act petroleum tenure or a 2004 Act petroleum tenure to which the authority relates; or
 - (iii) the same as, or substantially the same as, or inconsistent with, any relevant environmental condition for the authority; and
 - (b) the day it takes effect.
- (5) However, the provisions of the authority may exclude or restrict the carrying out of water monitoring activities.

Subdivision 2 Key authorised activities

75WD Operation of sdiv 2

- (1) This subdivision provides for the key authorised activities for a water monitoring authority.

¹⁰⁵ Section 75WM (Additional condition of relevant petroleum tenure)

- (2) The authorised activities may be carried out despite the rights of an owner or occupier of land on which they are exercised.
- (3) However, the carrying out of the authorised activities is subject to—
 - (a) sections 3, 75WH and 75WI; and
 - (b) parts 6H, 6I, 6J and 6K; and
 - (c) the conditions of the authority; and
 - (d) any exclusion or restriction provided for in the authority on the carrying out of the activities.

75WE Water monitoring activities

The authority holder may carry out any water monitoring activity in the area of the authority.

75WF Limited right to take or interfere with underground water

The authority holder may take or interfere with underground water only to the extent that the taking or interference is the unavoidable result of carrying out a water monitoring activity in the area of the authority.

Example—

The taking of or interference with underground water during the drilling or maintenance of a water observation bore in the area.

75WG Authorisation for Water Act

For the Water Act, the taking of or interference with underground water, under section 75WF, is taken to be authorised.¹⁰⁶

¹⁰⁶ See the Water Act, section 808 (Unauthorised taking, supplying or interfering with water).

75WH Water Act not otherwise affected

To remove any doubt, it is declared that the water monitoring authority holder can not take or interfere with water as defined under the Water Act unless the taking or interference is authorised under this subdivision or the Water Act.¹⁰⁷

75WI Restriction on carrying out authorised activities

In carrying out an authorised activity for the water monitoring authority, the holder must not interfere with the carrying out of an authorised activity for a 1923 Act petroleum tenure or a 2004 Act petroleum tenure, or of another water monitoring authority, the area of which includes the area of the authority.

Maximum penalty—1 000 penalty units.

75WJ No right to petroleum discovered

To remove any doubt, it is declared that the discovery of petroleum while carrying out an authorised activity for the authority does not, of itself, give the authority holder a right to the petroleum.

Subdivision 3 Miscellaneous provisions**75WK Term of authority**

Subject to part 6P, division 3, a water monitoring authority continues in force until there is no longer any 1923 Act petroleum tenure or a 2004 Act petroleum tenure to which the authority relates.

75WL Provision for who is the authority holder if only 1 related petroleum tenure

- (1) This section applies if there is only 1 1923 Act petroleum tenure to which a water monitoring authority relates.

¹⁰⁷ See Water Act, sections 20 (Authorised taking of water without water entitlement) and 808 (Unauthorised taking, supplying or interfering with water).

- (2) The authority holder is taken to be the person who, from time to time, holds the 1923 Act petroleum tenure to which the authority relates.

75WM Additional condition of relevant petroleum tenure

If a condition is imposed on a water monitoring authority (the *authority condition*), it is a condition of each 1923 Act petroleum tenure or a 2004 Act petroleum tenure to which the authority relates that the tenure holder must comply with the authority condition.

75WN Amending water monitoring authority by application

- (1) The holder of a water monitoring authority may apply to amend it—
 - (a) to increase or decrease its area; or
 - (b) to add or omit, or reflect an amendment of, a 1923 Act petroleum tenure or a 2004 Act petroleum tenure that relates to the authority.
- (2) The holder can not apply to amend the authority in any other way.
- (3) The application must be—
 - (a) in the approved form; and
 - (b) lodged at—
 - (i) the office of the department for lodging the application, as stated in a gazette notice by the chief executive; or
 - (ii) if no office is gazetted under subparagraph (i)—the office stated in the approved form; or
 - (iii) otherwise—the office of the chief executive; and
 - (c) accompanied by the fee prescribed under a regulation.
- (4) The Minister may grant or refuse the amendment.
- (5) The amendment may be granted (a *conditional grant*) subject to the applicant's written agreement to the Minister amending

the authority in a stated way that the Minister considers appropriate.¹⁰⁸

- (6) On refusal of the application or the making of a decision to make a conditional grant, the applicant must be given an information notice about the decision to refuse or to make the conditional grant.

Part 6E Reporting

Division 1 General reporting provisions¹⁰⁹

75X Requirement to report outcome of testing

- (1) This section applies if a 1923 Act petroleum tenure holder carries out testing for petroleum from any well in the area of the authority.
- (2) The holder must, within 40 business days after the testing ends, lodge a report stating the outcome of the test at—
 - (a) the office of the department for lodging testing outcome reports, as stated in a gazette notice by the chief executive; or
 - (b) if no office is gazetted under paragraph (a)—the office of the chief executive.
- (3) The report must also state how much associated water was taken during the testing.

75Y Notice about discovery and commercial viability

- (1) If a 1923 Act petroleum tenure holder makes a petroleum discovery, the holder must, within 5 business days, lodge a notice of the discovery.

108 See section 125 (Power to correct or amend).
See also part 6G (Security).

109 See also section 77O (Requirement for giving of copy of relinquishment report).

- (2) For subsection (1), if a 1923 Act petroleum tenure holder explores or tests for coal seam gas—
 - (a) the discovery of the presence of coal seam gas in a coal seam is not, of itself, a petroleum discovery; and
 - (b) the holder discovers coal seam gas only if it is actually produced from a petroleum well used for the exploration or testing.
- (3) A notice under subsection (1) must also state the geological significance of the discovery.
- (4) The holder, must within the relevant period, lodge a notice about whether or not petroleum production from the reservoir the subject of the notice is commercially viable, or potentially commercially viable, for the holder.
- (5) A notice under this section must be lodged at—
 - (a) the office of the department for lodging the notice, as stated in a gazette notice by the chief executive; or
 - (b) if no office is gazetted under paragraph (a)—the office of the chief executive.
- (6) In this section—

relevant period means—

 - (a) the period of 45 business days after the discovery; or
 - (b) if the chief executive has, within the 45 business days, agreed to a longer period—the longer period.

75Z Relinquishment report

- (1) If part of the area of a 1923 Act petroleum tenure is relinquished as required or authorised under this Act,¹¹⁰ its holder must, within 6 months, lodge a report—
 - (a) describing—
 - (i) the authorised activities for the tenure carried out in the part; and

110 See part 6A, division 2 (Specific mandatory conditions for authorities to prospect and related provisions).

- (ii) the results of the activities; and
- (b) including other information prescribed under a regulation.

Maximum penalty—200 penalty units.

- (2) The report must be lodged at—
 - (a) the office of the department for lodging relinquishment reports, as stated in a gazette notice by the chief executive; or
 - (b) if no office is gazetted under paragraph (a)—the office of the chief executive.¹¹¹

76 End of tenure report

- (1) If a 1923 Act petroleum tenure ends, the person who held the tenure immediately before it ended must, within 6 months, lodge a report—
 - (a) including each of the following—
 - (i) a summary of all authorised activities for the tenure that have been carried out since it took effect;
 - (ii) a summary of the results of the activities;
 - (iii) an index of all reports lodged, as required under this Act, in relation to the activities;
 - (iv) a summary of all significant hazards created to future safe and efficient mining that, under the 2004 Act section 690(1)(g) or 706¹¹² or a regulation under that Act, are required to be reported;
 - (v) for each hazard mentioned in the summary under subparagraph (iv)—a reference to the report that contains details of the hazard;

¹¹¹ See also section 77O (Requirement for giving of copy of relinquishment report).

¹¹² 2004 Act, section 690 (Content requirements for safety reports) or 706 (Requirement to report prescribed incident)

- (vi) data on the amount and location of all petroleum and water produced from the area of the tenure;
- (vii) any data related to data mentioned in subparagraph (vi) that may help the understanding of the amount and location of any remaining petroleum (including areas of ‘free gas’) and water from reservoirs produced;
- (viii) any data required to be reported under this Act that has not been previously reported; and
- (b) stating any other information prescribed under a regulation.

Maximum penalty—150 penalty units.¹¹³

- (2) A report under subsection (1) must be lodged at—
 - (a) the office of the department for lodging the report, as stated in a gazette notice by the chief executive; or
 - (b) if no office is gazetted under paragraph (a)—the office of the chief executive.

Division 2 Records and samples

76A Requirement to keep records and samples

- (1) A 1923 Act petroleum tenure holder must, for the period and in the way prescribed under a regulation, keep the records and samples about authorised activities carried out under the tenure as prescribed under a regulation.

Maximum penalty—500 penalty units.

- (2) For subsection (1), the prescribed records may be—
 - (a) basic exploration data; or

Examples of basic exploration data—

- seismic acquisition and processing reports
- information obtained from airborne geophysical surveying

¹¹³ See also section 76F(3) (Obligation to lodge annual reports).

- other information about petroleum or other materials at or below ground level
 - a well completion report for an exploration or appraisal well
- (b) opinions, conclusions, technical consolidations and advanced interpretations based on basic exploration data.

76B Requirement to lodge records and samples

- (1) A person who, under section 76A, is required to keep a record or sample, must, for the services of the State, lodge a copy of the record and a part of the sample within 6 months after the earlier of the following (the *required time*)—
- (a) the day the record or sample was acquired or made;
 - (b) the day the relevant 1923 Act petroleum tenure ends.

Maximum penalty—500 penalty units.

- (2) The copy of the record and part of the sample must be lodged at the following office (the *relevant office*)—
- (a) the office of the department for lodging the copy of the record and part of the sample, as stated in a gazette notice by the chief executive;
 - (b) if no office is gazetted under paragraph (a)—the office of the chief executive.
- (3) If the chief executive gives the person a notice asking the person for more of the sample, the person must lodge it at the relevant office within the reasonable time stated in the notice (also the *required time*) unless the holder has a reasonable excuse.

Maximum penalty—500 penalty units.

- (4) The chief executive may extend the required time by up to 1 year if—
- (a) the person asks for the extension before the required time; and
 - (b) the chief executive is satisfied the extension is necessary.
- (5) However, the extension must not end later than—

- (a) for subsection (1)—6 months after the required time; or
 - (b) for subsection (3)—1 year after the required time.
- (6) Without limiting subsection (1), the use to which the State may put the copy of the record and the part of the sample include the building of a publicly available database to facilitate petroleum exploration for the services of the State.

Division 3 Releasing required information

76C Meaning of *required information*

Required information, for a 1923 Act petroleum tenure, is information (in any form) about authorised activities carried out under the tenure that the tenure holder has lodged under this Act, including, for example—

- (a) a sample; and
- (b) data and other matters mentioned in section 76G(2).

76D Public release of required information

- (1) The mere fact of the existence of a 1923 Act petroleum tenure is taken to be an authorisation from its holder to the chief executive to do the following, after the end of any confidentiality period prescribed under a regulation—
- (a) publish, in the way prescribed under a regulation, required information for the tenure for public use, including, for example, to support petroleum exploration, production and development;
 - (b) on payment of a fee prescribed under a regulation, make it available to any person.
- (2) Any confidentiality period prescribed under subsection (1) ceases if the information is about an authorised activity carried out solely in an area that is no longer in the area of the tenure.

Example—

The required information is a well completion report about a well drilled on particular land in the area of an authority to prospect. Subsection (1)

ceases to apply if all of that land is relinquished under a relinquishment condition.

- (3) The authorisation is not affected by the ending of the tenure.

76E Chief executive may use required information

- (1) The mere fact of the existence of a 1923 Act petroleum tenure is taken to be an authorisation from its holder to the chief executive to use required information for—
- (a) purposes reasonably related to this Act that are required for the tenure; or
 - (b) the services of the State.
- (2) The authorisation is not affected by the ending of the tenure.

76F Obligation to lodge annual reports

- (1) Each 1923 Act petroleum tenure holder must, within 2 months after each of the tenure's anniversary days, lodge a report (an *annual report*) for the 12 months that ended on the last anniversary day that includes the information about the authority prescribed under a regulation.

Maximum penalty—150 penalty units.

- (2) If a 1923 Act petroleum tenure ends, its former holder must, within 2 months, lodge a report that includes the information prescribed under subsection (1) for the period from the authority's last anniversary day to when it ended.

Maximum penalty—150 penalty units.

- (3) A report under this section must be lodged at—
- (a) the office of the department for lodging annual reports, as stated in a gazette notice by the chief executive; or
 - (b) if no office is gazetted under paragraph (a)—the office of the chief executive.

- (4) In this section—

anniversary day, for a 1923 Act petroleum tenure, means each day that is the anniversary of the day the authority took effect.

76G Power to require information or reports about authorised activities to be kept or given

(1) A regulation, or the chief executive, may, for the services of the State, require a 1923 Act petroleum tenure holder to—

- (a) keep stated information, or types of information, about authorised activities carried out under the tenure; or

Example of a way of keeping information—

in a stated digital format

- (b) lodge a notice giving stated information, or types of information, or stated reports at stated times or intervals about authorised activities carried out under the tenure.

Example of a stated time—

for a report about a well, 6 months after its completion

(2) For subsection (1), the information or report required to be given or kept may be—

- (a) basic exploration data; or

Examples of basic exploration data—

- seismic acquisition, processing and interpretation reports
- information obtained from airborne geophysical surveying
- other information about petroleum or other materials at or below ground level
- a well completion report for an exploration or appraisal well

- (b) opinions, conclusions, technical consolidations and advanced interpretations based on basic exploration data.

(3) A notice under subsection (1)(b)—

- (a) may state—

- (i) a format required for giving the information; and
(ii) a degree of precision required for the giving of the information; and

- (b) must be lodged at—

- (i) the office of the department for lodging reports under this section, as stated in a gazette notice by the chief executive; or

- (ii) if no office is gazetted under subparagraph (i)—the office of the chief executive.
- (4) A person of whom a requirement under subsection (1) has been made must comply with the requirement.
Maximum penalty—100 penalty units.
- (5) In this section—
information includes documents, records and samples.

Part 6F Provisions for coal seam gas

Division 1 Preliminary

Subdivision 1 Introduction

76H Main purposes of pt 6F

The main purposes of this part are, in conjunction with the 2004 Act, chapter 3 and the Mineral Resources Act, part 7AA,¹¹⁴ to—

- (a) clarify rights to explore for and produce coal seam gas; and
- (b) address issues arising for coal seam gas exploration and production, and, in particular, issues arising when a 1923 Act petroleum tenure and a coal or oil shale mining tenement are granted over the same area; and
- (c) ensure petroleum exploration and production is—
 - (i) carried out safely; and
 - (ii) does not compromise the safe and efficient mining of coal seams or oil shale; and

114 2004 Act, chapter 3 and the Mineral Resources Act, part 7AA (Provisions for coal seam gas)

- (d) provide security of tenure to protect existing operations and investments relating to coal, oil shale and petroleum;¹¹⁵ and
- (e) provide certainty of tenure for future investments relating to coal, oil shale and petroleum; and
- (f) optimise the development and use of the State's coal, oil shale and petroleum resources to maximise the benefit for all Queenslanders; and
- (g) ensure petroleum exploration and production does not compromise the ability to mine coal seams economically in the future; and
- (h) ensure, if it is commercially and technically feasible, the grant of leases that may affect coal or oil shale mining, or proposed coal or oil shale mining, optimises the commercial use of coal, oil shale and petroleum resources in a safe and efficient way.

76I How main purposes are achieved

- (1) The main purposes of this part are achieved, in this part, the 2004 Act, chapter 3 or the Mineral Resources Act, part 7AA, by—
 - (a) providing for processes to decide the priority of overlapping lease applications and coal or oil shale mining tenement applications and potential applications; and
 - (b) facilitating the obtaining of a lease over land in the area of a coal or oil shale mining lease; and
 - (c) imposing additional requirements for deciding the overlapping applications; and
 - (d) imposing restrictions on the authorised activities for particular 1923 Act petroleum tenures; and
 - (e) imposing additional—

115 For existing operations, see also the Mineral Resources Act, part 19, division 6 (Transitional provisions for *Petroleum and Gas (Production and Safety) Act 2004*).

- (i) requirements relating to development plans for petroleum exploration or production under a lease; and
 - (ii) conditions on authorities to prospect and leases; and
- (f) granting the following the right to apply for a lease—
 - (i) particular coal or oil shale mining tenement holders;
 - (ii) others who apply jointly with the holders.
- (2) The following are also relevant to the achievement of the purposes—
 - (a) the definition of *petroleum* in section 2—
 - (b) the 2004 Act, sections 800(2) and 802(1)(c);
 - (c) the 2004 Act, chapter 2, part 8;
 - (d) the 2004 Act, chapter 9;
 - (e) the Mineral Resources Act, sections 3A, and 6, part 7AA and part 19, division 6.¹¹⁶

76J Relationship with other provisions of Act

- (1) Requirements and restrictions under this part apply as well as any relevant requirements under another provision of this Act.
- (2) If this part imposes a requirement for, or a restriction on, the granting or renewal of a 1923 Act petroleum tenure, the tenure can not be granted or renewed if the restriction applies or if the requirement has not been complied with.
- (3) If this part imposes a requirement for, or a restriction on, the carrying out of an authorised activity for a 1923 Act petroleum tenure, despite the other provision, the activity is

116 2004 Act, sections 800 (Restriction on petroleum tenure activities), 802 (Restriction on pipeline construction or operation), chapter 2, part 8 (Petroleum activities coordination) and chapter 9 (Safety)

Mineral Resources Act, sections 3A (Relationship with petroleum legislation) and 6 (Meaning of *mineral*), part 7AA (Provisions for coal seam gas) and part 19, division 6 (Transitional provisions for Petroleum and Gas (Production and Safety) Act 2004)

not an authorised activity for the tenure while the restriction applies or if the requirement has not been complied with.

- (4) If a provision of this part conflicts with the other provision, the provision of this part prevails to the extent of the inconsistency.

Subdivision 2 Definitions for pt 6F

76K What is *coal seam gas* and *incidental coal seam gas*

- (1) *Coal seam gas* is petroleum (in any state) occurring naturally in association with coal or oil shale, or in strata associated with coal or oil shale mining.
- (2) *Incidental coal seam gas* is incidental coal seam gas as defined under the Mineral Resources Act, section 318CM(2).¹¹⁷

76L What is *oil shale*

Oil shale is any shale or other rock (other than coal) from which a gasification or retorting product may be extracted or produced.

76M What is a *coal exploration tenement* and a *coal mining lease*

- (1) A *coal exploration tenement* is an exploration permit or mineral development licence under the Mineral Resources Act granted for coal.
- (2) A *coal mining lease* is—
- (a) a mining lease for coal; or
 - (b) a special coal mining lease granted under any of the following Acts, an agreement provided for under any of the Acts or any amendment of an agreement provided for under any of the Acts—

117 Mineral Resources Act, section 318CM (Limited entitlement to mine coal seam gas)

- (i) the *Central Queensland Coal Associates Agreement Act 1968*;
 - (ii) the *Thiess Peabody Mitsui Coal Pty. Ltd. Agreements Acts 1962*; or
- (c) a specific purpose mining lease for a purpose associated with, arising from or promoting the activity of coal mining, whether or not it is also granted for a purpose other than coal mining.
- (3) Subsections (1) and (2)(a) apply whether or not the lease, permit or licence is also granted for another mineral.

76N What is an *oil shale exploration tenement* and an *oil shale mining lease*

- (1) An *oil shale exploration tenement* is an exploration permit or mineral development licence granted for oil shale.
- (2) An *oil shale mining lease* is—
- (a) a mining lease for oil shale; or
 - (b) a specific purpose mining lease for a purpose associated with, arising from or promoting the activity of oil shale mining, whether or not it is also granted for a purpose other than oil shale mining.
- (3) Subsections (1) and (2)(a) apply whether or not the lease, permit or licence is also granted for another mineral.

76O What is a *coal or oil shale mining tenement*

A *coal or oil shale mining tenement* is—

- (a) a coal exploration tenement; or
- (b) an oil shale exploration tenement; or
- (c) a coal or oil shale mining lease.

Division 2 Additional provisions for authorities to prospect

Subdivision 1 Grant of authority to prospect in area of coal or oil shale exploration tenement

76P Provisions for authority to prospect

- (1) The Mineral Resources Act does not limit or otherwise affect the power under this Act to grant an authority to prospect over land (the *overlapping land*) in the area of a coal or oil shale exploration tenement.
- (2) However, an authorised activity for the authority to prospect can not be carried out on the overlapping land if—
 - (a) carrying it out adversely affects the carrying out of an authorised activity for the coal or oil shale exploration tenement; and
 - (b) the authorised activity for the coal or oil shale exploration tenement has already started.

Subdivision 2 Restriction on authorised activities on coal or oil shale mining lease land

76Q Application of sdiv 2

This subdivision applies if land in the area of a coal or oil shale mining lease is in the area of an authority to prospect.

76R Restriction

- (1) An authorised activity for the authority may be carried out on the land only if—
 - (a) the mining lease holder has agreed in writing to the carrying out of the activity and to the safety management plan of the authority holder; and

- (b) a copy of the agreement has been lodged at—
 - (i) the office of the department for lodging the agreement, as stated in a gazette notice by the chief executive; or
 - (ii) if no office is gazetted under subparagraph (i)—the office of the chief executive; and
 - (c) the agreement is still in force.¹¹⁸
- (2) Subsection (1) does not apply, or ceases to apply, if the same person holds the authority and the mining lease.

Subdivision 3 Condition

76S Compliance with obligations under Mineral Resources Act

If an obligation under the Mineral Resources Act, section 318AW or 318DB,¹¹⁹ applies to an authority to prospect holder, it is a condition of the authority that the holder must comply with the obligation.

Division 3 Renewal provisions

76T Application of div 3

- (1) This division applies if—
 - (a) all or part of land in the area of a lease is in the area of a coal or oil shale exploration tenement; and
 - (b) the lessee wishes to apply under section 45¹²⁰ to renew the lease.
- (2) However, this division does not apply if—

118 See also the Mineral Resources Act, section 403 (Offences regarding land subject to mining claim or mining lease).

119 Mineral Resources Act, section 318AW (Authority to prospect holder's obligations) or 318DB (Authority to prospect holder's obligation to negotiate)

120 Section 45 (Entitlement to renewal of lease)

- (a) the lessee is a holder of the tenement; or
- (b) the application is to be made with the tenement holder's written consent.

76U Additional requirements for making application

- (1) The application must include the following—
 - (a) a statement (a *CSG statement*) that complies with section 76V;
 - (b) other information that addresses the matters mentioned in subsection (2) (the *CSG assessment criteria*).
- (2) The CSG assessment criteria are—
 - (a) the requirements of the 2004 Act, chapter 9;¹²¹ and
 - (b) the initial development plan requirements; and
 - (c) the legitimate business interests of the applicant and the coal or oil shale exploration tenement holder (the *parties*); and

Examples of a party's legitimate business interests—

- contractual obligations
 - the effect on, and use of, existing infrastructure or mining or production facilities
 - exploration expenditure on relevant overlapping tenures
- (d) the effect of the renewed lease on the future development of coal or oil shale resources from the land, including for example, each of the following—
 - (i) the proposed timing and rate of petroleum production and the development of coal or oil shale resources from the land;
 - (ii) the potential for the parties to make a coordination arrangement about—
 - (A) petroleum production under the renewed lease; and

- (B) coal or oil shale mining and any incidental coal seam gas mining under any future mining lease over the land;
- (iii) the attempts required of the applicant under section 76W(1)(b) and any changes of the type mentioned in section 76W(1)(c);
- (iv) the economic and technical viability of the concurrent or coordinated petroleum production and the development of any coal or oil shale resources in the land;
- (v) the extent, nature and value of petroleum production and the development of any coal or oil shale resources in the land; and
- (e) having regard to the public interest in petroleum production from, and the development of any coal or oil shale resources in, the land.

76V Content requirements for CSG statement

- (1) A CSG statement must—
 - (a) assess—
 - (i) the likely effect of proposed petroleum production on the future development of coal or oil shale resources from the land; and
 - (ii) the technical and commercial feasibility of coordinated petroleum production and coal or oil shale mining from the land; and
 - (b) include a proposed safety management plan for all operating plant, or proposed operating plant, for proposed petroleum production under the lease that may affect possible future safe and efficient mining under the coal or oil shale mining lease.

- (2) The proposed safety management plan must—
- (a) comply with the requirements under the 2004 Act, sections 388 and 675,¹²² for a safety management plan; and
 - (b) include proposals for the minimisation of potential adverse effects on possible future safe and efficient mining under a future mining lease.

76W Applicant's obligations

- (1) The applicant must—
- (a) within 10 business days after making the application, give the coal or oil shale exploration tenement holder a copy of the application, other than any part of the application that relates to the capability criteria; and
 - (b) use reasonable attempts to consult with the tenement holder about the applicant's proposed later development plan and proposed safety management plan; and
 - (c) change the proposed plans to give effect to any reasonable proposal by the tenement holder that will optimise the safe and efficient production of—
 - (i) petroleum under the renewed lease; and
 - (ii) coal or oil shale under any future mining lease over the land; and
 - (d) within 4 months after the making of the application, lodge a notice stating each of the following—
 - (i) the details of the consultation;
 - (ii) the results of the consultation;
 - (iii) any comments the applicant wishes to make about any submissions lodged by the tenement holder, under section 77;¹²³

122 2004 Act, sections 388 (Additional content requirements) and 675 (Content requirements for safety management plans)

123 Section 77 (Submissions by coal or oil shale exploration tenement holder)

- (iv) any changes to the proposed later development plan or proposed safety management plan;
 - (v) the applicant's assessment of the potential for the applicant and the tenement holder to make a coordination arrangement about—
 - (A) petroleum production under the renewed lease; and
 - (B) coal or oil shale mining and any incidental coal seam gas mining under any future mining lease over the land.
- (2) However, the obligations under subsection (1)(b)(ii) and (c) apply only to the extent the provisions or arrangement are commercially and technically feasible for the applicant.
- (3) A notice under subsection (1)(d) must be lodged at—
- (a) the office of the department for lodging the notice, as stated in a gazette notice by the chief executive; or
 - (b) if no office is gazetted under paragraph (a)—the office of the chief executive.

76X Minister may require further negotiation

- (1) The Minister may, after receiving the notice under section 76W(1)(d), require the applicant to conduct negotiations with the coal or oil shale exploration tenement holder with a view to making changes of a type mentioned in section 76W(1)(c).
- (2) The applicant must use all reasonable attempts to comply with the requirement.

76Y Consequence of applicant not complying with obligations or requirement

If the Minister is reasonably satisfied the applicant has not complied with an obligation under section 76W or 76X, the application may be refused.¹²⁴

124 See also division 7 (Confidentiality of information).

76Z Obligations of coal or oil shale exploration tenement holder

The coal or oil shale exploration tenement holder must—

- (a) within 20 business days after receiving a copy of the application, give the applicant basic information the tenement holder has about the following that the applicant may reasonably need to comply with section 76W—
 - (i) the type of exploration activities carried out, or proposed to be carried out under the tenement;
 - (ii) coal or oil shale resources in the land; and
- (b) after receiving a copy of the application, make reasonable attempts to reach an agreement with the applicant about the matters mentioned in section 76W(1)(b) that provides the best resource use outcome without significantly affecting the parties' rights or interests.¹²⁵

77 Submissions by coal or oil shale exploration tenement holder

- (1) The coal or oil shale exploration tenement holder may lodge submissions about the application at—
 - (a) the office of the department for lodging the submissions, as stated in a gazette notice by the chief executive; or
 - (b) if no office is gazetted under paragraph (a)—the office of the chief executive.
- (2) However, the submissions may be lodged only within 3 months after the holder is, under section 76W(1)(a),¹²⁶ given a copy of the application (the *submission period*).
- (3) The submissions may—
 - (a) include information about all or any of the following—
 - (i) exploration carried out under the tenement;

¹²⁵ See also division 7 (Confidentiality of information).

¹²⁶ Section 76W (Applicant's obligations)

- (ii) the results of the exploration;
- (iii) the prospects for future coal or oil shale mining or incidental coal seam gas mining from the land; and
- (b) include a proposal by the tenement holder for the development of coal or oil shale in the land; and
- (c) include information relevant to the CSG assessment criteria;¹²⁷ and
- (d) include reasonable provisions for the safety management plan for petroleum production under the renewed lease.¹²⁸
- (4) The holder must give the applicant a copy of the submissions.
- (5) In deciding the conditions of the lease, regard must be had to the submissions.

Division 4 Other additional provisions for leases

Subdivision 1 Conditions

77N Compliance with obligation to negotiate with coal or oil shale mining lease applicant

If the obligation under the Mineral Resources Act, section 318CA,¹²⁹ applies to a lessee, it is a condition of the lease that the lessee must comply with the obligation.

77O Requirement for giving of copy of relinquishment report

- (1) This section applies if—

127 See also division 7 (Confidentiality of information).

128 See also the 2004 Act, section 386 (Requirements for consultation with particular coal or oil shale mining tenement holders).

129 Mineral Resources Act, section 318CA (Petroleum lease holder's obligation to negotiate)

- (a) a lessee has, under section 75Z,¹³⁰ given a report about a relinquishment of part of the area of the lease; and
 - (b) immediately before the relinquishment, the part included land in the area of a coal or oil shale exploration tenement.
- (2) The lessee must give a copy of the report to—
- (a) the coal or oil shale exploration tenement holder; and
 - (b) anyone else who has applied for a mining lease for the part.

Maximum penalty—150 penalty units.

77P Cessation of relinquishment condition for area not overlapping with coal or oil shale exploration tenement

If—

- (a) a lease contains a relinquishment condition; and
- (b) all or part of the area of the lease ceases to be in the area of a coal or oil shale exploration tenement (the *relevant land*);

the condition ceases to apply for the relevant land.

Subdivision 2 Amendment of relinquishment condition by application

77Q Application of sdiv 2

This subdivision applies if a lease contains a relinquishment condition and all or part of the area of the lease is in the area of a coal or oil shale exploration tenement.

77R Conditions for applying to amend

- (1) The lessee may apply for the Minister to amend the condition if the applicant has, before making the application—

130 Section 75Z (Relinquishment report)

- (a) made reasonable attempts to consult with the coal or oil shale exploration tenement holder about—
 - (i) the proposed amendment; and
 - (ii) a proposed later development plan for the lease; and
 - (b) changed the proposed amendment and the proposed later development plan to give effect to any reasonable proposal by the tenement holder that will optimise—
 - (i) petroleum production under the amended lease; and
 - (ii) coal, oil shale or incidental coal seam gas mining under any future mining lease over the land.
- (2) However, subsection (1)(b) applies only to the extent the provisions are commercially and technically feasible for the applicant.

77S Obligation of coal or oil shale exploration tenement holder to negotiate

The coal or oil shale exploration tenement holder must, if asked by the lessee, make reasonable attempts to reach an agreement with the lessee about the matters mentioned in section 77R(1) that provides the best resource use outcome without significantly affecting the parties' rights or interests.¹³¹

77T Requirements for making application

- (1) The application must—
 - (a) be in the approved form; and
 - (b) be lodged at—
 - (i) the office of the department for lodging the application, as stated in a gazette notice by the chief executive; or

131 See also division 7 (Confidentiality of information).

Petroleum Act 1923

- (ii) if no office is gazetted under subparagraph (i)—the office stated in the approved form; or
 - (iii) otherwise—the office of the chief executive; and
 - (c) state whether or not the development plan for the lease has been complied with; and
 - (d) if the development plan for the lease has not been complied with—state details of, and the reasons for, each noncompliance; and
 - (e) include a CSG statement; and
 - (f) include a proposed later development plan for the lease as amended under section 77R; and
 - (g) include a statement about each of the following—
 - (i) the details of the consultation carried out under section 77R(1)(a);
 - (ii) the results of the consultation;
 - (iii) whether the proposed development plan includes all provisions proposed by the coal or oil shale exploration tenement holder under section 77R(1)(b);
 - (iv) if the proposed development plan does not include a provision proposed by the tenement holder—why it was not included;
 - (v) the applicant’s assessment of the potential for the applicant and the tenement holder to make a coordination arrangement about—
 - (A) petroleum production under the amended lease; and
 - (B) coal, oil shale or incidental coal seam gas mining under any future mining lease over the land that may be granted to the tenement holder; and
 - (h) be accompanied by the fee prescribed under a regulation.
- (2) However, the CSG statement need not include a proposed safety management plan.

77U Notice of application

The applicant must immediately after making the application give the coal or oil shale exploration tenement holder a copy of the application.

77V Submissions by coal or oil shale exploration tenement holder

- (1) The coal or oil shale exploration tenement holder may lodge submissions about the application at—
 - (a) the office of the department for lodging the submissions, as stated in a gazette notice by the chief executive; or
 - (b) if no office is gazetted under paragraph (a)—the office of the chief executive.¹³²
- (2) However, the submissions may be lodged only within 20 business days after the holder is, under section 77U, given a copy of the application.
- (3) The submissions may include—
 - (a) information about all or any of the following—
 - (i) exploration carried out under the tenement;
 - (ii) the results of the exploration;
 - (iii) the prospects for future coal or oil shale mining or incidental coal seam gas mining from the land; or
 - (b) a proposal by the tenement holder for the development of coal or oil shale in the land; or
 - (c) information relevant to the CSG assessment criteria.
- (4) The holder must give the applicant a copy of the submissions.
- (5) In deciding the application, regard must be had to the submissions.

132 See also division 7 (Confidentiality of information).

77W Minister may require further negotiation

- (1) The Minister may, by notice, require the applicant to conduct negotiations with the coal or oil shale exploration tenement holder with a view to making changes of a type mentioned in section 77R(1)(b).¹³³
- (2) The applicant must use all reasonable attempts to comply with the requirement.
- (3) If the Minister is reasonably satisfied the applicant has not complied with the requirement the Minister may decide to refuse the application.

77X Deciding amendment application

- (1) Before deciding to grant the application, the Minister must decide whether to approve the applicant's proposed later development plan for the lease.
- (2) The application can not be granted unless the proposed plan has been approved.
- (3) Part 6, division 2¹³⁴ applies for deciding whether to approve the proposed plan.
- (4) The matters that must be considered in deciding the application include each of the following—
 - (a) the CSG assessment criteria;
 - (b) whether the applicant has taken all reasonable steps to comply with the relinquishment condition;
 - (c) the effect of any approval of later development plans for the lease;
 - (d) any submissions under section 77V lodged within the period mentioned in section 77V(2).
- (5) The applicant and the coal or oil shale exploration tenement holder must be given notice of the decision.

133 Section 77R (Conditions for applying to amend)

134 Part 6, division 2 (Development plans)

See also division 6 (Proposed later development plans).

Subdivision 3 Restriction on amendment of other conditions

77Y Interests of relevant coal or oil shale mining tenement holder to be considered

A condition of a lease must not be amended unless the interests of any relevant coal or oil shale mining tenement holder have been considered.

Division 5 Restrictions on particular transfers

77Z Requirement for coordination arrangement to transfer lease in tenure area of mining lease

- (1) This section applies, despite part 6N, if land is in the area of a petroleum lease and a coal or oil shale mining lease.
- (2) A transfer of the petroleum lease must not be approved under part 6N unless the proposed transferee and the mining lease holder are parties to a coordination arrangement about—
 - (a) petroleum production under the lease; and
 - (b) coal or oil shale mining and any incidental coal seam gas mining under the mining lease.

Division 6 Additional provisions for development plans

Subdivision 1 Additional requirements for proposed later development plans

77ZA Operation of sdiv 1

This subdivision provides for additional requirements for a proposed later development plan for a lease.

77ZB Statement about interests of coal or oil shale exploration tenement holder

The proposed plan must include a statement of how the effects on, and the interests of, any relevant overlapping or adjacent coal or oil shale mining tenement holder have, or have not, been considered, having regard to—

- (a) the main purposes of this part;¹³⁵ and
- (b) the CSG assessment criteria.

77ZC Requirement to optimise petroleum production

- (1) The activities provided for under the proposed plan must seek to optimise petroleum production in a safe and efficient way.
- (2) However, the activities must not adversely affect the future safe and efficient mining of coal where it is commercially and technically feasible not to do so.

77ZD Consistency with coal or oil shale mining lease, development plan and relevant coordination arrangement

If all or part of the area of the lease is in the area of a coal or oil shale mining lease (the *relevant land*), the proposed plan must, to the extent it applies to the relevant land, be consistent with—

- (a) the development plan for the mining lease; and
- (b) any coordination arrangement relating to the relevant land.

Subdivision 2 Other additional provisions for proposed later development plans**77ZE Application of sdiv 2**

This subdivision applies if—

135 See section 76H (Main purposes of pt 6F).

- (a) the Minister is considering whether to approve a proposed later development plan for a lease; and
- (b) the area of the lease includes all or part of the area of a coal or oil shale mining tenement.

78 Additional criteria for approval

The matters that must be considered include—

- (a) the CSG assessment criteria; and
- (b) the effect of any approval of the proposed plan on any relinquishment condition for the lease.

Division 7 Confidentiality of information

78A Application of div 7

- (1) This division applies if a tenure holder or a person who has applied for a tenure (the *information-giver*) gives another tenure holder or a person who has applied for a tenure (the *recipient*) information—
 - (a) that this part requires the information-giver to give the recipient, including, for example, information given to comply with section 76Z(a);¹³⁶ or
 - (b) for the purposes of this part.
- (2) However, this division applies subject to any agreement between the information-giver and the recipient about the information or its use.
- (3) In this section—

information means information given verbally or in writing.

tenure means a 1923 Act petroleum tenure or a coal or oil shale mining tenement.

136 Section 76Z (Obligations of coal or oil shale exploration tenement holder)

78B Confidentiality obligations

- (1) The recipient must not disclose the information to anyone else, unless—
 - (a) the information is publicly available; or
 - (b) the disclosure is—
 - (i) to someone whom the recipient has authorised to carry out the authorised activities for the recipient's 1923 Act petroleum tenure or coal or oil shale mining tenement; or
 - (ii) made with the information-giver's consent; or
 - (iii) expressly permitted or required under this or another Act; or
 - (iv) to the Minister.
- (2) The recipient may use the information only for the purpose for which it is given.

78C Civil remedies

If the recipient does not comply with section 78B, a court of competent jurisdiction may order the recipient to pay the information-giver all or any of the following—

- (a) compensation for any loss the information-giver incurred because of the failure to comply with the section;
- (b) the amount of any commercial gain the recipient made because of the failure to comply with the section.

Part 6G Security**78D Operation and purpose of pt 6G**

- (1) This part empowers the Minister to require, from time to time, a 1923 Act petroleum tenure holder, or a person who has

applied for a 1923 Act petroleum tenure, to give the State security for the tenure, or proposed tenure.

- (2) The security may be used to pay—
 - (a) any liability under this Act that the State incurs because of an act or omission of the holder; and
 - (b) unpaid petroleum royalty or annual rent payable by the holder to the State; and
 - (c) other unpaid amounts payable under this Act or the 2004 Act by the holder to the State, including, for example, any of the following—
 - (i) unpaid civil penalty;
 - (ii) unpaid interest on unpaid petroleum royalty or annual rent;
 - (iii) any debt payable by the holder under section 101;¹³⁷ and
 - (d) any compensation the State must pay under section 80P¹³⁸ because of the exercise, or purported exercise, of a remedial power under section 80L¹³⁹ in relation to the tenure, whether or not the tenure has ended.

78E Power to require security for 1923 Act petroleum tenure

- (1) The Minister may require a 1923 Act petroleum tenure holder, or a person who has applied for a 1923 Act petroleum tenure, to give the State security for the tenure, or proposed tenure.
- (2) The security must be—
 - (a) in the form prescribed under a regulation; and
 - (b) of at least the amount prescribed under a regulation.
- (3) The requirement may be made at any time.

137 Section 101 (Minister's power to ensure compliance by 1923 Act petroleum tenure holder)

138 Section 80P (Compensation for exercise of remedial powers)

139 Section 80L (Power of authorised person to ensure compliance)

- (4) However, the requirement does not take effect until the holder or applicant is given—
 - (a) for a requirement to give security in the form and amount prescribed under subsection (2)—notice of the requirement; or
 - (b) otherwise—an information notice about the decision to make the requirement.

78F Minister's power to require additional security

- (1) The Minister may, at any time, require a 1923 Act petroleum tenure holder to increase the amount of security given for the tenure.
- (2) However—
 - (a) if, because of an increase in the prescribed amount under section 78E(2), the requirement is to increase the total security required to no more than the increased prescribed amount—the requirement must be made by notice to the holder; or
 - (b) if the requirement is to increase the total security required to more than the prescribed amount under section 78E(2) when the requirement is made—
 - (i) subsections (3) to (6) must be complied with before making the requirement; and
 - (ii) the requirement does not take effect until the holder is given an information notice about the decision to make the requirement.
- (3) The Minister must give the holder notice—
 - (a) stating the proposed increased amount of the security for the tenure; and
 - (b) inviting the holder to lodge, within a stated reasonable period, submissions about the proposed increased amount at—
 - (i) the office of the department for lodging the submissions, as stated in a gazette notice by the chief executive; or

- (ii) if no office is gazetted under subparagraph (i)—the office of the chief executive.
- (4) The stated period must end at least 20 business days after the holder is given the notice.
- (5) Any submissions lodged by the holder within the stated period must be considered before deciding to make the requirement.
- (6) In this section—
security given, includes security given or increased because of a requirement under subsection (1).

78G Interest on security

The State may keep any interest that accrues on security given under this part for a 1923 Act petroleum tenure.

78H Power to use security

The State may use security given under this part for a 1923 Act petroleum tenure, and any interest that accrues on the security, to make a payment mentioned in section 78D(2)¹⁴⁰ in relation to the tenure.

78I Replenishment of security

- (1) This section applies, if—
 - (a) under section 78H, all or part of the security for a 1923 Act petroleum tenure has been used; and
 - (b) the tenure is still in force.
- (2) The Minister must give the tenure holder a notice—
 - (a) stating how much of the security has been used; and
 - (b) directing the holder to, within 30 days after the giving of the notice, replenish the security for the tenure up to the higher of the following—
 - (i) the amount prescribed under a regulation;

140 Section 78D (Operation and purpose of pt 6G)

- (ii) if the notice states that, under section 78E,¹⁴¹ another amount is required—the other amount.

78J Security not affected by change in holder

- (1) This section applies if security for a 1923 Act petroleum tenure is given under this part for a 1923 Act petroleum tenure that is still in force and there is a subsequent change in the tenure holder.
- (2) Despite the subsequent change, the security, and any interest that accrues on it, continues for the benefit of the State and may be used under section 78H.
- (3) The tenure holder's name as stated in any instrument under which the security was given is taken to have been changed to reflect the subsequent change.
- (4) If the security is in the form of money, until the security is replaced or refunded it continues for the holder from time to time of the tenure.

78K Retention of security after 1923 Act petroleum tenure ends

- (1) Security, or part of security, given for a 1923 Act petroleum tenure may be kept for 1 year after the tenure has ended.
- (2) Also, if a claim made for the use of the security has not been assessed, an appropriate amount of the security to meet the claim may be kept until the claim has been assessed.

141 Section 78E (Power to require security for 1923 Act petroleum tenure)

Part 6H Private land

Division 1 Preliminary

78L Application of pt 6H

This part applies for a 1923 Act petroleum tenure in relation to all private land unless—

- (a) the tenure holder owns the land; or
- (b) the tenure holder has the right, other than under this Act, to enter the land to carry out authorised activities for the tenure.

Division 2 Requirement for entry notice for entry to private land in area of 1923 Act petroleum tenure

78M Requirement for entry notice to carry out authorised activities

- (1) A person must not enter private land to carry out an authorised activity for a 1923 Act petroleum tenure unless—
 - (a) the tenure holder has, at least 10 business days before the entry, given each owner and occupier of the land notice under this part (an *entry notice*) of the proposed entry; or
 - (b) the entry is needed to preserve life or property because of a dangerous situation or emergency that exists, or may exist; or
 - (c) each owner and occupier of the land has agreed that an entry notice is not required.

Maximum penalty—500 penalty units.

- (2) If a person proposes to enter the land under subsection (1)(b), the person must, if practicable, notify each owner and occupier of the land orally before entering the land.

- (3) An agreement under subsection (1)(c) is a ***waiver of entry notice***.

Note—

Section 79U also contains preconditions for entry to private land to carry out authorised activities for a 1923 Act petroleum tenure.¹⁴²

78N Waiver of entry notice

- (1) A waiver of entry notice—
- (a) may be given only by signed writing; and
 - (b) must state each of the following—
 - (i) that the owner or occupier has been told they are not required to agree to the waiver of entry notice;
 - (ii) the authorised activities proposed to be carried out on the land;
 - (iii) the period during which the land will be entered;
 - (iv) when and where the activities are proposed to be carried out.
- (2) The owner or occupier can not withdraw the waiver of entry notice during the period.
- (3) The waiver of entry notice ceases to have effect at the end of the period.

78O Required contents of entry notice

- (1) An entry notice must state each of the following—
- (a) the land proposed to be entered;
 - (b) the period during which the land will be entered (the ***entry period***);
 - (c) the activities proposed to be carried out on the land;
 - (d) when and where the activities are proposed to be carried out;
 - (e) contact details for—

¹⁴² Section 79U (Compensation to be addressed before entry to private land)

- (i) the relevant 1923 Act petroleum tenure holder; or
 - (ii) another person the holder has authorised to discuss the matters stated in the notice.
- (2) The entry period must not be longer than—
 - (a) for an authority to prospect—6 months; or
 - (b) for a lease—1 year.
- (3) However, the entry period may be longer if the person to whom the notice is required to be given agrees in writing.
- (4) Subject to subsections (2) and (3), an entry notice given to 1 owner or occupier of the land may state a different entry period from an entry notice given to another owner or occupier of the land.
- (5) If a proposed activity is not likely to significantly disrupt activities the occupier of the land ordinarily carries out on the land, the entry notice may comply with subsection (1)(c) and (d) by generally describing the nature and extent of the activity.
- (6) The entry notice must include, or be accompanied by, an information statement in the approved form about the rights and obligations of holders, owners and occupiers relating to the entry of land under a 1923 Act petroleum tenure.

78P Giving entry notice by publication

- (1) The chief executive may approve a 1923 Act petroleum tenure holder giving an entry notice by publishing it in a stated way.
- (2) The publication may relate to more than 1 entry notice.
- (3) The chief executive may give the approval only if satisfied the publication is reasonably likely to adequately inform the person to whom the notice is required to be given of the proposed entry at least 10 business days before the entry is to happen.
- (4) If the chief executive gives the approval, the entry notice may, instead of complying with section 78O(6), state where a copy of the information statement mentioned in that subsection may be obtained or inspected, free of charge.

Division 3 Requirement for further notice before carrying out authorised activities on private land

78Q Application of div 3

- (1) This division applies if a 1923 Act petroleum tenure holder proposes to—
 - (a) first enter private land to carry out authorised activities for the tenure; or
 - (b) allow someone else for the holder to first enter private land to carry out authorised activities for the tenure.
- (2) This division applies whether or not an entry notice has been given in relation to the proposed entry.

78R Requirement to give further notice

- (1) The 1923 Act petroleum tenure holder must give each owner and occupier of the land notice—
 - (a) of the proposed entry; and
 - (b) of, accurately, when and where the authorised activities are proposed to be carried out.
- (2) The notice must be given—
 - (a) generally—at least 2 business days before the proposed entry; or
 - (b) if the holder and each owner and occupier of the land have agreed to a longer or shorter period for giving the notice—within the longer or shorter period.
- (3) The notice may be written or verbal and may be given in any way, including, for example, in person, by e-mail, facsimile transmission, letter or a hand written note.

78S Failure to give further notice

- (1) The 1923 Act petroleum tenure holder must comply with section 78R.

Maximum penalty—50 penalty units.

- (2) However, a failure to comply with section 78R does not prevent the authorised activities from being carried out on the land.

Division 4 Provisions for dealings or change in ownership or occupancy

78T Entry notice or waiver of entry notice not affected by permitted dealing

A permitted dealing with a 1923 Act petroleum tenure does not affect an entry notice or waiver of entry notice given or made in relation to the tenure.

78U Change in ownership or occupancy

- (1) If, after the giving of an entry notice, the ownership or occupancy of the relevant land changes—
 - (a) the holder of the 1923 Act petroleum tenure for which the entry notice was given is taken to have given that notice to each new owner or occupier of the land; and
 - (b) the requirement under section 78M(1)(a)¹⁴³ to give the notice at least 10 business days before entry, does not apply for the new owner or occupier for the entry period stated in the notice.
- (2) If, after the giving of a waiver of entry notice, the ownership or occupancy of the relevant land changes, each new owner or occupier of the land is taken to have given that waiver of entry notice.
- (3) If the relevant 1923 Act petroleum tenure holder becomes aware of a new owner or occupier mentioned in subsection (1) or (2), the holder must, within 15 business days, give the new owner or occupier a copy of the entry notice or waiver of entry notice.

143 Section 78M (Requirement for entry notice to carry out authorised activities)

- (4) If the holder does not comply with subsection (3), subsections (1) and (2) cease to apply for the entry notice or waiver of entry notice.

Division 5 Periodic notice after entry of land

78V Notice to owners and occupiers

- (1) This section applies if private land has been entered to carry out authorised activities for a 1923 Act petroleum tenure.
- (2) The tenure holder must, within 3 months after the end of the period under subsection (3), (4) or (5), give each owner and occupier of the land a notice stating—
- (a) what activities were carried out on the land during that period, and where they were carried out; or
 - (b) if no activities were carried out on the land during the period—that no activities were carried out on the land during that period.
- (3) If an entry notice was given for the entry to all owners or occupiers of the land, the period for subsection (2) is the period stated in the entry notice.
- (4) If all owners or occupiers of the land gave a waiver of entry notice for the entry, the period for subsection (2) is the longer of following periods after the giving of the waiver of entry notice—
- (a) either—
 - (i) for an authority to prospect—6 months; or
 - (ii) for a lease—1 year;
 - (b) if, within the period under paragraph (a), each owner or occupier of the land consented to a longer period—the longer period.
- (5) If an entry notice for the entry was given to some of the owners or occupiers and the rest of the owners or occupiers gave a waiver of entry notice for the entry, the period for subsection (2) is the longer of the periods under subsections (3) or (4).

Division 6 Access to carry out rehabilitation or environmental management

78W Right of access for authorised activities includes access for rehabilitation and environmental management

If, under this part, a 1923 Act petroleum tenure holder has the right to enter private land to carry out authorised activities for the tenure, the right includes the right to enter the land to carry out rehabilitation or environmental management required of the holder under any relevant environmental requirement under the Environmental Protection Act.

Part 6I Public land¹⁴⁴

Division 1 Public roads

Subdivision 1 Preliminary

78X Significant projects excluded from div 1

- (1) This division does not apply for a 1923 Act petroleum tenure that is, or is included in, a project declared under the *State Development and Public Works Organisation Act 1971*, section 26, to be a significant project.
- (2) Subsection (1) does not limit or otherwise affect conditions the Coordinator-General may, under the *State Development and Public Works Organisation Act 1971*, part 4, division 7,¹⁴⁵ recommend for the tenure.

144 See however section 165 (Exclusion of pt 6I, div 1 for continuance of particular existing road uses).

145 *State Development and Public Works Organisation Act 1971*, part 4, division 7 (Relationship with other legislation)

78Y What is a *notifiable road use*

- (1) A *notifiable road use*, for a 1923 Act petroleum tenure, is—
 - (a) the use of a public road in the area of the tenure for transport relating to a seismic survey or drilling activity; or
 - (b) the use of a public road at more than the threshold rate if the haulage relates to—
 - (i) the transportation of petroleum produced or processed in the area of the tenure; or
 - (ii) the construction of a pipeline.
- (2) Subsection (1)(b) applies even if the road is not on land in the area of the tenure.
- (3) In this section—

threshold rate means—

 - (a) for a State-controlled road—50 000 t a year; or
 - (b) for another public road—10 000 t a year.

Subdivision 2 Notifiable road uses**78Z Notice of notifiable road use**

- (1) It is a condition of each 1923 Act petroleum tenure that its holder must not use a public road for a notifiable road use unless the holder has given the public road authority for the road notice that the holder proposes to carry out the use.¹⁴⁶
- (2) The notice must—
 - (a) be given—
 - (i) at least 10 business days before the use starts; or
 - (ii) within a shorter period agreed to by the public road authority in writing; and
 - (b) state each of the following—

¹⁴⁶ See also section 79G (Compensation to be addressed before carrying out notifiable road use).

- (i) the public road proposed to be used;
- (ii) the type of haulage under the use;
 - Examples of type of haulage—*
 - vehicle type
 - material hauled
- (iii) the total weight of material proposed to be hauled;
- (iv) when the use is proposed to start and end;
- (v) the frequency of vehicle movements;
- (vi) contact details for the holder or someone else the holder has authorised to discuss the matters stated in the notice.

79 Directions about notifiable road use

- (1) The public road authority for a public road may, by notice, give a 1923 Act petroleum tenure holder a direction (a ***road use direction***) about the way the holder may use the road for notifiable road uses being carried out, or proposed to be carried out, by the holder.
- (2) The direction must—
 - (a) be reasonable; and
 - (b) only be about—
 - (i) preserving the condition of the road; or
 - (ii) the safety of road-users or the public; and
 - (c) be accompanied by, or include, an information notice about the decision to give the direction.
 - Examples of what a direction may be about—*
 - when the road may be used
 - the route for the movement of heavy vehicles
 - safety precautions the holder must take
- (3) The direction may also require the holder to—
 - (a) carry out an assessment of the impacts likely to arise from the notifiable road use the subject of the notice; and

- (b) consult with the public road authority in carrying out the assessment.
- (4) However—
 - (a) an assessment can not be required if the notifiable road use is transportation relating to a seismic survey or drilling activity; and
 - (b) the public road authority can not require an assessment of an impact to the extent it has already been assessed under an EIS under the Environmental Protection Act, or a similar document under another Act.

79A Obligation to comply with road use directions

It is a condition of each 1923 Act petroleum tenure that its holder must comply with any road use direction given to its holder relating to the tenure, unless the holder has a reasonable excuse.

Subdivision 3 Compensation for notifiable road uses

79B Liability to compensate public road authority

- (1) The holder of each 1923 Act petroleum tenure is liable to compensate the public road authority for a public road for any cost, damage or loss it incurs, or will incur, that is or will be caused by notifiable road uses carried out by the holder that relate to the road.

Examples of a possible cost for subsection (1)—

- repair costs to rectify damage to the road caused, or that will be caused, by any of the uses
 - capital costs for unplanned upgrades of the road incurred, or that will be incurred, because of any of the uses
 - bring-forward costs, including interest charges, for a planned upgrade of the road that, because of any of the uses, is or will be required earlier than planned
- (2) The holder's liability under subsection (1) is the holder's ***compensation liability*** to the public road authority.

- (3) The compensation liability—
 - (a) applies whether or not the holder has, under section 78Z, given notice of the use; and
 - (b) is subject to section 79H;¹⁴⁷ and
 - (c) is in addition to, and does not limit or otherwise affect, the holder's liability under another provision of this Act about compensating the public road authority or anyone else.

79C Compensation agreement

- (1) A 1923 Act petroleum tenure holder and the public road authority for a public road may enter into an agreement (a ***compensation agreement***) about the holder's compensation liability to the public road authority relating to the road.
- (2) A compensation agreement may relate to all or part of the liability.
- (3) A compensation agreement must—
 - (a) be signed by, or for, the holder and the public road authority; and
 - (b) state whether it is for all or part of the liability; and
 - (c) if it is for only part of the liability, state—
 - (i) each part of the notifiable road use to which the agreement relates; and
 - (ii) the period for which the agreement has effect; and
 - (d) provide for how and when the liability will be met.
- (4) A compensation agreement may—
 - (a) extend the holder's compensation liability to the public road authority relating to the road to any renewal of the tenure; and
 - (b) provide for—
 - (i) monetary or non-monetary compensation; or

147 Section 79H (Compensation not affected by change in administration or holder)

- (ii) a process by which it may be amended or enforced.

Example for paragraph (b)—

A compensation agreement may provide for compensation under it to be reviewed on the happening of a material change in circumstances for the 1923 Act petroleum tenure, including a significant decrease or increase in the extent of the relevant notifiable road use.

- (5) Subsections (2) to (4) do not limit the matters that may be provided for in a compensation agreement.

79D Deciding compensation through tribunal

- (1) The public road authority for a public road or a 1923 Act petroleum tenure holder may apply (a ***compensation application***) to the tribunal for the tribunal to decide the holder's compensation liability to the public road authority relating to the road.
- (2) The tribunal may decide the compensation liability only to the extent it is not subject to a compensation agreement.
- (3) In making the decision, the tribunal may have regard to whether the applicant has attempted to mediate or negotiate the compensation liability.

79E Criteria for decision

- (1) The criteria the tribunal must consider, in deciding a compensation application, include—
 - (a) the reasonableness of the cost, damage or loss claimed; and
 - (b) if the public road authority is a local government—the extent to which the cost, damage or loss claimed has been, will be or ought reasonably to be or to have been, paid from—
 - (i) amounts the 1923 Act petroleum tenure holder has paid, or agreed to pay, the public road authority for notifiable road uses; or
 - (ii) rates and charges under the *Local Government Act 1993* paid or payable by the holder to the public road authority; and

- (c) any other relevant matter.
- (2) In considering the reasonableness of any cost, damage or loss claimed, the tribunal must have regard to—
 - (a) any action taken, or proposed, by the holder to, or to attempt to, avoid, minimise or remedy the cost, damage or loss; and
 - (b) any relevant act or omission of the public road authority.
- (3) Subsection (1)(b)(ii) applies whether or not the rates and charges relate to notifiable road uses.

79F Tribunal review of compensation

- (1) This section applies if—
 - (a) the compensation liability, or future compensation liability, of a 1923 Act petroleum tenure holder to a public road authority has been agreed to under a compensation agreement or decided by the tribunal (the *original compensation*); and
 - (b) there has, since the agreement or decision, been a material change in circumstances.

Example of a material change in circumstances—

a significant decrease or increase in the extent of the relevant notifiable road use

- (2) The public road authority or the holder may apply to the tribunal for it to review the original compensation.
- (3) Sections 79D and 79E apply for the review as if the application were a compensation application.
- (4) The tribunal may, after carrying out the review, decide to confirm the original compensation or amend it in a way the tribunal considers appropriate.
- (5) However, before making the decision, the tribunal must have regard to—
 - (a) the original compensation; and
 - (b) whether the applicant has attempted to mediate or negotiate an amendment of the original compensation; and

- (c) any change in the matters mentioned in section 79E(1) since the original compensation was agreed or decided.
- (6) If the decision is to amend the original compensation, the original compensation as amended under the decision, is for this Act, taken to be the original compensation.

79G Compensation to be addressed before carrying out notifiable road use

- (1) It is a condition of each 1923 Act petroleum tenure that its holder must not carry out a notifiable road use on a public road unless—
 - (a) the holder and the relevant public road authority have signed a compensation agreement for the use; or
 - (b) the public road authority has given written consent to the carrying out of the use; or
 - (c) a compensation application has been made to decide the holder's compensation liability to the public road authority relating to the road.¹⁴⁸
- (2) A consent under subsection (1)(b) may be given for any renewal of the tenure.

79H Compensation not affected by change in administration or holder

- (1) An agreement or decision under this part about compensation liability is binding on—
 - (a) the relevant public road authority; and
 - (b) the relevant 1923 Act petroleum tenure holder; and
 - (c) each of their personal representatives, successors and assigns.
- (2) Subsection (1) is subject to section 79F.¹⁴⁹

148 See section 79D(1) (Deciding compensation through tribunal).

149 Section 79F (Tribunal review of compensation)

Division 2 Other public land

79I Requirement for entry notice to carry out authorised activities

- (1) This section does not apply for a notifiable road use.¹⁵⁰
- (2) A 1923 Act petroleum tenure holder must not enter public land to carry out an authorised activity for the tenure on public land¹⁵¹ unless—
 - (a) the activity is an activity that may be carried out by a member of the public without requiring the specific approval of the public land authority for the land; or

Example—

travelling on a public road in the area of the 1923 Act petroleum tenure

- (b) the holder has, at least 30 business days before the entry, given the public land authority notice under this part (an **entry notice**) of the proposed entry; or
- (c) the entry is needed to preserve life or property because of a dangerous situation or emergency that exists, or may exist; or
- (d) the public land authority has agreed that an entry notice is not required.

Maximum penalty for subsection (2)—100 penalty units.

- (3) An agreement under subsection (2)(d) is a **waiver of entry notice**.

79J Waiver of entry notice

- (1) A waiver of entry notice—
 - (a) may be given only by signed writing; and

150 For notifiable road uses see sections 78Z (Notice of notifiable road use) and 79 (Directions about notifiable road use).

151 For private land, see part 6H (Private land).
See also section 78Z (Notice of notifiable road use).

- (b) must state each of the following—
 - (i) that the public land authority has been told it is not required to agree to the waiver of entry notice;
 - (ii) the authorised activities proposed to be carried out on the land;
 - (iii) the period during which the land will be entered;
 - (iv) when and where the activities are proposed to be carried out.
- (2) The public land authority can not withdraw the waiver of entry notice during the period.
- (3) The waiver of entry notice ceases to have effect at the end of the period.

79K Required contents of entry notice

- (1) An entry notice must state each of the following—
 - (a) the land proposed to be entered;
 - (b) the period during which the land will be entered (the *entry period*);
 - (c) the activities proposed to be carried out on the land;
 - (d) when and where the activities are proposed to be carried out;
 - (e) contact details for—
 - (i) the relevant 1923 Act petroleum tenure holder; or
 - (ii) another person the holder has authorised to discuss the matters stated in the notice.
- (2) The entry period must not be longer than—
 - (a) for an authority to prospect—6 months; or
 - (b) for a lease—1 year.
- (3) However, the entry period may be longer if the public land authority agrees in writing.
- (4) Subject to subsections (2) and (3), an entry notice given to 1 public land authority in relation to the public land may state

a different entry period from an entry notice given to another public land authority in relation to the public land.

- (5) If a proposed activity is not likely to significantly disrupt activities the public land authority ordinarily carries out on the land, the entry notice may comply with subsection (1)(c) and (d) by generally describing the nature and extent of the activity.

79L Conditions public land authority may impose

- (1) A public land authority may impose relevant and reasonable conditions on a 1923 Act petroleum tenure holder including, for example, about giving the public land authority—
 - (a) notice of proposed entry—
 - (i) generally—at least 2 business days before the proposed entry; or
 - (ii) if the holder and the public land authority have agreed to a longer or shorter period for giving the notice—within the longer or shorter period; or
 - (b) notice at stated intervals of activities carried out by, or for, the holder on the land.
- (2) However, the public land authority can not impose a condition that is the same, or substantially the same as, or inconsistent with, a condition of the tenure or a relevant environmental authority.
- (3) Despite subsection (2), if the public land authority is the chief executive of the department in which the *Nature Conservation Act 1992* is administered, that chief executive may impose a condition more stringent than the conditions of the environmental authority.
- (4) If the authority decides to impose a condition, other than a condition agreed to or requested by the holder, it must give the holder an information notice about the decision.
- (5) In carrying out the activity, the holder must comply with the conditions.

Maximum penalty for subsection (5)—100 penalty units.

Part 6J **Access to land in area of another 1923 Act petroleum tenure or a mining tenement**

79M Application of pt 6J

- (1) This part applies for a 1923 Act petroleum tenure (the *first tenure*) in relation to land that is outside its area and in the area of another 1923 Act petroleum tenure, a 2004 Act petroleum authority or a mining tenement (the *second tenure*).
- (2) However, if the land is also private or public land, this part does not limit part 6H or 6I.¹⁵²

79N Access to land in area of lease under this Act, a 2004 Act lease or a mining lease

If the second tenure is a lease under this Act, a 2004 Act lease or a mining lease, the first tenure holder may enter the land only if—

- (a) the second tenure holder has consented in writing to the entry; and
- (b) the first tenure holder has lodged at the following office a notice stating that the consent has been given—
 - (i) the office of the department for lodging the notice, as stated in a gazette notice by the chief executive;
 - (ii) if no office is gazetted under subparagraph (i)—the office of the chief executive.

¹⁵² See also section 3 (Relationship with Mineral Resources Act) and the Mineral Resources Act, section 403 (Offences regarding land subject to mining claim or mining lease).

790 Access to land in area of another type of mining tenement or 1923 Act petroleum tenure

- (1) If the second tenure is not a mining lease, a 2004 Act lease or a petroleum lease, the first tenure holder may do the following without the second tenure holder's consent—
 - (a) cross the land if it is reasonably necessary to allow the first tenure holder to enter the area of the first tenure; and
 - (b) carry out activities on the land that are reasonably necessary to allow the crossing of the land.
- (2) However, a right under subsection (1) may be exercised only if its exercise does not adversely affect the carrying out of an authorised activity for the second tenure.
- (3) Subsection (2) applies whether or not the authorised activity has already started.¹⁵³

Part 6K General compensation provisions¹⁵⁴**79P General liability to compensate**

- (1) This section does not apply for a public land authority in relation to a notifiable road use.¹⁵⁵
- (2) The holder of each 1923 Act petroleum tenure is liable to compensate each owner or occupier of private or public land in the area of the tenure (an *eligible claimant*) for—
 - (a) any compensatable effect the eligible claimant suffers that are caused by—

153 For overlapping ATP land, see however, the 2004 Act, section 364 (Restriction on authorised activities on overlapping ATP land).

154 See however section 165 (Exclusion of pt 6I, div 1 for continuance of particular existing road uses).

155 See part 6I, division 1, subdivision 3 (Compensation for notifiable road uses) and part 6K (General compensation provisions).

- (i) authorised activities for the tenure carried out by, or for, the tenure holder; and
 - (ii) the carrying out of an activity by a person authorised by the holder if the holder has represented that the activity is an authorised activity for the tenure; and
- (b) consequential damages the eligible claimant incurs because of a compensatable effect caused by authorised activities for the tenure.
- (3) A 1923 Act petroleum tenure holder's liability under subsection (2) to an eligible claimant is the holder's ***compensation liability*** to the claimant.
- (4) This section is subject to section 79V.¹⁵⁶
- (5) In this section—

compensatable effect means all or any of the following in relation to the eligible claimant's land—

- (a) deprivation of possession of its surface;
- (b) diminution of its value;
- (c) diminution of the use made, or that may be made, of the land or any improvement on it;
- (d) severance of any part of the land from other parts of the land or from other land that the eligible claimant owns;
- (e) any cost or loss arising from the carrying out of activities under the tenure on the land.

79Q Compensation agreement

- (1) An eligible claimant and a 1923 Act petroleum tenure holder may enter into an agreement (a ***compensation agreement***) about the holder's compensation liability to the claimant or any future compensation liability that the holder may have to the claimant.
- (2) A compensation agreement may relate to all or part of the liability or future liability.

¹⁵⁶ Section 79V (Compensation not affected by change in ownership or occupancy)

- (3) A compensation agreement must—
 - (a) be written and signed by, or for, the holder and the eligible claimant; and
 - (b) state whether it is for all or part of the liability; and
 - (c) if it is for only part of the liability, state—
 - (i) details of each activity, or effects of the activity, to which the agreement relates; and
 - (ii) the period for which the agreement has effect; and
 - (d) provide for how and when the liability will be met.
- (4) A compensation agreement may—
 - (a) extend the holder's compensation liability to the claimant, or any future compensation liability that the holder may have to the claimant, to any renewal of the tenure; and
 - (b) provide for—
 - (i) monetary or non-monetary compensation; or
 - (ii) a process by which it may be amended or enforced; and

Examples—

- 1 A compensation agreement may provide for the construction of a road for the claimant.
 - 2 A compensation agreement may provide for compensation under it to be reviewed on the happening of a material change in circumstances for the 1923 Act petroleum tenure, including a change in the extent of activities required under a later development plan for a lease.
 - (c) provide for any compensation that is, or may be, payable from the holder to the eligible claimant, under the Environmental Protection Act.
- (5) This section does not limit the matters that may be provided for in a compensation agreement.

79R Deciding compensation through tribunal

- (1) An eligible claimant or a 1923 Act petroleum tenure holder may apply to the tribunal for it to decide the holder's—

- (a) compensation liability to the claimant; or
 - (b) future compensation liability to the claimant for an authorised activity for the tenure proposed to be carried out by, or for, the holder.
- (2) However, the tribunal may decide the liability or future liability only to the extent it is not subject to a compensation agreement.
- (3) In hearing the application, the tribunal must, as much as practicable, ensure the hearing happens together with, or as closely as possible to, the hearing of any application to it for compensation that is, or may be, payable from the holder to the eligible claimant, under the Environmental Protection Act.

79S Tribunal review of compensation

- (1) This section applies if—
- (a) the compensation liability, or future compensation liability, of a 1923 Act petroleum tenure holder to an eligible claimant has been agreed to under a compensation agreement or decided by the tribunal (the *original compensation*); and
 - (b) there has, since the agreement or decision, been a material change in circumstances (the *change*).
- (2) The eligible claimant or the tenure holder may apply to the tribunal for it to review the original compensation.
- (3) In carrying out the review, the tribunal may review the original compensation only to the extent it is affected by the change.
- (4) If the tribunal considers the original compensation is not affected by the change, it must not carry out or continue with the review.
- (5) The tribunal may, after carrying out the review, decide to confirm the original compensation or amend it in a way the tribunal considers appropriate.
- (6) If the decision is to amend the compensation, the original compensation, as amended under the decision, is for this Act, taken to be the original compensation.

79T Orders tribunal may make

- (1) The tribunal may make any order it considers appropriate to meet or enforce its decision on an application under this part.
- (2) Without limiting subsection (1), the tribunal may order non-monetary compensation as well as monetary compensation.

79U Compensation to be addressed before entry to private land

- (1) A 1923 Act petroleum tenure holder must not enter private land to carry out an authorised activity for the tenure unless—
 - (a) the holder owns the land; or
 - (b) the holder has the right, other than under this Act, to enter the land to carry out authorised activities for the tenure;
 - (c) each eligible claimant for the land is—
 - (i) a party to a compensation agreement about the holder's compensation liability to the eligible claimant of at least to the extent the liability relates to the activity proposed to be carried out by the holder, and its effects; or
 - (ii) a party to an agreement (a *deferral agreement*) that a compensation agreement can be entered into after the entry; or
 - (iii) an applicant or respondent to an application under section 79R relating to the land; or
 - (d) the entry is to preserve life or property or because of a dangerous situation or emergency that exists, or may exist.
- (2) A deferral agreement must—
 - (a) be written and signed by, or for, the holder and each eligible claimant for the land; and
 - (b) state each of the following—

- (i) that the eligible claimant has been told the claimant is not required to sign the agreement before a compensation agreement has been entered into;
- (ii) the authorised activities proposed to be carried out on the land;
- (iii) the period during which the land will be entered;
- (iv) when and where the activities are proposed to be carried out;
- (v) when it is proposed that all or part of the liability for compensation will be met;
- (vi) the period for which the agreement has effect;
- (vii) how the liability will be met.

79V Compensation not affected by change in ownership or occupancy

- (1) A compensation agreement or a tribunal decision under this part is for the benefit of, and is taken to have been agreed to or decided for and is binding on—
 - (a) the relevant eligible claimant; and
 - (b) the relevant 1923 Act petroleum tenure holder; and
 - (c) each of their successors and assigns, including successors and assigns for the area of the relevant 1923 Act petroleum tenure.
- (2) Subsection (1) is subject to section 79S.¹⁵⁷

¹⁵⁷ Section 79S (Tribunal review of compensation)

Part 6L Ownership of pipelines, equipment and improvements

Division 1 Pipelines

79W Application of div 1

This division applies for a pipeline constructed or operated under a 1923 Act petroleum tenure.

79X General provision about ownership while tenure is in force for pipeline

- (1) This section applies while the land on which the pipeline is constructed is, and continues to be, land in the area of the tenure.
- (2) The pipeline is taken to be the personal property of the tenure holder.
- (3) The pipeline remains the holder's personal property despite—
 - (a) it having become part of the land; or
 - (b) the sale or other disposal of the land; or
 - (c) a purported transfer of, or other dealing with, the pipeline, unless it is a permitted dealing that has taken effect under section 80G.¹⁵⁸
- (4) The pipeline can not be—
 - (a) levied or seized in execution; or
 - (b) sold in exercise of a power of sale or otherwise disposed of by a process under a law of a State taken against the holder, or the owner of the land.
- (5) Subsections (2) to (4) apply despite—
 - (a) an Act or law of a State; or
 - (b) a contract, covenant or claim of right under a law of a State.

158 Section 80G (Conditions for permitted dealings)

79Y Ownership afterwards

- (1) Section 79X applies and continues to apply for the pipeline, and for any subsequent 1923 Act petroleum tenure under which the pipeline is operated, if the tenure ends or the land on which the pipeline is constructed ceases to be in the area of the tenure.
- (2) However, the section is subject to—
 - (a) section 80L;¹⁵⁹ and
 - (b) any condition of the former tenure.
- (3) Also, if the pipeline is decommissioned under section 75A¹⁶⁰ the 1923 Act petroleum tenure holder, or former 1923 Act petroleum tenure holder, may dispose of it to anyone else.

Division 2 Equipment and improvements**79Z Application of div 2**

- (1) This division applies if—
 - (a) equipment or improvements are taken, constructed or placed on land in the area of a 1923 Act petroleum tenure; and
 - (b) the equipment or improvements were taken, constructed or placed on the land for use for an authorised activity for the tenure; and
 - (c) the tenure continues in force.
- (2) However, this division—
 - (a) does not apply for a pipeline;¹⁶¹ and
 - (b) is subject to part 6O.¹⁶²
- (3) In this section—

159 Section 80L (Power of authorised person to ensure compliance)

160 Section 75A (Obligation to decommission pipelines)

161 For pipelines, see sections 75A (Obligation to decommission pipelines) and 79X (General provision about ownership while tenure is in force for pipeline).

162 Part 6O (Enforcement of end of tenure and area reduction obligations)

equipment includes machinery and plant.

improvements—

- (a) does not include a well, water observation bore or water supply bore; but
- (b) does include any works constructed in connection with the well or bore.

80 Ownership of equipment and improvements

- (1) While the equipment or improvements are on the land, they remain the property of the person who owned them immediately before they were taken, constructed or placed on the land, unless that person otherwise agrees.¹⁶³
- (2) However, for a well, water observation bore or water supply bore, subsection (1) is subject to part 6D, divisions 3 and 4.¹⁶⁴
- (3) Subsection (1) applies despite—
 - (a) the plant or equipment having become part of the land; or
 - (b) the sale or other disposal of the land.
- (4) The equipment or improvements can not be—
 - (a) levied or seized in execution; or
 - (b) sold in exercise of a power of sale or otherwise disposed of by a process under a law of a State taken against the holder, or the owner of the land.
- (5) This section applies despite—
 - (a) an Act or law of a State; or
 - (b) a contract, covenant or claim of right under a law of a State.

¹⁶³ See however section 75B (Obligation to remove equipment and improvements).

¹⁶⁴ Part 6D, divisions 3 (Transfers of wells, water observation bores and water supply bores) and 4 (Decommissioning of wells, water observation bores and water supply bores)

Part 6M Petroleum register

80A Petroleum register

- (1) The chief executive must keep a register of details about—
 - (a) 1923 Act petroleum tenures; and
 - (b) mortgages and subleases of 1923 Act petroleum tenures mentioned in section 80E; and ¹⁶⁵
 - (c) trigger thresholds in relation to the make good obligation for 1923 Act petroleum tenures.
- (2) The chief executive may also keep in the register information that the chief executive considers appropriate about matters relating to this Act or another Act.
- (3) The register may be kept with the petroleum register under the 2004 Act.

80B Keeping of register

- (1) The chief executive must include in the petroleum register the information prescribed under a regulation.
- (2) If, under this Act, there is a change relating to information required to be kept in the register or to information that, under section 80C(2) the chief executive keeps in the register, the chief executive must—
 - (a) amend the register to reflect the change; and
 - (b) record in the register—
 - (i) when the information was amended; and
 - (ii) for a permitted dealing—when it took effect or is to take effect.
- (3) For subsection (2), if the change requires approval under this Act, the change happens when the approval takes effect.

165 Section 80E (What is a permitted dealing)

80C Access to register

The chief executive must—

- (a) keep the petroleum register open for inspection by the public during office hours on business days at the places the chief executive considers appropriate; and
- (b) allow a person to take extracts, free of charge, from the register; and
- (c) give a person who asks for a copy of all or part of a notice, a document or information held in the register the copy on payment of the fee prescribed under a regulation.

80D Chief executive may correct register

- (1) The chief executive may correct the petroleum register if satisfied—
 - (a) the register is incorrect; and
 - (b) the correction will not prejudice the rights, recorded in the register, of a 1923 Act petroleum tenure holder, a person who holds an interest in a 1923 Act petroleum tenure or a person who is a party to a coordination arrangement.
- (2) The power to correct includes power to correct information in the register or a document forming part of the register.
- (3) If the register is corrected, the chief executive must record in it—
 - (a) the state of the register before the correction; and
 - (b) the time, date and circumstances of the correction.
- (4) A correction under this section has the same effect as if the relevant error had not been made.
- (5) For subsection (1)(b), a right is not prejudiced if the relevant person acquired or has dealt with the right with actual or constructive knowledge that the register was incorrect and how it was incorrect.

Part 6N Dealings

Division 1 Permitted dealings

80E What is a permitted dealing

- (1) Each of the following is a *permitted dealing*—
 - (a) a transfer of a 1923 Act petroleum tenure, or of a share in a 1923 Act petroleum tenure;
 - (b) a mortgage of a 1923 Act petroleum tenure, or a share in a mortgage of a 1923 Act petroleum tenure;
 - (c) a release, transfer or surrender of a mortgage, or a share in a mortgage, mentioned in paragraph (b);
 - (d) a sublease, or a share in a sublease, of a lease, as provided for under a coordination arrangement;
 - (e) a transfer of a sublease mentioned in paragraph (d), as provided for under the coordination arrangement.
- (2) However, a dealing that has the effect of transferring part of the area of a 1923 Act petroleum tenure is not a permitted dealing.
- (3) In this section—

transfer includes—

- (a) a transmission by death; and
- (b) a transfer by operation of law; and

Example—

A 1923 Act petroleum tenure is held by individuals as joint tenants and one of them dies. A transfer in relation to the tenure includes a record of the death, to record the passing by survivorship of the deceased holder's share of the tenure to the other holders.

- (c) a record of the change of name of a 1923 Act petroleum tenure holder.

80F Dealings other than permitted dealings of no effect

A dealing with a 1923 Act petroleum tenure that is not a permitted dealing is of no effect.

80G Conditions for permitted dealings

- (1) A permitted dealing has no effect until it has been approved under division 2.
- (2) A permitted dealing, once approved, takes effect on—
 - (a) the day the dealing is concluded; or
 - (b) if, under section 80J(5), the approval provides for a later day for the dealing to take effect—that later day.
- (3) The approval of a permitted dealing does not of itself give it any more effect or validity than it would have had, had subsection (1) not been enacted.

Division 2 Obtaining approval for permitted dealing**80H Minister may give indication for proposed permitted dealing**

- (1) A party to a proposed permitted dealing may ask the Minister, before concluding the dealing, to indicate—
 - (a) whether the Minister is likely to approve of it; and
 - (b) if conditions are likely to be imposed on the dealing—what the conditions are likely to be.
- (2) The request may be made in any way the Minister considers appropriate.
- (3) However, the Minister must not consider the request unless the fee prescribed under a regulation has been paid.
- (4) The party must give the Minister the information the Minister requires to give the indication.
- (5) In considering the request the Minister must consider the matters mentioned in section 80K as if the request were an application for approval of a permitted dealing.

80I Applying for approval

- (1) A holder of a relevant 1923 Act petroleum tenure interest who is party to a permitted dealing may apply for approval of the dealing.
- (2) The application must be—
 - (a) in the approved form; and
 - (b) lodged at—
 - (i) the office of the department for lodging applications to approve permitted dealings, as stated in a gazette notice by the chief executive; or
 - (ii) if no office is gazetted under subparagraph (i)—the office stated in the approved form; or
 - (iii) otherwise—the office of the chief executive; and
 - (c) accompanied by each of the following—
 - (i) the instrument for the dealing, signed by the parties to the dealing, and a copy of it certified to be a true copy of the original;
 - (ii) for a transfer of a share in a 1923 Act petroleum tenure, a written consent to the transfer by—
 - (A) each person who holds that interest; and
 - (B) if the interest is subject to a mortgage—the mortgagee;
 - (iii) the fee prescribed under a regulation.

80J Deciding application

- (1) The Minister may decide to grant or refuse the approval.
- (2) However, for a transfer of a 1923 Act petroleum tenure, other than an exempt transfer, the approval may be granted only if the proposed transferee—
 - (a) is a holder of the relevant environmental authority for the tenure; and
 - (b) either—

Petroleum Act 1923

- (i) any financial assurance required under the Environmental Protection Act for the environmental authority has been given; or
 - (ii) the administering authority under that Act has given the Minister notice that the administering authority has not required financial assurance under that Act from the proposed transferee for the environmental authority.
- (3) Also, the approval must be granted if—
 - (a) the proposed permitted dealing is any of the following—
 - (i) a mortgage of a 1923 Act petroleum tenure or of a share in a mortgage of a 1923 Act petroleum tenure;
 - (ii) a release, transfer or surrender of a mortgage, or a share in mortgage, mentioned in subparagraph (i);
 - (iii) a sublease, or a share in a sublease, of a lease, as provided for under a coordination arrangement;
 - (iv) a transfer of a sublease, or a share in a sublease, mentioned in subparagraph (iii), as provided for under the coordination arrangement; or
 - (b) subject to subsection (2)—under section 80H, an indication of the approval has been given for the proposed permitted dealing and any conditions imposed under that section have been complied with.
- (4) Despite subsection (3)(b), the approval may be refused if—
 - (a) the request for the indication contained incorrect material information or omitted material information; and
 - (b) had the Minister been aware of the discrepancy, the Minister would not have given the indication.
- (5) The approval may provide that it has effect from when the dealing was concluded or a later stated day.
- (6) The Minister may, as a condition of deciding to grant the approval, require the proposed transferee to give, under

section 78E,¹⁶⁶ security for the petroleum authority as if the proposed transferee were an applicant for the tenure.

- (6A) If the applicant does not comply with the requirement, the application may be refused.
- (7) On refusal of the approval, the applicant must be given an information notice about the decision to refuse.
- (8) In this section—
 - exempt transfer* means a transfer under which—
 - (a) the proposed transferee is someone who holds the same Australian Business Number to any proposed transferor; or
 - (b) all of one holder's share in the 1923 Act petroleum tenure will be transferred to another holder of the tenure.

80K Criteria for decision

- (1) This section does not apply—
 - (a) if, under section 80J(3), the approval must be granted; or
 - (b) to an exempt transfer under section 80J.
- (2) The matters that must be considered in deciding whether to approve the permitted dealing include each of the following—
 - (a) the application and any additional information given for the application;
 - (b) hardship the applicant would suffer if the dealing is not approved;
 - (c) for a transfer—
 - (i) the capability criteria; and
 - (ii) whether or not the transfer will disadvantage activities under the tenure; and
 - (iii) the role the proposed transferee would have in authorised activities for the tenure;
 - (d) whether, in relation to the 1923 Act petroleum tenure—

¹⁶⁶ Section 78E (Power to require security for 1923 Act petroleum tenure)

- (i) any petroleum royalty is payable and unpaid by its holder; or
- (ii) the holder has failed to comply with the 2004 Act, section 594, 595, 599 or 602.¹⁶⁷
- (e) the public interest.

Part 6O Enforcement of end of tenure and area reduction obligations

80L Power of authorised person to ensure compliance

- (1) This section applies if the holder, or former holder, of a 1923 Act petroleum tenure has not complied with section 75A, 75B or 75U in relation to land (the *primary land*).¹⁶⁸
- (2) A person authorised by the chief executive (the *authorised person*) may, by complying with section 80M, exercise the following powers (*remedial powers*)—
 - (a) enter the primary land and do all things necessary to ensure the requirement is complied with; and
 - (b) enter any other land (the *secondary land*) necessary or desirable to cross for access to the primary land.
- (3) The authorisation—
 - (a) must be written; and
 - (b) may be given on conditions the Minister considers appropriate.
- (4) The remedial powers do not include power to enter a structure, or a part of a structure, used for residential purposes

167 2004 Act, section 594 (Obligation to lodge royalty return), 595 (Fee for late lodgment of royalty return), 599 (Annual royalty returns) or 602 (Interest on unpaid petroleum royalty or additional petroleum royalty)

168 Sections 75A (Obligation to decommission pipelines), 75B (Obligation to remove equipment and improvements) or 75U (Obligation to decommission)

without the consent of the occupier of the structure or part of the structure.

80M Requirements for entry to ensure compliance

- (1) Remedial powers may be exercised in relation to the primary or secondary land under section 80L only if a following person is given notice of the proposed entry at least 10 business days before the proposed entry—
 - (a) if the land has an occupier—any occupier of the land;
 - (b) if the land does not have an occupier—its owner.
- (2) The notice must—
 - (a) identify the authorised person; and
 - (b) describe the land; and
 - (c) state—
 - (i) that the authorised person has, under this section, been authorised to enter the land; and
 - (ii) the purpose of the entry; and
 - (iii) the period of the entry.
- (3) The chief executive may approve the giving of the notice by publishing it in a stated way.
- (4) The chief executive may give the approval only if satisfied the publication is reasonably likely to adequately inform the person to whom the notice is required to be given of the proposed entry.
- (5) If the authorised person intends to enter the land and any occupier of the land is present at the land, the person also must show, or make a reasonable attempt to show, the occupier the person's authorisation under this section.

80N Duty to avoid damage in exercising remedial powers

In exercising remedial powers, a person must take all reasonable steps to ensure the person causes as little inconvenience, and does as little damage, as is practicable.

80O Notice of damage because of exercise of remedial powers

- (1) If a person exercising remedial powers damages land or something on it, the person must give the owner and any occupier of the land notice of the damage.
- (2) If for any reason it is not practicable to comply with subsection (1), the person must—
 - (a) leave the notice at the place where the damage happened; and
 - (b) ensure it is left in a conspicuous place and in a reasonably secure way.
- (3) The notice must state—
 - (a) particulars of the damage; and
 - (b) that the owner or occupier may claim compensation under section 80P from the State.

80P Compensation for exercise of remedial powers

- (1) This section applies if an owner or occupier of land (the *claimant*) suffers a cost, damage or loss because of the exercise, or purported exercise, of remedial powers.
- (2) Compensation is payable to the claimant by the State for the cost, damage or loss.
- (3) The compensation may be claimed and ordered in a proceeding brought in a court of competent jurisdiction.
- (4) The court may order the compensation only if it is satisfied it is just to make the order in the circumstances of the particular case.

80Q Ownership of thing removed in exercise of remedial powers

- (1) This section applies if—
 - (a) remedial powers are exercised in relation to land; and
 - (b) in the exercise of the powers a thing is removed from the land; and

- (c) immediately before the removal, the thing was the property of—
 - (i) the holder, or former holder, of a 1923 Act petroleum tenure in relation to whom the powers were exercised; or
 - (ii) an agent of, or contractor for, the holder.
- (2) On the removal, the thing becomes the property of the State.
- (3) The State may deal with the thing as it considers appropriate, including, for example, by destroying it or giving it away.
- (4) The chief executive may deal with the thing for the State.
- (5) If the State sells the thing, the State may, after deducting the costs of the sale, return the net proceeds of the sale to the former owner of the thing.¹⁶⁹

80R Recovery of costs of and compensation for exercise of remedial power

- (1) The State may recover from the responsible person as a debt any—
 - (a) reasonable costs the State, or an authorised person under section 80L, incurs in exercising a remedial power; and
 - (b) compensation payable by the State under section 80P in relation to the exercise of the remedial power.¹⁷⁰
- (2) However, in any proceeding to recover the costs, any relevant net proceeds of sale mentioned in section 80Q must be deducted from the amount claimed for the costs.
- (3) In this section—

responsible person means the holder, or former holder, of the 1923 Act petroleum tenure in relation to which the remedial powers were exercised.

relevant net proceeds of sale means proceeds of sale under which the thing sold was the property of the responsible person immediately before its removal under section 80Q.

¹⁶⁹ See also section 80R(2).

¹⁷⁰ See also section 118 (Additional orders that may be made on conviction).

Part 6P Noncompliance procedure

Division 1 Introduction

80S Operation of pt 6P

- (1) This part provides a process for noncompliance action against the holder of any 1923 Act petroleum tenure.
- (2) The power to take noncompliance action under this division does not limit a power as follows (the *other power*)—
 - (a) the power under part 6G to require new or additional security;
 - (b) a power under another provision of this Act to amend the tenure.
- (3) The other power does not limit the power to take noncompliance action.
- (4) Noncompliance action may be taken at the same time as the other power is exercised.

Division 2 Noncompliance action

80T Types of noncompliance action that may be taken

- (1) The noncompliance action the Minister may take under this division is all or any of the following—
 - (a) amending the 1923 Act petroleum tenure by doing all or any of the following—
 - (i) reducing the term of the tenure;
 - (ii) reducing its area;

Example of a possible reduction—

An authority to prospect holder has not, in contravention of section 74I,¹⁷¹ carried out work required under the work program for the authority. Noncompliance action may

171 Section 74I (Compliance with exploration activities in work program)

Petroleum Act 1923

include amending the authority to reduce its area to reflect the work not carried out.

- (iii) amending a condition of the tenure;
 - (iv) imposing a new condition;
 - (b) requiring the tenure holder to relinquish a stated part of the area of the tenure on or before a stated time;
 - (c) cancelling the tenure, immediately or on a stated day;
 - (d) cancelling, from a stated day,¹⁷² any work program or development plan and directing its holder to, on or before that day, lodge the following program or plan at the relevant office so that the Minister may decide whether to approve the program or plan—
 - (i) for an authority to prospect—a proposed later work program that complies with the work program requirements;
 - (ii) for a lease—a proposed later development plan that complies with the later development plan requirements;
 - (e) requiring the tenure holder to pay the State a penalty of an amount no more than the monetary value of 2 000 penalty units.
- (2) However, a requirement under subsection (1)(e) may be made only if the holder has agreed to the requirement being made instead of the taking other noncompliance action under subsection (1).
- (3) A condition or amendment under subsection (1) may restrict the authorised activities for the tenure.
- (4) If, under subsection (1)(c), the tenure is cancelled on a stated day, a condition may be imposed under subsection (1)(a) restricting the authorised activities for the tenure until the cancellation.
- (5) Noncompliance action may be taken despite the mandatory conditions for the tenure.
- (6) In this section—

172 See section 80W (Notice of proposed noncompliance action).

relevant office means—

- (a) the office of the department for lodging proposed later work programs or proposed later development plans, as stated in a gazette notice by the chief executive; or
- (b) if no office is gazetted under paragraph (a)—the office of the chief executive.

80U When noncompliance action may be taken

- (1) Noncompliance action may be taken if—
 - (a) an event mentioned in subsection (2) has happened; and
 - (b) the procedure under division 3 for taking the action has been followed; and
 - (c) the 1923 Act petroleum tenure for which the noncompliance action is taken relates to the event for which the action is taken.
- (2) For subsection (1), the event is that the holder—
 - (a) is not, or has ceased to be, qualified under section 7AA,¹⁷³ to hold a 1923 Act petroleum tenure; or
 - (b) obtained the tenure because of a materially false or misleading representation or declaration, made orally or in writing; or
 - (c) has failed to comply with this Act, a direction given under this Act or the tenure; or
 - (d) did not pay an amount under this Act by the day it became owing; or
 - (e) has used any land in the area of the tenure for an activity that—
 - (i) is not an authorised activity for the tenure or that, under the *Geothermal Exploration Act 2004*, section 7¹⁷⁴ or the *Mineral Resources Act*,

173 Section 7AA (Qualification of 1923 Act petroleum tenure holders)

174 *Geothermal Exploration Act 2004*, section 7 (Relationship with Petroleum Act 1923)

- (i) the office of the department for lodging the submissions, as stated in a gazette notice by the Minister; or
 - (ii) if no office is gazetted under subparagraph (i)—the office of the Minister.
- (2) The notice may state—
 - (a) if the noncompliance action is likely to include amending the tenure—the likely amendment; and
 - (b) the amount of any likely reduction of the area of the tenure.
- (3) The stated period must be at least 20 business days after the holder is given the notice.

80X Considering submissions

- (1) The Minister must consider any submissions lodged by the holder, during the period stated in the notice given under section 80W.
- (2) If the Minister decides not to take noncompliance action the Minister must promptly give the holder a notice of the decision.

80Y Decision on proposed noncompliance action

- (1) If, after complying with section 80X, the Minister still believes a ground exists to take noncompliance action, the Minister may decide to take noncompliance action in relation to the tenure, that relates to a ground stated in the notice given under section 80W.
- (2) The Minister must, in deciding whether to take the action, have regard to whether the holder is a suitable person to hold, or continue to hold, the tenure.
- (3) In considering whether the holder is a suitable person to hold, or to continue to hold, the tenure the Minister must consider the capability criteria.

80Z Notice and taking effect of decision

- (1) If the Minister makes a decision under section 80Y, the Minister must after making the decision give an information notice about the decision to—
 - (a) the tenure holder; and
 - (b) any other person who holds an interest in the tenure, as recorded in the petroleum register.
- (2) Generally, the decision takes effect on the later of the following—
 - (a) the day the holder is given the information notice;
 - (b) a later day of effect stated in the notice.
- (3) However, if the decision was to cancel the tenure, the decision does not take effect until the end of the appeal period for the decision.¹⁷⁶

81 Consequence of failure to comply with relinquishment requirement

- (1) This section applies if—
 - (a) noncompliance action taken is a requirement, under section 80T(1)(b),¹⁷⁷ of a 1923 Act petroleum tenure holder; and
 - (b) the requirement is not complied with.
- (2) The holder must be given a notice requiring the holder to comply with the requirement under section 80T(1)(b) within 20 business days after the giving of the notice.
- (3) If the holder does not comply with the requirement under the notice, the tenure is cancelled.
- (4) However, the cancellation does not take effect until the holder is given a notice stating that the tenure has been cancelled because of the operation of subsection (3).

¹⁷⁶ See sections 105 (Period to appeal) and 107 (Stay of operation of decision).

¹⁷⁷ Section 80T (Types of noncompliance action that may be taken)

Part 6Q Other common provisions for 1923 Act petroleum tenures

83 Restrictions on location of drills

- (1) A lessee or holder of an authority to prospect shall not commence drilling within 60 m of any of the outer boundaries of the land comprised in the lease or held under the authority to prospect, as the case may be, unless the adjoining land is not the area of a 1923 Act petroleum tenure or 2004 Act petroleum tenure.
- (2) However, this restriction shall not apply to any bore which is being drilled at the time such lease or authority to prospect of the adjoining land is granted in respect of such adjoining land.

84 Prevention of waste etc.

- (1) Every lessee and holder of an authority to prospect shall carry on all his or her operations in a good and skilful manner in accordance with recognised and approved methods and practice to the satisfaction of the Minister and shall take all reasonable precautions to prevent waste of petroleum developed in the land and to prevent the entrance of water through wells drilled by the lessee or holder to the petroleum deposits so to destroy or injure or be likely to destroy or injure any petroleum deposits.
- (2) Every lessee and holder of an authority to prospect shall carry out at his or her own expense all reasonable requirements directions and orders of the Minister relative to the prevention of waste and the protection and preservation of the land held by the lessee or holder, and neighbouring property, and for the safety, protection, and welfare of workers, and shall comply with such rules and directions as are issued by the Minister under this Act as to methods of operation.
- (3) The Minister is authorised to do any and all things necessary to carry out and accomplish the purposes of this Act in that behalf.

85 Casing well

Every lessee and every holder of an authority to prospect unless in any case wholly or partially excused by the Minister from so doing, shall properly case each well with metal casing in accordance with the best approved methods, landing and effectually cementing 1 or more strings of the casing in clay or other water-impervious strata and generally shall take all such steps as may be reasonably necessary for effectually shutting off the escape of all water and for effectually preventing any water from penetrating any petroleum deposits, and for effectually preventing any petroleum from penetrating any aquifer.

86 Water rights

- (1) Notwithstanding the provisions of the Water Act—
 - (a) a holder of an authority to prospect or a lessee may, with the prior permission in writing of the Minister and subject to such terms and conditions as the Minister deems fit, which terms and conditions shall be set out in such permission, search for, obtain, store and use underground water (including artesian and subartesian water) within the limits of the land covered or demised by the authority or lease, for any of the purposes for which such authority or lease was granted and for any purpose incidental thereto;
 - (b) the Minister shall before granting any such permission refer the application for permission to the Water Act regulator, who shall investigate the application and make thereon to the Minister a report, together with such recommendation as the Water Act regulator deems fit;
 - (c) any permission granted by the Minister pursuant to paragraph (a) may authorise the holder of the authority to prospect or lessee to supply, by agreement between the parties (but subject to the obtaining by such holder or lessee of the prior approval of the Water Act regulator as to the quantities and usage of the water in question), to the owner or occupier of the land covered or demised by the authority or lease, or the owner or occupier of any

land adjoining or in the vicinity of such land, any water obtained by such holder or lessee, pursuant to such permission, that is surplus to the requirements of such holder or lessee for the purposes aforementioned.

(2) However, water may be supplied under subsection (1)(c) only if the supply is for domestic purposes or stock purposes.

(3) In this section—

domestic purposes includes irrigating a garden, not exceeding .25 ha, being a garden cultivated for domestic use and not for the sale, barter or exchange of goods produced in the garden.

stock purposes means watering stock of a number that would normally be depastured on the land on which the water is, or is to be, used.

88 Conduct of operations on land

(1) A 1923 Act petroleum tenure holder shall so conduct operations under the tenure as not to interfere with the existing use of the land in the area of the tenure to a greater extent than may be necessary.

(2) In the event of any dispute the Minister may determine the extent of such interference which is so necessary.

(5) In respect of any private land in the area of the tenure occupied by the holder, the holder shall do such things and take such precautions as may be prescribed to prevent any injury to such land or any property of the owner, holder or occupier of such land as aforementioned situated upon such land, and shall promptly repair any damage resulting from improper methods of mining or from any failure to do the things and take the precautions as aforesaid.

89 Compliance with Act etc.

(1) Every lessee and holder of an authority to prospect shall duly and punctually comply with this Act and with the requirements, directions, and orders of the Minister given and issued under the terms of the lease or authority to prospect as the case may be.

- (2) The lessee or holder shall conduct all mining drilling and relative productive operations, subject to the inspection of the Minister or authorised officer or representative.
- (3) The lessee or holder shall abide by and conform to regulations in force from time to time covering the matters referred to in the lease or authority to prospect, as the case may be.
- (4) However, the lessee or holder of the authority to prospect shall not be held responsible for delays occasioned by causes beyond his or her control.
- (5) In the event of the lessee or holder of the authority to prospect failing or neglecting to carry out the requirements of the Minister, the Minister by his or her workers and agents shall have the right to enter on the land and carry out any necessary operations at the lessee's or holder's expense.

90 Regulations may prescribe further provisions

The regulations under this Act may provide for and prescribe further provisions and conditions with respect to 1923 Act petroleum tenures.

92 Delivery of premises in case of forfeiture

In the event of a lease being duly forfeited, the lessee shall deliver up the land and improvements thereon, in good order and condition.

93 Right to mine for other minerals

Mining for gold and other minerals therein or thereon may be allowed on such terms and conditions as the Minister may consider reasonable.

95 Limits on use of water from natural source

- (1) A holder of an authority to prospect or a lessee who proposes to take water from any natural source under this Act shall—
 - (a) take all steps to ensure that no water is lost during such taking; and

- (b) take only such quantity of water as is properly required for his or her purpose in question;
to the intent that there shall be left in such source sufficient water to satisfy the reasonable requirements of other persons who may lawfully take water from such source.
- (2) If any dispute arises in respect of the taking of water from such a source any party to the dispute may refer the issue to the tribunal.
- (3) The jurisdiction of the tribunal in respect of such a dispute includes jurisdiction to determine—
 - (a) the quantity of water to be respectively taken from the source in question by the parties to the dispute or any of them;
 - (b) the time and the manner of taking such water by any party to the dispute.
- (4) When the tribunal has made a determination in respect of either of the matters referred to in subsection (3)(a) or (b) the parties to the dispute who are affected thereby shall comply in all respects with such determination.

96 Who bound by terms of 1923 Act petroleum tenure

Each of the obligations and benefits under any authority to prospect or lease shall be binding upon and extend to the heirs, executors, administrators, successors and permitted assigns of the holder of the authority to prospect or the lessee.

100 Union of leases

- (1) Notwithstanding anything contained in this Act, the Minister may approve of the union of 2 leases, whether the areas embraced in such leases are contiguous or are not contiguous, subject to the following conditions—
 - (a) an application for such union shall be made to the Minister by means of a resolution passed by a majority in number and value (calculated in each case as prescribed) of the persons registered for the time being as holders of the leases concerned;

- (b) subject to this section or as may be prescribed, all the provisions of this Act governing leases and matters and things concerning same shall apply and extend to any such union of leases, as the case may be.
- (2) Regulations may be made to give full effect to the objects and provisions of this section.

101 Minister's power to ensure compliance by 1923 Act petroleum tenure holder

- (1) This section applies if—
 - (a) a 1923 Act petroleum tenure holder has not complied with a requirement of the holder under this Act; and
 - (b) no other provision of this Act allows someone other than the holder to ensure compliance with the requirement.
- (2) The Minister may take any action the Minister considers appropriate to ensure all or part of the requirement is complied with if—
 - (a) subsections (3) and (4) have been complied with; or
 - (b) the holder has agreed to the Minister taking the action.
- (3) The Minister must give the holder a notice—
 - (a) stating the requirement and the action the Minister proposes to take; and
 - (b) inviting the holder to lodge, within a stated reasonable period, submissions about the proposed action at—
 - (i) the office of the department for lodging the submissions, as stated in a gazette notice by the chief executive; or
 - (ii) if no office is gazetted under paragraph (i)—the office of the chief executive.
- (4) Any submissions lodged by the holder within the stated period must be considered before deciding to take the action.
- (5) A decision to take the action does not take effect until the holder is given an information notice about the decision.

- (6) The State may recover from the holder as a debt any reasonable costs it incurs in the exercise of the power under subsection (2).¹⁷⁸

102 Interest on amounts owing to the State under this Act

- (1) Interest is payable to the State on any amount owing under this Act by anyone to the State and unpaid from time to time after the relevant day.¹⁷⁹

Examples of an amount that may be owing under this Act—

annual or other rent, a civil penalty for nonpayment of annual rent

- (2) The interest accrues daily at the rate prescribed under a regulation on the unpaid amount for the period starting on the day immediately after the amount became payable and ending on the day the amount owing on which interest is payable is paid in full, both days inclusive.
- (3) Any amount received in payment of the unpaid amount or the interest must first be applied in payment of the interest.
- (4) Subsection (3) applies despite any order or direction of the payer.
- (5) In this section—

relevant day means the following—

- (a) for an amount for annual or other rent or a civil penalty for nonpayment of the rent—the day that is 3 months after the last day for payment of the rent or civil penalty;
- (b) for another amount—the day the amount becomes owing.

103 Recovery of unpaid amounts

- (1) If a provision of this Act requires a 1923 Act petroleum tenure holder to pay the State an amount (including interest) the State may recover the amount from the holder as a debt.

¹⁷⁸ See also section 118 (Additional orders that may be made on conviction).

¹⁷⁹ For interest on unpaid petroleum royalty under the 2004 Act, see section 602 (Interest on unpaid petroleum royalty or additional petroleum royalty) of that Act.

(2) In this section—

holder includes a former holder of the tenure in relation to which the remedial powers were exercised.

Part 7 Appeals

104 Who may appeal

- (1) A person whose interests are affected by a decision identified in the schedule, may appeal against the decision to the tribunal.
- (2) For subsection (1), a person who has been given, or is entitled to be given, an information notice about a decision is taken to be a person whose interests are affected by the decision.

105 Period to appeal

- (1) The appeal must be started within 20 business days after—
 - (a) if the person has been given an information notice about the decision—the day the person is given the notice; or
 - (b) if paragraph (a) does not apply—the day the person otherwise becomes aware of the decision.
- (2) However, the tribunal may, at any time within the 20 business days, extend the period for making an appeal.

106 Starting appeal

- (1) The appeal is started by filing a written notice of appeal with the tribunal.
- (2) A copy of the notice must be lodged at—
 - (a) the office of the department for lodging notices of appeal, as stated in a gazette notice by the chief executive; or
 - (b) if no office is gazetted under paragraph (a)—the office of the chief executive.

- (3) An appeal to the District Court may be made to the District Court nearest the place where the applicant resides or carries on business.
- (4) Subsection (3) does not limit the court at which the appeal may be started under the *Uniform Civil Procedure Rules 1999*.

107 Stay of operation of decision

- (1) The tribunal may grant a stay of the decision to secure the effectiveness of the appeal.
- (2) A stay—
 - (a) may be given on the conditions the tribunal considers appropriate; and
 - (b) operates for the period fixed by the tribunal; and
 - (c) may be amended or cancelled by the tribunal.
- (3) The period of a stay under this section must not extend past the time when the tribunal decides the appeal.
- (4) The appeal affects the decision, or carrying out of the decision, only if it is stayed.

108 Hearing procedures

- (1) In deciding an appeal, the tribunal—
 - (a) has the same powers as the original decider; and
 - (b) is not bound by the rules of evidence; and
 - (c) must comply with natural justice; and
 - (d) may hear the appeal in court or in chambers.
- (2) An appeal is by way of rehearing, unaffected by the decision.
- (3) Subject to subsections (1) and (2), the procedure for the appeal is—
 - (a) in accordance with the rules for the tribunal; or
 - (b) in the absence of relevant rules, as directed by the tribunal.

- (4) A power under an Act to make rules for the tribunal includes power to make rules for appeals under this part.

109 Tribunal's powers on appeal

- (1) In deciding an appeal, the tribunal may—
- (a) confirm the decision; or
 - (b) set aside the decision and substitute another decision; or
 - (c) set aside the decision and return the issue to the original decider with the directions the tribunal considers appropriate.
- (2) If the tribunal substitutes another decision, the substituted decision is, for this Act, other than this part, taken to be the decision of the original decider.¹⁸⁰

Part 8 Evidence and legal proceedings

Division 1 Evidentiary provisions

110 Application of div 1

This division applies to a proceeding under or in relation to this Act.

111 Appointments and authority

The following must be presumed unless a party to the proceeding, by reasonable notice, requires proof of it—

- (a) the appointment of an inspector or authorised officer under the 2004 Act;

¹⁸⁰ For appeals from the tribunal, see the *Land and Resources Tribunal Act 1999*, section 67 (Appeal only on question of law).

- (b) the power of the Minister or chief executive to do anything under this Act.

112 Signatures

A signature purporting to be the signature of the Minister or the chief executive is evidence of the signature it purports to be.

113 Other evidentiary aids

A certificate purporting to be signed by the chief executive stating any of the following matters is evidence of the matter—

- (a) a stated document, of any of the following types, is a document given, issued, kept or made under this Act—
 - (i) an appointment, approval or decision;
 - (ii) a direction, notice or requirement;
 - (iii) a 1923 Act petroleum tenure;
 - (iv) the petroleum register;
 - (v) a report;
 - (vi) another record;
- (b) a stated document is another document kept under this Act;
- (c) a stated document is a copy of, or an extract from or part of, a thing mentioned in paragraph (a) or (b);
- (d) on a stated day—
 - (i) a stated person was given a stated decision, direction or notice under this Act; or
 - (ii) a stated requirement under this Act was made of a stated person;
- (e) on a stated day, or during a stated period, a 1923 Act petroleum tenure—
 - (i) was, or was not, in force; or
 - (ii) was, or was not, subject to a stated condition; or

- (iii) was, or was not, cancelled;
- (f) a stated amount is payable under this Act by a stated person and has not been paid;
- (g) a stated address for a 1923 Act petroleum tenure holder is the last address of the holder known to the Minister or the chief executive.

Division 2 Offence proceedings

114 Offences under Act are summary

- (1) An offence against this Act is a summary offence.
- (2) A proceeding for an offence against this Act must start within the later of the following periods to end—
 - (a) 1 year after the commission of the offence;
 - (b) 6 months after the offence comes to the complainant's knowledge, but within 2 years after the commission of the offence.

115 Statement of complainant's knowledge

In a complaint starting a proceeding for an offence against this Act, a statement that the matter of the complaint came to the complainant's knowledge on a stated day is evidence the matter came to the complainant's knowledge on that day.

116 Allegations of false or misleading matters

- (1) This section applies to a proceeding for an offence against this Act described as involving—
 - (a) false or misleading information; or
 - (b) a false or misleading document or statement.
- (2) It is enough for the complaint starting the proceeding to state the document, information or statement was 'false or misleading' to the defendant's knowledge, without specifying which.

- (3) In the proceeding, evidence that the document, information or statement was given or made recklessly is evidence that it was given or made so as to be false or misleading.

117 Conduct of representatives

- (1) This section applies to a proceeding for an offence against this Act if it is relevant to prove a person's state of mind about particular conduct.
- (2) It is enough to show—
- (a) the conduct was engaged in by a representative of the person within the scope of the representative's actual or apparent authority; and
 - (b) the representative had the state of mind.
- (3) Conduct engaged in for a person by a representative of the person within the scope of the representative's actual or apparent authority is taken to have been engaged in also by the person unless the person proves—
- (a) if the person was in a position to influence the representative in relation to the conduct—the person took reasonable steps to prevent the conduct; or
 - (b) the person was not in a position to influence the representative in relation to the conduct.
- (4) In this section—

engaging in conduct includes failing to engage in conduct.

executive officer, of a corporation, means a person who is concerned with, or takes part in, its management, whether or not the person is a director or the person's position is given the name of executive officer.

representative means—

- (a) for a corporation—an agent, employee or executive officer of the corporation; or
- (b) for an individual—an agent or employee of the individual.

state of mind, of a person, includes the person's—

- (a) belief, intention, knowledge, opinion or purpose; and
- (b) reasons for the belief, intention, opinion or purpose.

118 Additional orders that may be made on conviction

- (1) If a court convicts a person for an offence against this Act, it may—
 - (a) order the forfeiture to the State of—
 - (i) anything used to commit the offence; or
 - (ii) anything else the subject of the offence; and
 - (b) make any order to enforce the forfeiture it considers appropriate; and
 - (c) order the person to pay the State the amount of costs it incurred for remedial work that was necessary or desirable because of the commission of the offence.¹⁸¹
- (2) Forfeiture of a thing may be ordered—
 - (a) whether or not it has been seized under this Act; and
 - (b) if it has been seized under this Act, whether or not it has been returned to its owner.
- (3) In this section—

conviction includes a finding of guilt, or the acceptance of a plea of guilty, by a court, whether or not a conviction is recorded.

181 See also section 80L (Power of authorised person to ensure compliance).

Part 9 Miscellaneous

Division 1 Applications

119 Application of div 1

This division applies to an application under this Act other than an application under section 40.¹⁸²

120 Substantial compliance with application requirements may be accepted

If—

- (a) a person has made, or purported to make, an application under this Act; and
- (b) the requirements under this Act for making the application have not been complied with; and
- (c) the person who must decide the application (the *decider*) is satisfied the application substantially complies with the requirements;

the decider may decide to allow it to proceed and be decided as if it did comply with the requirements.

121 Additional information may be required about application

- (1) If a person (the *decider*) is deciding, or is required to decide, an application under this Act, the decider may, by notice, require the applicant to give the decider within a stated reasonable period—
 - (a) additional information about, or a document relevant to, the application; or
 - (b) a statutory declaration verifying any information included in the application or any additional information required under paragraph (a).

182 Section 40 (Lease to holder of authority to prospect)

- (2) For subsection (1)(a), if the application is for a lease, a required document may include a survey or re-survey of the area of the proposed lease, carried out by a cadastral surveyor under the *Surveyors Act 2003*.
- (3) If the applicant does not give the decider the additional information or declaration by the stated day, the decider may refuse the application.
- (4) The applicant must pay any costs incurred in complying with the notice.

122 Amending applications

- (1) If a person has made an application under this Act, the person may amend the application or a document accompanying the application only if—
 - (a) the application has not been decided; and
 - (b) the person who may or must decide the application has agreed to the making of the amendment; and
 - (c) if the proposed amendment is to change the applicant—each applicant, and proposed applicant, has agreed to the change.
- (2) If, under subsection (1), the application is amended to change the applicant, for the purpose of deciding the application, the applicant as changed is taken to have been the applicant from the making of the application.

123 Withdrawal of application

- (1) A person who has made an application under this Act may lodge a notice withdrawing the application at any time before the following—
 - (a) generally—before the application is decided;
 - (b) for a lease—the granting of the lease.
- (2) The notice must be lodged at the office at which this Act requires the application to be lodged.
- (3) The withdrawal of an application takes effect when the notice of withdrawal is lodged.

124 Minister's power to refund application fee

If an application under this Act is withdrawn, the Minister may refund all or part of any fee paid for the application.

**Division 2 Miscellaneous provisions for 1923
Act petroleum tenures****125 Power to correct or amend**

- (1) The Minister may amend a 1923 Act petroleum tenure at any time by giving its holder a notice of the amendment and recording particulars in the relevant register if the amendment is to—
 - (a) correct a clerical error; or
 - (b) state or more accurately state the boundaries of the area of the tenure because of a survey carried out under section 75.¹⁸³
- (2) The Minister may, at any time, amend a condition of a 1923 Act petroleum tenure if the tenure holder agrees in writing.
- (3) Despite subsections (1) and (2), the following can not be amended under this section—
 - (a) the mandatory conditions for that type of 1923 Act petroleum tenure;
 - (b) the term of the tenure;
 - (c) any work program or development plan for the tenure.
- (4) Also, the Minister can not amend the tenure if the tenure as amended would be inconsistent with a mandatory condition for that type of authority.

126 Replacement of instrument for tenure

- (1) If the instrument for a 1923 Act petroleum tenure has been lost, stolen or destroyed, its holder may apply in writing to the Minister to replace it.

183 Section 75 (Obligation to survey if Minister requires)

- (2) The application must be lodged at—
 - (a) the office of the department for lodging the application, as stated in a gazette notice by the chief executive; or
 - (b) if no office is gazetted under paragraph (a)—the office of the chief executive.
- (3) If the Minister is reasonably satisfied the instrument has been lost, stolen or destroyed, the Minister must replace it.
- (4) If the Minister decides to refuse to replace the instrument, the Minister must give the holder an information notice about the decision.

127 Joint and several liability for conditions and for debts to State

If more than 1 person holds a 1923 Act petroleum tenure each holder is jointly and severally—

- (a) responsible for complying with its conditions; and
- (b) liable for all debts payable under this Act and unpaid by the authority holder to the State.

128 Notice of agent

The Minister may refuse to deal with a person who claims to be acting as the authority holder's agent, unless the holder has given the Minister notice of the agency.

Division 3 Other miscellaneous provisions

129 Name and address for service

- (1) A person (the *first person*) may, by a signed notice lodged at the relevant office, nominate another person (a *nominated person*) at a stated address as the first person's address for service for this Act.
- (2) If this Act requires or permits the Minister or the chief executive to serve a notice or other document on the first person, it may be served on the first person by serving it on

the last nominated person, at the stated address for that person.

(3) In this section—

relevant office means—

- (a) the office of the department for lodging notices of address for service, as stated in a gazette notice by the chief executive; or
- (b) if no office is gazetted under paragraph (a)—the office of the chief executive.

serve includes give.

130 Additional information about reports and other matters

(1) This section applies if—

- (a) a person is required under this Act to lodge a notice or copy of a document, a report or information (the *advice*) with the Minister or the chief executive (the *recipient*); and
- (b) the person gives the advice.

(2) The recipient may, by notice, require the person to give, within the reasonable time stated in the notice, written information about the matter for which the advice was given.

(3) The person must comply with the notice.

Maximum penalty for subsection (3)—300 penalty units.

131 References to right to enter

A right under this Act to enter a place includes the right to—

- (a) leave and re-enter the place from time to time; and
- (b) remain on the place for the time necessary to achieve the purpose of the entry; and
- (c) take on the place equipment, materials, vehicles or other things reasonably necessary to exercise a power under this Act.

132 Application of provisions

If a provision of this Act applies any of the following (the *applied law*) for a purpose—

- (a) another provision of this Act;
- (b) another law;
- (c) a provision of another law;

the applied law and any definition relevant to it apply, with necessary changes for that purpose.

133 Protection from liability for particular persons

(1) A person as follows (a *designated person*) does not incur civil liability for an act done, or omission made, honestly and without negligence under this Act—

- (a) the Minister;
- (b) the chief executive;
- (c) a public service officer or employee;
- (d) a contractor carrying out activities, relating to the administration of this Act, for the department;
- (e) a person who is required to comply with a direction or requirement given under this Act and who is complying with the direction or requirement.

(2) If subsection (1) prevents a civil liability attaching to a designated person, the liability attaches instead to the State.

(3) In this section—

civil liability includes liability for the payment of costs ordered to be paid in a proceeding for an offence against this Act.

134 Delegation by Minister or chief executive

(1) The Minister may delegate the Minister's powers under this Act to—

- (a) an appropriately qualified public service officer or employee; or

- (b) an appropriately qualified contractor carrying out activities, relating to the administration of this Act, for the department.
- (2) The chief executive may delegate the chief executive's powers under this Act to a person mentioned in subsection (1).
- (3) In this section—
appropriately qualified includes having the qualifications, experience and competence to exercise the power.

135 Approved forms

- (1) The chief executive may approve forms for use under this Act.
- (2) A form may be approved for use under this Act that is combined with, or is to be used together with, an approved form under another Act.

142 All statements to be verified

All applications, statements, representations, information, and reports made under or required by the Minister under this Act shall be verified upon oath or statutory declaration unless otherwise specified by the Minister, and such verification shall be in such form as the Minister may require or as may be prescribed.

143 Points etc. to be ascertained by reference to Australian Geodetic Datum

- (1) Where, for the purposes of this Act or of anything done or to be done under or for the purposes of this Act, it is necessary to determine the position on the surface of the Earth of a point, line or area, that position shall be determined by reference to a spheroid having its centre at the centre of the Earth and a major (equatorial) radius of 6 378 160 m and a flattening of $\frac{100}{29825}$ and by reference to the position of the Johnston Geodetic Station in the Northern Territory.
- (2) Such station shall be taken to be situated at 133°12'30.0771" east longitude and at 25°56'54.5515" south latitude and to

have a ground level of 571.2 m above the spheroid referred to in subsection (1).

144 Interference with pipeline or petroleum activities under this Act

A person who destroys, damages, interferes with or operates any pipeline, or part of a pipeline, constructed or operated under this Act or anything on the site where the search for or recovery of petroleum is carried on under this Act commits an offence against this Act, unless the person does so under the authority of the owner of the pipeline or, as the case may be, thing.

Maximum penalty—200 penalty units.

147 Penalties

- (1) Any person guilty of an offence against this Act shall, if no specific penalty is provided for that offence, be liable to a penalty not exceeding 200 penalty units and, if the offence is a continuing one, a further penalty not exceeding 40 penalty units per day for each and every day during which the offence continues.
- (2) All offences against this Act may be prosecuted in a summary way under the *Justices Act 1886*, upon the complaint of any person thereunto authorised in writing by the Minister.

148 Other rights of action not affected

Nothing in this Act shall be construed to take away or prejudicially affect any right of action which any person may have for any loss or damage sustained by the person by reason of any mining operations carried on pursuant to the Mineral Resources Act upon private land, other than for loss or damage for which compensation is payable under this Act.

149 Regulation-making power

- (1) The Governor in Council may make regulations under this Act.

- (2) A regulation may be made about any of the following—
 - (a) the fees payable under this Act, including late payment fees;
 - (b) imposing a penalty for a contravention of a provision of a regulation of no more than 20 penalty units.
- (3) A regulation under this Act may be made in the same instrument as a regulation made under the 2004 Act.

150 Declaration about certain 1923 Act petroleum tenures

- (1) This section applies to a 1923 Act petroleum tenure, (a *petroleum interest*) granted before or after the commencement of this section for hydrocarbons naturally occurring in association with coal (*coal seam gas*).
- (2) To remove any doubt, this Act applies, and is taken always to have applied, to the petroleum interest as if coal seam gas were petroleum.
- (3) Without limiting subsection (2) and to further remove any doubt—
 - (a) the power of the Governor in Council under this Act to grant an authority to prospect includes, and is taken always to have included, power to grant an authority to prospect for coal seam gas; and
 - (b) the power of the Governor in Council under this Act to grant a lease includes, and is taken always to have included, power to grant a lease for coal seam gas to the holder of an authority to prospect.

Part 10 Transitional provisions for 1923 Act petroleum tenures from 2004 Act start day

Division 1 General transitional provisions

Subdivision 1 Particular unfinished applications

Note—

For other applications under this Act that, before the 2004 Act start day were not finished see the 2004 Act, chapter 15, part 3.¹⁸⁴

151 Unfinished authority to prospect applications for which a Commonwealth Native Title Act s 29 notice has been given

- (1) This section applies if immediately before the 2004 Act start day—
 - (a) an authority to prospect application has not been granted or rejected; and
 - (b) a notice under the Commonwealth Native Title Act, section 29,¹⁸⁵ had been given for the proposed authority to prospect the subject of the application.¹⁸⁶
- (2) The application must continue to be decided, and the authority may be granted, under this Act as amended by the *Petroleum and Other Legislation Amendment Act 2004*, other than for the omission of former section 18(1).
- (3) However, the Minister may grant the authority only if the Minister has approved the work program for the authority.

184 2004 Act, chapter 15, part 3 (Transitional provisions relating to 1923 Act)

185 Commonwealth Native Title Act, section 29 (Notification of parties affected)

186 If a notice mentioned in paragraph (b) was not given, see the 2004 Act, chapter 15, part 3, division 3 (Unfinished applications for 1923 Act ATPs (other than applications for which a Commonwealth Native Title Act s 29 notice has been given)).

- (4) The work program must comply with the initial work program requirements.
- (5) Section 121¹⁸⁷ applies for the application as if it had been made on the 2004 Act start day.
- (6) In this section—
initial work program requirements means the requirements under sections 25A(1)(a) to (e) and 25B¹⁸⁸ for a proposed initial work program.

152 Additional condition of authority to prospect granted under s 151

- (1) This section applies if—
 - (a) section 151 applies to an authority to prospect application; and
 - (b) the authority is granted; and
 - (c) when the authority is granted, land in its area is in the area of a coal or oil shale exploration tenement or a proposed area under a coal or oil shale exploration tenement application.
- (2) It is a condition of the authority that its holder must, within 20 business days after the holder receives notice of the grant, give the tenement holder or the applicant notice stating—
 - (a) that the authority has been granted; and
 - (b) the authority holder's name; and
 - (c) the term of the authority.

187 Section 121 (Additional information may be required about application)

188 Sections 25A (General requirements) and 25B (Program period)

153 Lapsing of unfinished former s 42 applications

If—

- (a) before the 2004 Act start day an application had been made under former section 42,¹⁸⁹ as it was in force immediately before that day; and
- (b) immediately before the 2004 Act start day, the application had not been decided;

the application is taken to lapse on the 2004 Act start day.

Subdivision 2 Authorities to prospect**154 Area of land in area of coal or oil shale mining lease becomes excluded land**

- (1) This section applies for land if it—
 - (a) is within any transitional notional sub-block of an authority to prospect in force from the 2004 Act start day; and
 - (b) was, when the authority was granted, in the area of a coal or oil shale mining lease, whether or not the land was, before the 2004 Act start day, in the area of the authority.
- (2) The land—
 - (a) does not form part of the area of the authority; and
 - (b) is taken to be excluded land for the authority.

155 Conditions of an authority to prospect about expenditure or work becomes its work program

- (1) From the 2004 Act start day, the conditions of an authority to prospect about expenditure or work are, during the period to which the conditions apply, taken to be a later work program for the authority.

¹⁸⁹ Former section 42 (Lease to person other than a holder of an authority to prospect or permittee)

- (2) The period is taken to be the program period for the work program.

Subdivision 3 Leases

156 Program for development and production for a lease becomes its development plan

- (1) From the 2004 Act start day, the current program for development and production for a lease is taken to be the development plan for the lease.
- (2) The plan period for the development plan is taken to be the period from the start of the current program for development and production to the earlier of any of the following to happen—
- (a) the end of the period to which the current program for development and production applies;
 - (b) if, on the 2004 Act start day, the remaining term of the lease is 5 years or more—the first anniversary of the original grant of the lease that happens after 6 months after the 2004 Act start day;
 - (c) if, on the 2004 Act start day, any land in the area of the lease is in the area of a coal or oil shale mining tenement or is the subject of an application under the Mineral Resources Act for a coal or oil shale mining tenement—the end of 6 months after the 2004 Act start day;
 - (d) the end of the lease.¹⁹⁰
- (3) In this section—
- current program for development and production*, for a lease, means its current program for development and

¹⁹⁰ See also section 74Q (Obligation to lodge proposed later development plan).

For leases mentioned in subsection (2)(c), see also section 78 (Additional criteria for deciding whether to approve).

production as mentioned in former section 50¹⁹¹ as in force immediately before the 2004 Act start day.

Subdivision 4 Conflict between 1923 Act petroleum tenure conditions and relevant environmental conditions

157 Environmental conditions prevail

- (1) This section applies from the 2004 Act start day for a condition (the *petroleum condition*) of a 1923 Act petroleum tenure if there are relevant environmental conditions for the tenure.
- (2) The petroleum condition ceases to have any effect if it is the same, or substantially the same, as any of the relevant environmental conditions.
- (3) If the petroleum condition conflicts with any of the relevant environmental conditions, the environmental condition prevails to the extent of the inconsistency.
- (4) In this section—

relevant environmental conditions, for a 1923 Act petroleum tenure, means the conditions of any relevant environmental authority for the tenure.

Subdivision 5 Securities

158 Provision for existing demands for additional or alternative security under former s 43(8)

There is taken never to have been any limit to the amount of additional or alternative security that may be demanded under former section 43(8).¹⁹²

191 Former section 50 (Compliance with and modification of program for development and production)

192 Former section 43 (Security in respect of leases)

159 Monetary securities

- (1) This section applies to security (the *existing security*) held as money in relation to a 1923 Act petroleum tenure immediately before the 2004 Act start day.
- (2) The department must, as soon as practicable, after the 2004 Act start day, transfer the following part of the existing security (the *environmental component*) to the administering authority under the Environmental Protection Act—
 - (a) for an authority to prospect—the amount of the existing security, less \$4 000;
 - (b) for a lease—the amount of the existing security, less \$10 000.
- (3) On the transfer, the rest of the existing security is taken to be security given under this Act for the tenure.
- (4) Until the transfer happens, the existing security may continue to be used for any purpose for which it was given.
- (5) In this section—
used includes realised, in whole or part.

160 Non-monetary securities

- (1) This section applies for security held, other than as money, in relation to a 1923 Act petroleum tenure.
- (2) On the 2004 Act start day, the security may continue to be used for any purpose for which it was given.
- (3) However, subsection (2) does not—
 - (a) prevent the security being used after the 2004 Act start day in relation to an act done or omission made before the 2004 Act start day if it could have been used in relation to the act or omission immediately before the 2004 Act start day; or
 - (b) affect the power under this Act to require replacement security or additional security for the tenure;¹⁹³ or

193 See part 6G (Security).

- (c) affect any power under the Environmental Protection Act to require financial assurance for any relevant environmental authority for the tenure.
- (4) In this section—
used includes realised, in whole or part.

Subdivision 6 Notices of entry under Petroleum Regulation 1966 relating to 1923 Act petroleum tenure

161 Conversion to entry notice

- (1) This section applies if a notice of entry under the *Petroleum Regulation 1966*, section 17 is in force immediately before the 2004 Act start day and the notice relates to a 1923 Act petroleum tenure.¹⁹⁴
- (2) On the 2004 Act start day—
 - (a) the notice of entry is taken to be an entry notice; and
 - (b) the entry notice is taken to have been given under part 6H;¹⁹⁵ and
 - (c) the entry period for the entry notice is the shorter of the following periods to end—
 - (i) the balance of the period of the notice of entry;
 - (ii) the period that ends 6 months after the commencement.

194 For 2004 Act petroleum tenures and converted petroleum tenures under that Act, see section 925 of that Act (Entry notices under Petroleum Regulation 1966, s 17).

195 Part 6H (Private land)

Subdivision 7 Compensation

162 Accrued compensation rights relating to 1923 Act petroleum tenure

- (1) This section applies if—
 - (a) a right, under the former compensation provisions, to compensation existed immediately before the 2004 Act start day; and
 - (b) the right—
 - (i) relates to a 1923 Act petroleum tenure; and
 - (ii) is about an act done or omission made before the 2004 Act start day.¹⁹⁶
- (2) The right continues after the 2004 Act start day.
- (3) The compensation must be decided under the former compensation provisions as if the provisions had not been repealed.
- (4) A matter relating to the compensation that, before the 2004 Act start day, had been referred to the tribunal but not decided must be decided under the former compensation provisions.
- (5) In this section—

former compensation provisions means sections 18(5) and 97 to 99 of this Act, as they were in force immediately before the 2004 Act start day.

163 Existing compensation agreements relating to 1923 Act petroleum tenure

- (1) This section applies to an agreement as mentioned in section 98(1)¹⁹⁷ of this Act, as it was in force immediately

196 For 'converted petroleum tenures' under the 2004 Act, see section 922 (Accrued compensation rights relating to converted petroleum authority) of that Act.

197 Former section 98 (Power to agree as to compensation)

before the 2004 Act start day, for compensation relating to a 1923 Act petroleum tenure.¹⁹⁸

- (2) On the 2004 Act start day, the agreement is taken to be a compensation agreement made under part 6K.¹⁹⁹
- (3) The agreement may be enforced, and may be the subject of an application under section 79S,²⁰⁰ as if it were a compensation agreement under part 6K.²⁰¹
- (4) Subsection (3) applies even if the agreement was not valid because section 98(2), as it was in force immediately before the 2004 Act start day, had not been complied with.

Subdivision 8 Continuation of former cancellation provision in particular circumstances

164 Continued application of former s 22 for previous acts or omissions

Despite its repeal, former section 22²⁰² of this Act, as it was in force immediately before the 2004 Act start day, continues to apply for an act done or omission made in relation to the authority that happened before that day.

Subdivision 9 Existing road uses

165 Exclusion of pt 6I, div 1 for continuance of particular existing road uses

- (1) If, immediately before the commencement, a 1923 Act petroleum tenure holder was using a public road in the area of

198 For 'converted petroleum tenures' under the 2004 Act, see section 922 (Accrued compensation rights for converted petroleum authority) of that Act.

199 Part 6K (General compensation provisions)

200 Section 79S (Tribunal review of compensation)

201 Part 6K (General compensation provisions)

202 Former section 22 (Cancellation of authority to prospect)

the tenure for transport relating to a seismic survey or drilling activity, part 6I, division 1²⁰³ does not apply for the use while it continues.

- (2) Subsection (3) applies for the use (the *haulage use*) by a 1923 Act petroleum tenure holder of a public road for haulage that relates to—
 - (a) the transportation of petroleum produced or processed in the area of the tenure; or
 - (b) the construction of a pipeline.
- (3) Part 6I, division 1, does not apply for the haulage use if—
 - (a) at any time within 12 months before the commencement, the holder was carrying out the haulage use; and
 - (b) the type of haulage under the haulage use is the same, or substantially the same, as the type of haulage carried out within the 12 months.
- (4) Subsection (3) applies even if the haulage use stops and later starts again.
- (5) In this section—

commencement means the day section 78Z²⁰⁴ commences.

Subdivision 9A Provisions for existing Water Act bores

165A Exemption from, or deferral of, reporting provisions for existing 1923 Act petroleum tenure holders

- (1) This section applies to the holder of any 1923 Act petroleum tenure under which petroleum production is carried out before 30 June 2005.
- (2) The holder must, within 12 months after the 2004 Act start day, lodge at the following office a statement about the need to have an underground water impact report for the tenure—

203 Part 6I, division 1 (Public roads)

204 Section 78Z (Notice of notifiable road use)

- (a) the office of the department for lodging the statement, as stated in a gazette notice by the chief executive;
 - (b) if no office is gazetted under paragraph (a)—the office of the chief executive.
- (3) The chief executive may, after considering the statement, decide whether an underground water impact report is required for the tenure.
 - (4) The chief executive may require the holder to give the chief executive further information to enable the chief executive to make a decision under subsection (3).
 - (5) If the chief executive decides an underground water impact report is not required, sections 75IM and 75IX²⁰⁵ are taken never to have applied to the holder.
 - (6) If the chief executive decides an underground water impact report is required, the chief executive may decide a reasonable time by which the report must be lodged.
 - (7) If, under subsection (6), the chief executive decides a time, section 75IM is taken not to apply to the holder until that time.
 - (8) A decision under this section has no effect until the holder is given notice of it.

165B Make good obligation only applies for existing Water Act bores on or from the 2004 Act start day

Section 75IG²⁰⁶ only applies in relation to an existing Water Act bore that was in existence on the 2004 Act start day or came into existence after that day.

205 Sections 75IM (Lodging report) and 75IX (Obligation to lodge review reports)

206 Section 75IG (The make good obligation)

Subdivision 10 Miscellaneous provisions**166 Provision for cancellation of particular conditions of lease 191**

The conditions numbered 1 to 3 and 5 to 10 of the lease numbered 191 are no longer conditions of that lease.²⁰⁷

167 Application of s 3 to particular existing mining tenements

- (1) This section applies to a mining tenement in force immediately before the commencement, other than a coal or oil shale mining tenement.
- (2) Section 3²⁰⁸ applies to the mining tenement as if it had been granted after the commencement.
- (3) However, for a mining tenement other than a mining lease, section 3(3) and (6) does not apply for the carrying out of an authorised activity for a petroleum authority in the area of the tenement until 3 months after the commencement.
- (4) The Mineral Resources Act, section 403, does not apply for the carrying out of the authorised activity until 3 months after the commencement.
- (5) In this section—
commencement means the day section 3 commences.

168 Deferral of s 52A for existing leases

Section 52A²⁰⁹ does not apply to the holder of a lease in force at the commencement of this section until 12 months after the 2004 Act start day.

207 Condition 10 of the lease numbered 191 provides—‘These conditions will have application until they are terminated by legislation implementing a new coal seam gas regime in Queensland.’

208 Section 3 (Relationship with Mineral Resources Act)

209 Section 52A (Application of 2004 Act provisions about coextensive natural underground reservoirs)

169 Deferral of s 79I for particular 1923 Act petroleum tenure holders

If, immediately before the 2004 Act start day, a 1923 Act petroleum tenure holder is lawfully carrying out an authorised activity for the tenure on public land, section 79I²¹⁰ does not apply to the holder until 6 months after the 2004 Act start day.

Division 2 Relinquishment condition until first renewal after 2004 Act start day, and related provisions**170 Application of div 2**

- (1) This division applies for an authority to prospect in force immediately before the 2004 Act start day that, after that day, continues in force as an authority to prospect under this Act.²¹¹
- (2) However, this division only applies for the period of the authority's current term.

Note—

From the end of the current term, the relinquishment conditions and related provisions under part 6A, division 2, subdivision 1, apply.²¹²

171 What is the *current term* of an authority to prospect

- (1) The *current term* of an authority to prospect is the period that starts on the later of the following days and ends when it is first renewed after the 2004 Act start day—
 - (a) the day the authority was granted;
 - (b) the day the last renewal of the authority before the 2004 Act start day became effective.

210 Section 79I (Requirement for entry notice to carry out authorised activities)

211 See the 2004 Act, chapter 15, part 3, division 2 (Conversion of particular 1923 Act ATPs to an authority to prospect under this Act).

212 Part 6A, division 2, subdivision 1 (Standard relinquishment condition and related provisions)

- (2) However, an authority granted between 1 January 1994 and 23 December 1996 ends on a day decided by the Minister.
- (3) For subsection (1)(b), a renewal of the authority is taken to have become effective on the day immediately after the end of its last term before the renewal.

172 What are the *transitional notional sub-blocks* of an authority to prospect

- (1) The *transitional notional sub-blocks*, of an authority to prospect, are the sub-blocks stated in the instrument for the authority at the start of its current term.
- (2) However, the *transitional notional sub-blocks* do not include any sub-block stated in the instrument that is completely within the area of a lease under this Act or a 2004 Act lease.
- (3) For subsection (1), if the instrument—
 - (a) states that the authority’s area includes land within a block; but
 - (b) does not include or exclude any particular sub-block within that block;

the reference to the block is a reference to all sub-blocks within the block, other than any sub-block that is completely within the area of another 1923 Act petroleum tenure or a 2004 Act petroleum tenure.

173 Relinquishment condition if authority includes a reduction requirement

- (1) If the authority requires its area to be reduced to a stated number of blocks on or before stated days—
 - (a) the *relinquishment condition* for the authority is the relinquishment condition under section 74A,²¹³ subject to the change that the required percentage is the required reduction instead of 8.33%; and
 - (b) part 6A, division 2, subdivision 1, applies to the authority, subject to the change under paragraph (a).

213 Section 74A (Standard relinquishment condition)

- (2) However, the relinquishment condition is taken to include a requirement that, before the first renewal of the authority after the 2004 Act start day, at least 5% of the transitional notional sub-blocks for the authority must have been relinquished for each 12 month period of its current term.
- (3) Also, a relinquishment of a part of the area of the authority that overlaps with the area of a lease under this Act or a 2004 Act lease can not be counted as a relinquishment for the relinquishment condition.²¹⁴

174 Relinquishment condition if authority does not include a reduction requirement

- (1) If the authority does not include a requirement mentioned in section 173(1), the *relinquishment condition* for the authority is the relinquishment condition under section 74A,²¹⁵ with the following changes—
 - (a) the required percentage is 5% instead of 8.33%;
 - (b) the reference in sections 74C(2) to the authority originally taking effect is a reference to the start of its current term.
- (2) Part 6A, division 2, subdivision 1, applies to the authority, subject to the changes under subsection (1).

Division 3 Leases overlapping with an existing or proposed mineral development licence

Subdivision 1 Preliminary

175 Definitions for div 3

In this division—

information-giver see section 180(1).

214 See also section 25L (Conditions for renewal application).

215 Section 74A (Standard relinquishment condition)

MDL means mineral development licence under the Mineral Resources Act.

MDL applicant see section 176(2)(c).

MDL application see section 176(1)(b).

overlapping land see section 176(1).

recipient see section 180(1).

176 Application of div 3

- (1) This division applies if, before the 2004 Act start day, a lease was granted and when it was granted its area included any of the following land (**overlapping land**)—
 - (a) land in the area of an MDL that is a coal or oil shale exploration tenement;
 - (b) land the subject of an application (the **MDL application**) under the Mineral Resources Act for an MDL made but not decided before the 2004 Act start day if the MDL applied for would, if granted, be a coal or oil shale exploration tenement.
- (2) However, this division does not apply, or ceases to apply, if—
 - (a) the same person holds the lease and the MDL; or
 - (b) the overlapping land ceases to be in the area of the lease or the MDL or to be subject to the MDL application; or
 - (c) the person who made the MDL application (the **MDL applicant**) is also the lessee; or
 - (d) the MDL application is rejected; or
 - (e) the MDL holder or the MDL applicant has agreed in writing with the lessee that this division does not apply.

Subdivision 2 Additional provisions

177 Obligation of lessee to give access to MDL holder

- (1) This section applies for the MDL or any MDL granted because of the MDL application.

- (2) It is a condition of the lease that the lessee must allow the MDL holder access to the overlapping land to carry out any authorised activity for the MDL if—
 - (a) the required notice has been given; and
 - (b) the carrying out of the activity—
 - (i) does not interfere with the carrying out of an authorised activity for the lease; and
 - (ii) is consistent with the safety management plan under the 2004 Act for any operating plant on the overlapping land the operation of which is an authorised activity for the lease.
- (3) Subsection (2)(b) applies whether or not the operating plant has started to operate.
- (4) The condition under subsection (2) is subject to any agreement about coordinating the development of coal and petroleum in the land (a *coordinated development agreement*) made between the lessee and the MDL holder or the MDL applicant.
- (5) In this section—

required notice means a notice from the MDL holder to the lessee, given a reasonable period before the start of the authorised activity for the MDL, that states when and where the activity is proposed to be carried out.

178 Additional requirements for later development plans for lease

- (1) This section imposes additional requirements for the approval of any proposed later development plan for the lease made after the 2004 Act start day.
- (2) However, the additional requirements do not apply if the MDL holder or the MDL applicant has made a coordinated development agreement with the lessee or has agreed in writing in relation to the proposed plan and a copy of either agreement has been lodged at—

- (a) the office of the department for lodging proposed later development plans, as stated in a gazette notice by the chief executive; or
 - (b) if no office is gazetted under paragraph (a)—the office of the chief executive.
- (3) The lessee must, before lodging the proposed plan under section 74Q,²¹⁶ give the MDL holder or the MDL applicant a copy and use reasonable attempts to—
- (a) consult with the MDL holder or the MDL applicant about the proposed plan; and
 - (b) change the proposed plan to include reasonable provisions proposed by the MDL holder or the MDL applicant that will optimise the safe and efficient production of—
 - (i) petroleum under the lease; and
 - (ii) coal or oil shale under any future mining lease over the overlapping land that may be granted to the MDL holder or the MDL applicant; and
 - (c) provide for the following in the proposed plan—
 - (i) the location and timing of the development of coal and petroleum in the overlapping land;
 - (ii) the mining or production of the petroleum in a way that is consistent with the proposed mining of the coal;
 - (iii) a way for the coal to be developed in a timely way, including, for example, by appropriate periodic surrenders of parts of the lease.
- (4) However, the obligations under subsection (3)(b) and (c) apply only to the extent the provisions are commercially and technically feasible for the lessee.
- (5) Also, when the lessee lodges the proposed plan, it must be accompanied by a written notice stating each of the following—
- (a) details of the consultation;

216 Section 74Q (Obligation to lodge proposed later development plan)

- (b) the results of the consultation;
- (c) any changes made to the proposed plan because of the consultation;
- (d) the lessee's assessment of the potential for the lessee and the MDL holder or the MDL applicant to make a coordinated development agreement.

179 Minister may require further negotiation

- (1) The Minister may, after receiving the notice under section 178(5), require the lessee to conduct negotiations with the MDL holder or the MDL applicant with a view to agreeing about changes of a type mentioned in section 178(3)(b).
- (2) The lessee must use all reasonable attempts to comply with the requirement.
- (3) If the lessee does not comply with subsection (2), the Minister may refuse to approve the lessee's proposed later development plan.

Subdivision 3 Confidentiality of information

180 Application of sdiv 3

- (1) This section applies if a tenure holder or a person who has applied for a tenure (the *information-giver*) gives another tenure holder or a person who has applied for a tenure (the *recipient*) information—
 - (a) that this division requires the information-giver to give the recipient, including, for example, information given to comply with section 178(3); or
 - (b) for the purposes of this division.
- (2) However, this section applies subject to any agreement between the information-giver and the recipient about the information or its use.
- (3) In this section—
information means information given verbally or in writing.

tenure means the lease, the MDL or any MDL granted because of the MDL application.

181 Confidentiality obligations

- (1) The recipient must not disclose the information to anyone else, unless—
 - (a) the information is publicly available; or
 - (b) the disclosure is—
 - (i) to someone whom the recipient has authorised to carry out the authorised activities for the recipient's lease, MDL or MDL granted because of the MDL application; or
 - (ii) made with the information-giver's consent; or
 - (iii) expressly permitted or required under this or another Act; or
 - (iv) to the Minister.
- (2) The recipient may use the information only for the purpose for which it is given.

182 Civil remedies

If the recipient does not comply with section 181, a court of competent jurisdiction may order the recipient to pay the information-giver all or any of the following—

- (a) compensation for any loss the information-giver incurred because of the failure to comply with the section;
- (b) the amount of any commercial gain the recipient made because of the failure to comply with the section.

Part 11**Transitional provisions for
Petroleum and Other
Legislation Amendment Act
2005****183 S 86 water bores**

- (1) This section applies for a water bore—
 - (a) drilled with the permission of the Minister under the 1923 Act, section 86; and
 - (b) within the area of a 1923 Act petroleum tenure.
- (2) On and from the day the *Petroleum and Other Legislation Amendment Act 2005* commences, the water bore—
 - (a) is taken to be a water supply bore under this Act; and
 - (b) may be transferred without complying with section 75Q(2).

184 Decommissioning wells and bores

- (1) Until 1 July 2005, subsection (2) applies to a well or bore mentioned in section 75U instead of section 75U(4)(a).
- (2) The well or bore must be plugged and abandoned under this Act, as the Act was immediately before the commencement of this section.

Schedule Decisions subject to appeal

section 104(1)

Section reference	Description of decision
--------------------------	--------------------------------

Authorities to prospect

25E	Refusal to approve proposed later work program
25J	Refusal to approve amendment to work program
25O	Refusal of renewal application

Leases

53E	Refusal to approve proposed later development plan
53F	Deferral of approval of later development plan

Provisions for existing Water Act bores

75IQ	Rejection of underground water impact report
75IT	Requirement to lodge amended pre-closure report
75IZB	Requirement to lodge amended review report

Schedule 1 (continued)

Section reference	Description of decision
Water monitoring authorities	
75WN	Decision to refuse amendment of water monitoring authority or to grant water monitoring authority subject to the applicant's written agreement to the Minister amending the authority in a stated way that the Minister considers appropriate
Common provisions	
78E	Decision to require security
78F	Decision to require additional security
79(1)	Decision to give road use direction
79L(1)	Imposition of condition on entry on public land, other than a condition agreed to or requested by the relevant 1923 Act petroleum tenure holder
80J(1)	Refusal to approve permitted dealing
80T	Decision to take noncompliance action
101(2)	Decision to take action to ensure compliance with a requirement under this Act of a 1923 Act petroleum tenure holder, other than action to which the holder has agreed
126	Refusal of application to replace instrument

Endnotes

1 Index to endnotes

	Page
2 Date to which amendments incorporated	259
3 Key	260
4 Table of reprints	260
5 Tables in earlier reprints	261
6 List of legislation	261
7 List of annotations	265
8 List of forms notified or published in the gazette	306
9 Table of renumbered provisions	307

2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 3 March 2005. Future amendments of the Petroleum Act 1923 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

3 Key

Key to abbreviations in list of legislation and annotations

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	(prev)	= previously
amd	= amended	proc	= proclamation
amdt	= amendment	prov	= provision
ch	= chapter	pt	= part
def	= definition	pubd	= published
div	= division	R[X]	= Reprint No.[X]
exp	= expires/expired	RA	= Reprints Act 1992
gaz	= gazette	reloc	= relocated
hdg	= heading	renum	= renumbered
ins	= inserted	rep	= repealed
lap	= lapsed	(retro)	= retrospectively
notfd	= notified	rv	= revised edition
o in c	= order in council	s	= section
om	= omitted	sch	= schedule
orig	= original	sdiv	= subdivision
p	= page	SIA	= Statutory Instruments Act 1992
para	= paragraph	SIR	= Statutory Instruments Regulation 2002
prec	= preceding	SL	= subordinate legislation
pres	= present	sub	= substituted
prev	= previous	unnum	= unnumbered

4 Table of reprints

Reprints are issued for both future and past effective dates. For the most up-to-date table of reprints, see the reprint with the latest effective date.

If a reprint number includes a letter of the alphabet, the reprint was released in unauthorised, electronic form only.

Reprint No.	Amendments included	Effective	Reprint date
1	to 1993 Act No. 35	23 July 1993	23 June 1994
2	to 1995 Act No. 22	1 July 1995	1 July 1995
3	to 1996 Act No. 1	18 April 1996	3 June 1996
3A	to 1996 Act No. 77	12 December 1996	21 March 1997
3B	to 1997 Act No. 17	1 July 1997	25 July 1997
4	to 1997 Act No. 71	1 December 1997	9 January 1998
4A	to 1999 Act No. 15	11 June 1999	17 August 1999
4B	to 1999 Act No. 15	18 May 2000	23 May 2000
4C	to 2000 Act No. 26	1 July 2000	19 July 2000
4D	to 2001 Act No. 45	15 July 2001	27 July 2001
4E	to 2001 Act No. 71	1 March 2002	1 March 2002
5	to 2001 Act No. 71	1 March 2002	27 March 2002
5A rv	to 2001 Act No. 71	19 April 2002	23 April 2002

(Column discontinued)

Reprint No.	Amendments included	Effective	Notes
5B	to 2003 Act No. 19	9 May 2003	
5C	to 2003 Act No. 29	1 July 2003	
5D	to 2003 Act No. 56	18 September 2003	
5E	to 2004 Act No. 4	6 May 2004	
6	to 2004 Act No. 26	31 December 2004	
6A	to 2005 Act No. 3	3 March 2005	

5 Tables in earlier reprints

Name of table	Reprint No.
Changed citations and remade laws	1, 2
Changed names and titles	1, 3
Corrected minor errors	1, 3
Obsolete and redundant provisions	1, 3
Renumbered provisions	1

6 List of legislation

Petroleum Act 1923 14 Geo 5 No. 26

date of assent 12 November 1923

commenced on date of assent

amending legislation—

Petroleum Act Amendment Act 1927 18 Geo 5 No. 13

date of assent 17 December 1927

commenced on date of assent

Petroleum Acts Amendment Act 1929 20 Geo 5 No. 17

date of assent 5 December 1929

commenced on date of assent

Petroleum Acts Amendment Act 1939 3 Geo 6 No. 19

date of assent 24 November 1939

commenced on date of assent

Petroleum Acts Amendment Act 1950 14 Geo 6 No. 20

date of assent 30 November 1950

commenced on date of assent

Petroleum Acts Amendment Act 1955 4 Eliz 2 No. 25

date of assent 10 October 1955

commenced on date of assent

Petroleum Acts Amendment Act 1958 7 Eliz 2 No. 25

date of assent 7 October 1958

commenced on date of assent

Petroleum Acts Amendment Act 1962 No. 30

date of assent 18 December 1962
commenced on date of assent

Aliens Act 1965 No. 19 s 4 sch 2

date of assent 27 April 1965
commenced on date of assent

Petroleum Acts Amendment Act 1967 No. 37

date of assent 6 December 1967
commenced on date of assent

Metric Conversion Act 1972 No. 31 s 6 sch 1

date of assent 21 December 1972
commenced 27 November 1976 (proc pubd gaz 27 November 1976 p 1394)

Petroleum Act Amendment Act 1976 No. 89

date of assent 17 December 1976
commenced 1 January 1977 (see s 2)

Petroleum Act Amendment Act 1981 No. 14

date of assent 14 April 1981
commenced on date of assent

Mining Act and Other Acts Amendment Act 1982 No. 23 pt 4

date of assent 29 April 1982
commenced 1 August 1982 (proc pubd gaz 24 July 1982 p 2422)

Mines Department (Administration) Act 1982 No. 31 s 3 sch

date of assent 5 May 1982
commenced on date of assent

Mining Act and Petroleum Act Amendment Act 1983 No. 13 pt 3

date of assent 13 April 1983
commenced on date of assent

Petroleum Act Amendment Act 1985 No. 101

date of assent 13 December 1985
commenced on date of assent

Real Property Acts and Other Acts Amendment Act 1986 No. 26 s 4 sch

date of assent 8 April 1986
commenced on date of assent

Petroleum Act Amendment Act 1988 No. 51

date of assent 12 May 1988
commenced on date of assent

Petroleum Act Amendment Act 1990 No. 108

date of assent 18 December 1990
ss 1–2 commenced on date of assent
remaining provisions commenced 1 September 1990 (see s 2)

Petroleum Amendment Act 1991 No. 65

date of assent 17 October 1991
s 4 commenced 12 May 1988 (see s 2)
remaining provisions commenced on date of assent

Petroleum Amendment Act 1993 No. 35 pts 1–2

date of assent 23 July 1993
commenced on date of assent

Statute Law (Miscellaneous Provisions) Act (No. 2) 1994 No. 87 ss 1–3 sch 2

date of assent 1 December 1994
ss 1–2 commenced on date of assent
remaining provisions commenced 23 July 1993 (see s 3 sch 2)

Petroleum Amendment Act 1995 No. 22

date of assent 11 April 1995
ss 6–7 commenced 1 July 1995
remaining provisions commenced on date of assent

Statute Law (Minor Amendments) Act 1995 No. 51 ss 1, 4 sch

date of assent 22 November 1995
commenced on date of assent

Statute Law Revision Act 1995 No. 57 ss 1–2, 4 sch 1

date of assent 28 November 1995
commenced on date of assent

Petroleum Amendment Act 1996 No. 1

date of assent 18 April 1996
commenced on date of assent

Petroleum Amendment Act (No. 2) 1996 No. 77

date of assent 12 December 1996
commenced on date of assent

**Miscellaneous Acts (Non-bank Financial Institutions) Amendment Act 1997 No. 17
ss 1–2, 74 sch**

date of assent 15 May 1997
ss 1–2 commenced on date of assent
remaining provisions commenced 1 July 1997 (1997 SL No. 163)

Petroleum and Gas Legislation Amendment Act 1997 No. 71 pts 1–2 sch

date of assent 1 December 1997
commenced on date of assent

Gas Pipelines Access (Queensland) Act 1998 No. 28 ss 1–2 pt 7 div 3

date of assent 18 May 1998
ss 1–2 commenced on date of assent
remaining provisions commenced 18 May 2000 (automatic commencement under
AIA s 15DA(2)) (1999 SL No. 86 s 2)

Explosives Act 1999 No. 15 ss 1–2, 137 sch 1

date of assent 22 April 1999
ss 1–2 commenced on date of assent
remaining provisions commenced 11 June 1999 (1999 SL No. 108)

GST and Related Matters Act 2000 No. 20 ss 1, 2(4), 29 sch 3

date of assent 23 June 2000

ss 1–2 commenced on date of assent

remaining provisions commenced on 1 July 2000 (see s 2(4))

Primary Industries and Natural Resources Legislation Amendment Act 2000 No. 26**ss 1, 12 sch 1**

date of assent 27 June 2000

commenced on date of assent

Water Act 2000 No. 34 ss 1–2, 1145 sch 3

date of assent 13 September 2000

ss 1–2 commenced on date of assent

remaining provisions commenced 19 April 2002 (2002 SL No. 69) (provisions were to commence 13 September 2002 (automatic commencement under AIA s 15DA(2) (2001 SL No. 158 s 2)))

Medical Practitioners Registration Act 2001 No. 7 ss 1–2, 302 sch 2

date of assent 11 May 2001

ss 1–2 commenced on date of assent

remaining provisions commenced 1 March 2002 (2002 SL No. 30)

Corporations (Ancillary Provisions) Act 2001 No. 45 ss 1–2, 29 sch 3

date of assent 28 June 2001

ss 1–2 commenced on date of assent

sch 3 commenced 15 July 2001 (see s 2(2) of Act 2001 No. 45 (Qld) and Corporations Act 2001 No. 50 (Cwlth) and proc pubd Cwlth of Australia gaz 13 July 2001, No. S285)

remaining provision commenced immediately before 15 July 2001 (see s 2(1) of Act 2001 No. 45 (Qld) and Corporations Act 2001 No. 50 (Cwlth) and proc pubd Cwlth of Australia gaz 13 July 2001, No. S285)

Duties Act 2001 No. 71 ss 1–2(1), 551 sch 1

date of assent 13 November 2001

ss 1–2 commenced on date of assent

remaining provisions commenced 1 March 2002 (2002 SL No. 10)

Statute Law (Miscellaneous Provisions) Act 2003 No. 19 s 3 sch

date of assent 9 May 2003

commenced on date of assent

Gas Supply Act 2003 No. 29 ss 1–2, ch 8 pt 5

date of assent 23 May 2003

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 2003 (2003 SL No. 121)

Mineral Resources and Another Act Amendment Act 2003 No. 56 pts 1, 3

date of assent 18 September 2003

commenced on date of assent

Natural Resources and Other Legislation Amendment Act 2004 No. 4 s 1, pt 6B

date of assent 6 May 2004

commenced on date of assent

Geothermal Exploration Act 2004 No. 12 ss 1–2, ch 8 pt 6

date of assent 31 May 2004

ss 1–2 commenced on date of assent

remaining provisions not yet proclaimed into force (see s 2)**Petroleum and Other Legislation Amendment Act 2004 No. 26 ss 1, 2(2), pt 2 (this Act is amended, see amending legislation below)**

date of assent 12 October 2004

ss 1–2 commenced on date of assent

remaining provisions commenced 31 December 2004 (see s 2(2) and 2004 SL No. 308)

amending legislation—

Natural Resources Legislation Amendment Act 2004 No. 33 ss 1, 21A–21B (amends 2004 No. 26 above)

date of assent 27 October 2004

commenced on date of assent

Petroleum and Other Legislation Amendment Act 2005 No. 3 s 1, pt 3, s 105 sch

date of assent 3 March 2005

commenced on date of assent

7 List of annotations

This reprint has been renumbered—see table of renumbered provisions in endnote 9.**Title**

amd 1997 No. 71 s 3

Short title

s 1 sub 1995 No. 22 s 3 sch

Definitions**prov hdg**

amd 1997 No. 71 s 1 sch

s 2prev s 2 amd 1927 18 Geo 5 No. 13 s 2(i); 1988 No. 51 s 3
om R1 (see RA s 36)

pres s 2 amd 1927 18 Geo 5 No. 13 s 2(ii); 1995 No. 22 s 4(3)

def “**1923 Act petroleum tenure**” ins 2004 No. 26 s 4(2)def “**2004 Act**” ins 2004 No. 26 s 4(2)def “**2004 Act ATP**” ins 2004 No. 26 s 4(2)def “**2004 Act lease**” ins 2004 No. 26 s 4(2)def “**2004 Act petroleum authority**” ins 2005 No. 3 s 10(2)def “**2004 Act petroleum tenure**” ins 2004 No. 26 s 4(2)def “**2004 Act start day**” ins 2004 No. 26 s 4(2)def “**access**” ins 1995 No. 22 s 4(2)

om 2003 No. 29 s 373

def “**access agreement**” ins 1995 No. 22 s 4(2)

om 2003 No. 29 s 373

def “**access dispute**” ins 1995 No. 22 s 4(2)

om 2003 No. 29 s 373

- def “**access principles**” ins 1995 No. 22 s 4(2)
 - sub 1997 No. 71 s 4(1)–(2)
 - om 2003 No. 29 s 373
- def “**access provider**” ins 1995 No. 22 s 4(2)
 - om 2003 No. 29 s 373
- def “**appeal period**” ins 2004 No. 26 s 4(2)
- def “**approved arbitrator**” ins 1995 No. 22 s 4(2)
 - om 2003 No. 29 s 373
- def “**area**” ins 2004 No. 26 s 4(2)
- def “**associated facility**” ins 1995 No. 22 s 4(2)
 - om 2003 No. 29 s 373
- def “**authorised activity**” ins 2004 No. 26 s 4(2)
 - amd 2005 No. 3 s 10(3)
- def “**authority to prospect**” ins 1955 4 Eliz 2 No. 25 s 2
 - sub 1995 No. 22 s 4(1)–(2)
- def “**award**” ins 1995 No. 22 s 4(2)
 - om 2003 No. 29 s 373
- def “**barrel**” ins 1927 18 Geo 5 No. 13 s 2(ii)
 - sub 1967 No. 37 s 2(a)
 - om 2003 No. 29 s 373
- def “**block**” ins 2004 No. 26 s 4(2)
- def “**capability criteria**” ins 2004 No. 26 s 4(2)
- def “**capacity entitlement**” ins 1995 No. 22 s 4(2)
 - om 2003 No. 29 s 373
- def “**casinghead petroleum spirit**” ins 1962 No. 30 s 2(1)(a)
 - om 2003 No. 29 s 373
- def “**coal exploration tenement**” ins 2004 No. 26 s 4(2)
- def “**coal mining lease**” ins 2004 No. 26 s 4(2)
- def “**coal or oil shale mining lease**” ins 2004 No. 26 s 4(2)
- def “**coal or oil shale mining tenement**” ins 2004 No. 26 s 4(2)
- def “**coal seam gas**” ins 2004 No. 26 s 4(2)
- def “**commercial viability report**” ins 2004 No. 26 s 4(2)
- def “**Commonwealth Native Title Act**” ins 2004 No. 26 s 4(2)
- def “**company**” ins 1965 No. 19 s 4 sch 2
 - sub 1983 No. 13 s 12
 - om 1995 No. 22 s 4(1)
- def “**compensation agreement**” ins 2004 No. 26 s 4(2)
- def “**compensation liability**” ins 2004 No. 26 s 4(2)
- def “**conditions**” ins 2004 No. 26 s 4(2)
- def “**coordinated development agreement**” ins 2004 No. 26 s 4(2)
- def “**coordination arrangement**” ins 2004 No. 26 s 4(2)
- def “**corporation sole**” ins 1988 No. 51 s 4
 - sub 1995 No. 22 s 4(1)–(2)
 - om 2004 No. 26 s 4(1)
- def “**Crown land**” sub 1962 No. 30 s 2(1)(b)
 - om 1995 No. 22 s 4(1)
- def “**crude oil**” ins 1962 No. 30 s 2(1)(b)
- def “**CSG assessment criteria**” ins 2004 No. 26 s 4(2)
- def “**CSG statement**” ins 2004 No. 26 s 4(2)
- def “**current term**” ins 2004 No. 26 s 4(2)

- def “**dangerous situation**” ins 2004 No. 26 s 4(2)
- def “**declared pipeline**” ins 1985 No. 101 s 2(a)
 - sub 1993 No. 35 s 3
 - om 1995 No. 22 s 4(1)
- def “**developable capacity**” ins 1995 No. 22 s 4(2)
 - om 2003 No. 29 s 373
- def “**development plan**” ins 2004 No. 26 s 4(2)
- def “**drill**” ins 2004 No. 26 s 4(2)
- def “**drilling**” amd 2004 No. 26 s 4(3)
- def “**eligible claimant**” ins 2004 No. 26 s 4(2)
- def “**enter**” ins 2004 No. 26 s 4(2)
- def “**entry notice**” ins 2004 No. 26 s 4(2)
- def “**entry period**” ins 2004 No. 26 s 4(2)
- def “**entry permission**” ins 1995 No. 22 s 4(2)
 - om 2004 No. 26 s 4(1)
- def “**Environmental Protection Act**” ins 2004 No. 26 s 4(2)
- def “**excluded land**” ins 2004 No. 26 s 4(2)
- def “**executive officer**” ins 1995 No. 22 s 4(2)
 - om 2004 No. 26 s 4(1)
- def “**existing Water Act bore**” ins 2005 No. 3 s 10(2)
- def “**explore**” ins 2004 No. 26 s 4(2)
- def “**facility**” ins 1995 No. 22 s 4(2)
 - amd 1996 No. 77 s 3; 1997 No. 71 s 4(3)
 - om 2003 No. 29 s 373
- def “**facility owner**” ins 1995 No. 22 s 4(2)
 - om 2003 No. 29 s 373
- def “**facility user**” ins 1995 No. 22 s 4(2)
 - om 2003 No. 29 s 373
- def “**fee**” ins 2004 No. 26 s 4(2)
- def “**first tenure**” ins 2004 No. 26 s 4(2)
- def “**geothermal exploration permit**” ins 2004 No. 26 s 4(2)
- def “**holder**” ins 2004 No. 26 s 4(2)
- def “**impaired capacity**” ins 2005 No. 3 s 10(2)
- def “**incidental coal seam gas**” ins 2004 No. 26 s 4(2)
- def “**independent viability assessment**” ins 2004 No. 26 s 4(2)
- def “**indicative access conditions**” ins 1995 No. 22 s 4(2)
 - om 2003 No. 29 s 373
- def “**indicative tariff**” ins 1997 No. 71 s 4(2)
 - om 2003 No. 29 s 373
- def “**indicative tariff schedule**” ins 1995 No. 22 s 4(2)
 - om 1997 No. 71 s 4(1)
- def “**information notice**” ins 2004 No. 26 s 4(2)
- def “**interfere with**” ins 2005 No. 3 s 10(2)
- def “**land**” ins 1962 No. 30 s 2(1)(c)
- def “**later development plan requirements**” ins 2004 No. 26 s 4(2)
- def “**later work program requirements**” ins 2004 No. 26 s 4(2)
- def “**licence**” ins 1962 No. 30 s 2(1)(d)
 - amd 1985 No. 101 s 2(b)
 - sub 1995 No. 22 s 4(1)–(2)
 - om 2004 No. 26 s 4(1)

- def “**licensee**” ins 1962 No. 30 s 2(1)(d)
om 2004 No. 26 s 4(1)
- def “**licensed water bore driller**” ins 2004 No. 26 s 4(2)
- def “**make good agreement**” ins 2005 No. 3 s 10(2)
- def “**make good obligation**” ins 2005 No. 3 s 10(2)
- def “**mandatory condition**” ins 2004 No. 26 s 4(2)
- def “**mark the land**” om 2004 No. 26 s 4(1)
- def “**Mineral Resources Act**” ins 2004 No. 26 s 4(2)
- def “**mining interest**” ins 2004 No. 26 s 4(2)
- def “**mining lease**” ins 2004 No. 26 s 4(2)
- def “**mining tenement**” ins 2004 No. 26 s 4(2)
- def “**Minister**” ins 1962 No. 30 s 2(1)(e)
sub 1967 No. 37 s 2(b)
om 1993 No. 35 s 3(1)
- def “**monitoring report**” ins 2005 No. 3 s 10(2)
- def “**natural gas**” ins 1962 No. 30 s 2(1)(e)
- def “**natural underground reservoir**” ins 2004 No. 26 s 4(2)
- def “**nominal capacity**” ins 1995 No. 22 s 4(2)
om 2003 No. 29 s 373
- def “**noncompliance action**” ins 2004 No. 26 s 4(2)
- def “**non-discriminatory**” ins 1995 No. 22 s 4(2)
om 2003 No. 29 s 373
- def “**notice**” ins 2004 No. 26 s 4(2)
- def “**notifiable road use**” ins 2004 No. 26 s 4(2)
- def “**occupier**” ins 2004 No. 26 s 4(2)
- def “**oil shale**” ins 2004 No. 26 s 4(2)
- def “**oil shale exploration tenement**” ins 2004 No. 26 s 4(2)
- def “**oil shale mining lease**” ins 2004 No. 26 s 4(2)
- def “**on**” ins 1995 No. 22 s 4(2)
sub 2004 No. 26 s 4(1)–(2)
- def “**operate**” ins 2004 No. 26 s 4(2)
- def “**operating plant**” ins 2004 No. 26 s 4(2)
- def “**original notional sub-blocks**” ins 2004 No. 26 s 4(2)
- def “**owner**” ins 2004 No. 26 s 4(2)
amd 2005 No. 3 s 10(4)–(5)
- def “**permit**” sub 1995 No. 22 s 4(1)–(2)
om 2004 No. 26 s 4(1)
- def “**permitted dealing**” ins 2004 No. 26 s 4(2)
- def “**permittee**” sub 1995 No. 22 s 4(1)–(2)
om 2004 No. 26 s 4(1)
- def “**person**” om 1995 No. 22 s 4(1)
- def “**petroleum**” amd 1929 20 Geo 5 No. 17 s 2
sub 1967 No. 37 s 2(c)
amd 1982 No. 23 s 73; 2004 No. 26 s 4(5)
- def “**Petroleum Advisory Board**” ins 1927 18 Geo 5 No. 13 s 2(ii)
om 2004 No. 26 s 4(1)
- def “**petroleum register**” ins 2004 No. 26 s 4(2)
- def “**petroleum royalty**” ins 2004 No. 26 s 4(2)
- def “**pipeline**” ins 1962 No. 30 s 2(1)(f)
amd 1997 No. 71 s 4(4)

- def “**pipeline licence**” ins 1995 No. 22 s 4(2)
om 2004 No. 26 s 4(1)
- def “**place**” ins 2004 No. 26 s 4(2)
- def “**plan period**” ins 2004 No. 26 s 4(2)
- def “**Prescribed**” om 1993 No. 35 s 3(1)
- def “**private land**” sub 1962 No. 30 s 2(1)(g); 1995 No. 22 s 4(1)–(2); 2004 No. 26 s 4(1)–(2)
- def “**produced**” ins 2004 No. 26 s 4(2)
- def “**program period**” ins 2004 No. 26 s 4(2)
- def “**proposed facility user**” ins 1995 No. 22 s 4(2)
om 2003 No. 29 s 373
- def “**provisions**” ins 2004 No. 26 s 4(2)
- def “**public land**” ins 2004 No. 26 s 4(2)
- def “**public land authority**” ins 2004 No. 26 s 4(2)
- def “**public road**” ins 2004 No. 26 s 4(2)
- def “**public road authority**” ins 2004 No. 26 s 4(2)
- def “**Public Works Land Resumption Act**” om R1 (see RA s 39) (see 1988 No. 51 s 9)
- def “**recipient**” ins 2004 No. 26 s 4(2)
- def “**refinery permission**” ins 1995 No. 22 s 4(2)
om 2004 No. 26 s 4(1)
- def “**related corporation**” ins 1995 No. 22 s 4(2)
sub 2001 No. 45 s 29 sch 3
om 2003 No. 29 s 373
- def “**relevant environmental authority**” ins 2004 No. 26 s 4(2)
sub 2005 No. 3 s 10(1)–(2)
- def “**relinquishment condition**” ins 2004 No. 26 s 4(2)
- def “**remedial powers**” ins 2004 No. 26 s 4(2)
- def “**report**” ins 2004 No. 26 s 4(2)
- def “**representative**” ins 1995 No. 22 s 4(2)
om 2004 No. 26 s 4(1)
- def “**required information**” ins 2004 No. 26 s 4(2)
- def “**restoration measures**” ins 2005 No. 3 s 10(2)
- def “**review event**” ins 1995 No. 22 s 4(2)
om 2003 No. 29 s 373
- def “**review report**” ins 2005 No. 3 s 10(2)
- def “**road use direction**” ins 2004 No. 26 s 4(2)
- def “**safety management plan**” ins 2004 No. 26 s 4(2)
- def “**second tenure**” ins 2004 No. 26 s 4(2)
- def “**security**” ins 2004 No. 26 s 4(2)
- def “**services of the State**” ins 2004 No. 26 s 4(2)
- def “**share**” ins 2004 No. 26 s 4(2)
- def “**shared technical information**” ins 1995 No. 22 s 4(2)
om 2003 No. 29 s 373
- def “**spare capacity**” ins 1995 No. 22 s 4(2)
om 2003 No. 29 s 373
- def “**specific purpose mining lease**” ins 2004 No. 26 s 4(2)
- def “**specified configuration**” ins 1995 No. 22 s 4(2)
om 2003 No. 29 s 373
- def “**State controlled road**” ins 2004 No. 26 s 4(2)

- def “**State mining engineer**” ins 1981 No. 14 s 2
 sub 1993 No. 35 s 3
 om 1995 No. 22 s 4(1)
- def “**state of mind**” ins 1995 No. 22 s 4(2)
 om 2003 No. 29 s 373
- def “**structure**” ins 2004 No. 26 s 4(2)
- def “**sub-block**” ins 2004 No. 26 s 4(2)
- def “**sublease**” ins 1995 No. 22 s 4(2)
 amd 2004 No. 26 s 4(6)
- def “**submission**” ins 2004 No. 26 s 4(2)
- def “**tariff setting principles**” ins 1995 No. 22 s 4(2)
 om 1997 No. 71 s 4(1)
- def “**the public interest**” ins 2004 No. 26 s 4(2)
- def “**This Act**” om 1993 No. 35 s 3(1)
- def “**transfer**” ins 2004 No. 26 s 4(2)
- def “**transitional notional sub-blocks**” ins 2004 No. 26 s 4(2)
- def “**tribunal**” ins 2004 No. 26 s 4(2)
- def “**trigger threshold**” ins 2005 No. 3 s 10(2)
- def “**unallocated State land**” ins 1995 No. 22 s 4(2)
- def “**underground water**” ins 2005 No. 3 s 10(2)
- def “**underground water flow model**” ins 2005 No. 3 s 10(2)
- def “**underground water impact report**” ins 2005 No. 3 s 10(2)
- def “**unduly affected**” ins 2005 No. 3 s 10(2)
- def “**unitisation arrangement**” ins 1995 No. 22 s 4(2)
 om 2004 No. 26 s 4(1)
- def “**usual relinquishment**” ins 2004 No. 26 s 4(2)
- def “**waiver of entry notice**” ins 2004 No. 26 s 4(2)
- def “**Water Act**” ins 2004 No. 26 s 4(2)
- def “**Water Act regulator**” ins 2004 No. 26 s 4(2)
- def “**water monitoring authority**” ins 2005 No. 3 s 10(2)
- def “**water observation bore**” ins 2004 No. 26 s 4(2)
- def “**water supply bore**” ins 2004 No. 26 s 4(2)
 sub 2005 No. 3 s 10(1)–(2)
- def “**well**” ins 2004 No. 26 s 4(2)
 amd 2005 No. 3 s 10(6)–(7)
- def “**wellhead**” ins 2004 No. 26 s 4(2)
- def “**work program**” ins 2004 No. 26 s 4(2)
 amd 2005 No. 3 s 10(8)

Relationship with Mineral Resources Act

- s 3 ins 1995 No. 22 s 5
 sub 2004 No. 26 s 5

Relationship with Nature Conservation Act 1992

- s 4 prev s 4 ins 1995 No. 22 s 5
 om 2003 No. 29 s 374
 pres s 4 ins 2004 No. 26 s 5

Appointment of pipelines tribunal

s 4B ins 1988 No. 51 s 5(b)
amd 1993 No. 35 s 4
om 1995 No. 22 s 7

Disclosure of member's interest

s 4C ins 1988 No. 51 s 5(b)
om 1995 No. 22 s 7

Inquiry by pipelines tribunal

s 4D ins 1988 No. 51 s 5(b)
om 1995 No. 22 s 7

Inquiry into transportation charges

s 4E ins 1988 No. 51 s 5(b)
amd 1991 No. 65 s 4 (retro)
om 1995 No. 22 s 7

Pipelines tribunal deemed a commission of inquiry

s 4F ins 1988 No. 51 s 5(b)
om 1995 No. 22 s 7

Powers following inquiry

s 4G ins 1988 No. 51 s 5(b)
sub 1993 No. 35 s 5
om 1995 No. 22 s 7

Adjustment of pipeline charges

s 4H ins 1993 No. 35 s 5
om 1995 No. 22 s 7

Meaning of "proposed facility user"

s 5 ins 1995 No. 22 s 5
om 2003 No. 29 s 374

Meaning of "spare capacity"

s 6 ins 1995 No. 22 s 5
om 2003 No. 29 s 374

Application of Act

s 7 amd 1962 No. 30 s 3; 1982 No. 23 s 74; 1998 No. 28 s 72; 1999 No. 15 s 137
sch 1; 2004 No. 26 s 6

Act applies out to coastal waters of the State

s 7A ins 1997 No. 71 s 5

Qualification of 1923 petroleum tenure holders

prov hdg amd 2004 No. 26 s 18(1)
s 7AA (prev s 24) amd 1929 20 Geo 5 No. 17 s 3
sub 1965 No. 19 s 4 sch 2
amd 2004 No. 26 s 18(2)–(3)
reloc 2004 No. 26 s 18(4)

Notes in text

s 7B ins 2004 No. 26 s 7

PART 2—PETROLEUM ADVISORY BOARD

pt hdg ins 1927 18 Geo 5 No. 13 s 2(iii)
 amd 1988 No. 51 s 5(a); 1995 No. 22 s 6
 om 2004 No. 26 s 8

Appointment of Petroleum Advisory Board

s 8 ins 1927 18 Geo 5 No. 13 s 2(iii)
 amd 1995 No. 22 s 3 sch
 om 2004 No. 26 s 8

Petroleum is Crown property

hdg prec s 9 om 1995 No. 22 s 3 sch

Petroleum the property of the Crown

s 9 amd 1967 No. 37 s 3; 1991 No. 65 s 5

Reservations in grants

s 10 amd 1967 No. 37 s 4; 1995 No. 22 s 3 sch; 2004 No. 26 s 9

Qualification of companies registered in Queensland

s 10A ins 1929 20 Geo 5 No. 17 s 4
 sub 1962 No. 30 s 5
 om 1965 No. 19 s 4 sch 2

Incorporation of Minister

s 11 prev s 11 om 1939 3 Geo 6 No. 19 s 4
 pres s 11 amd 1967 No. 37 s 5
 sub 1988 No. 51 s 6
 om 2004 No. 26 s 10

General authority of corporation sole

s 12 ins 1988 No. 51 s 7
 amd 1993 No. 35 s 6
 om 2004 No. 26 s 10

Corporation sole to have powers etc. of holder of authority etc.

s 13 prev s 13 om 1939 3 Geo No. 19 s 4
 pres s 13 ins 1988 No. 51 s 7
 om 2004 No. 26 s 10

Entry by corporation sole

s 14 ins 1988 No. 51 s 7
 amd 1995 No. 22 s 3 sch
 om 2004 No. 26 s 10

Extent of liability of corporation sole

s 15 ins 1988 No. 51 s 8
 amd 2001 No. 7 s 302 sch 2
 om 2004 No. 26 s 10

Land resumptions

s 16 amd 1967 No. 37 s 6
 sub 1988 No. 51 s 9
 amd 1991 No. 65 s 6
 om 2004 No. 26 s 10

PART 4—AUTHORITIES TO PROSPECT

pt hdg sub 2004 No. 26 s 11
exp 1 November 2021 (see s 25U)

Division 1—General provisions

div hdg ins 2004 No. 26 s 11
exp 1 November 2021 (see s 25U)

Permits and leases

s 17 amd 1939 3 Geo 6 No. 19 s 2; 1972 No. 31 s 6 sch 1; 1993 No. 35 s 7
 om 2004 No. 26 s 12

Authority to prospect

s 18 ins 1939 3 Geo 6 No. 19 s 3
 amd 1962 No. 30 s 4; 1991 No. 65 s 7; 2004 No. 26 s 13
exp 1 November 2021 (see s 25U)

Minister's power to decide excluded land for authority to prospect

s 18A ins 2004 No. 26 s 14
exp 1 November 2021 (see s 25U)

Variation of authority to prospect

s 19 ins 1990 No. 108 s 4 (retro)
exp 1 November 2021 (see s 25U)

Area of authority to prospect reduced on grant of lease

s 20 ins 1990 No. 108 s 4 (retro)
 sub 2004 No. 26 s 15
exp 1 November 2021 (see s 25U)

Existing permits continued in force

s 20A ins 1939 3 Geo 6 No. 19 s 10
 om 1995 No. 22 s 8

Surrender of authority to prospect

s 21 prev s 21 amd 1927 18 Geo 5 No. 13 s 2(vi)
 sub 1939 3 Geo 6 No. 19 s 11
 om 1958 7 Eliz 2 No. 25 s 5
 pres s 21 ins 1990 No. 108 s 5 (retro)
 amd 2004 No. 26 s 16
exp 1 November 2021 (see s 25U)

Cancellation of authority to prospect

s 22 ins 1990 No. 108 s 5 (retro)
 om 2004 No. 26 s 17

Application by holder of authority to prospect for authority to extend to others

s 23 (prev s 9B) ins 1983 No. 13 s 13
 renum 1990 No. 108 s 3 (retro)
 om 2004 No. 26 s 17

Miscellaneous rights

prov hdg sub 2004 No. 26 s 21(1)
s 24 (prev s 35) amd 1955 4 Eliz 2 No. 25 s 4; 1995 No. 22 s 3 sch; 2000 No. 34
 s 1145 sch 3; 2004 No. 26 s 21(2)–(3)
 reloc 2004 No. 26 s 21(4)
exp 1 November 2021 (see s 25U)

Division 2—Work programs

div hdg ins 2004 No. 26 s 19
exp 1 November 2021 (see s 25U)

Subdivision 1—Requirements for proposed later work programs

sdiv hdg ins 2004 No. 26 s 19
exp 1 November 2021 (see s 25U)

Operation of sdiv 1

s 25 amd 1929 20 Geo 5 No. 17 s 5; 1939 3 Geo 6 No. 19 s 5
 sub 1958 7 Eliz 2 No. 25 s 2; 2004 No. 26 s 19
exp 1 November 2021 (see s 25U)

General requirements

s 25A ins 2004 No. 26 s 19
exp 1 November 2021 (see s 25U)

Program period

s 25B ins 2004 No. 26 s 19
exp 1 November 2021 (see s 25U)

Subdivision 2—Approval of proposed later work programs

sdiv 2 (ss 25C–25F) ins 2004 No. 26 s 19
exp 1 November 2021 (see s 25U)

Subdivision 3—Amending work programs

sdiv hdg ins 2004 No. 26 s 19
exp 1 November 2021 (see s 25U)

Restrictions on amending work program

s 25G ins 2004 No. 26 s 19
 amd 2005 No. 3 s 105 sch
exp 1 November 2021 (see s 25U)

Applying for approval to amend

s 25H ins 2004 No. 26 s 19
exp 1 November 2021 (see s 25U)

Requirements for making application

s 25I ins 2004 No. 26 s 19
exp 1 November 2021 (see s 25U)

Deciding application

s 25J ins 2004 No. 26 s 19
exp 1 November 2021 (see s 25U)

Steps after, and taking effect of, decision

s 25K ins 2004 No. 26 s 19
exp 1 November 2021 (see s 25U)

Division 3—Renewals

div hdg ins 2004 No. 26 s 19
exp 1 November 2021 (see s 25U)

Conditions for renewal application

s 25L ins 2004 No. 26 s 19 (amd 2004 No. 33 s 21B)
amd 2005 No. 3 s 105 sch (amdt could not be given effect)
exp 1 November 2021 (see s 25U)

Requirements for making application

s 25M ins 2004 No. 26 s 19
amd 2005 No. 3 s 11
exp 1 November 2021 (see s 25U)

Continuing effect of authority for renewal application

s 25N ins 2004 No. 26 s 19
exp 1 November 2021 (see s 25U)

Deciding application

s 25O ins 2004 No. 26 s 19
exp 1 November 2021 (see s 25U)

Term and area of renewed authority

s 25P ins 2004 No. 26 s 19
exp 1 November 2021 (see s 25U)

Other provisions and taking effect of renewed authority

s 25Q ins 2004 No. 26 s 19
exp 1 November 2021 (see s 25U)

Criteria for decisions

s 25R ins 2004 No. 26 s 19
exp 1 November 2021 (see s 25U)

Information notice about refusal

s 25S ins 2004 No. 26 s 19
exp 1 November 2021 (see s 25U)

When refusal takes effect

s 25T ins 2004 No. 26 s 19
exp 1 November 2021 (see s 25U)

Division 4—Expiry of part

div hdg ins 2004 No. 26 s 19
exp 1 November 2021 (see s 25U)

Expiry of pt 4 and ending of authorities to prospect

s 25U ins 2004 No. 26 s 19
amd 2005 No. 3 s 12
exp 1 November 2021 (see s 25U)

Applications for permit**hdg prec s 26** om 1995 No. 22 s 3 sch**PART 5—PROVISIONS RELATING TO PERMITS****pt hdg** om 2004 No. 26 s 20**Particulars of application for permit****s 26** amd 1927 18 Geo 5 No. 13 s 2(iv); 1929 20 Geo 5 No. 17 s 6; 1939 3 Geo 6 No. 19 s 7; 1958 7 Eliz 2 No. 25 s 3; 1965 No. 19 s 4 sch 2; 1972 No. 31 s 6 sch 1; 1976 No. 89 s 3; 1995 No. 22 s 3 sch
om 2004 No. 26 s 20**Warden to report****s 27** sub 1939 3 Geo 6 No. 19 s 8
om 2004 No. 26 s 20**Action by Minister****s 28** amd 1927 18 Geo 5 No. 13 s 2(v); 1929 20 Geo 5 No. 17 s 7
om 2004 No. 26 s 20**Permit****hdg prec s 29** om 1995 No. 22 s 3 sch**Form of permit****s 29** amd 1929 20 Geo 5 No. 17 s 8
om 2004 No. 26 s 20**Extension of permit****s 30** amd 1929 20 Geo 5 No. 17 s 9; 1958 7 Eliz 2 No. 25 s 4; 1982 No. 31 s 3 sch;
1995 No. 22 s 3 sch
om 2004 No. 26 s 20**Marking land****s 31** amd 1929 20 Geo 5 No. 17 s 10
om 2004 No. 26 s 20**Rent****s 32** sub 1929 20 Geo 5 No. 17 s 11
amd 1939 3 Geo 6 No. 19 s 9; 1972 No. 31 s 6 sch 1; 1976 No. 39 s 4
om 2004 No. 26 s 20**Duty of permittee****s 33** ins 1929 20 Geo 5 No. 17 s 12
amd 1958 7 Eliz 2 No. 25 s 6
om 2004 No. 26 s 20**Commencement of drilling****s 34** prev s 22A ins 1927 18 Geo 5 No. 13 s 2(viii)
om 1929 20 Geo 5 No. 17 s 14
new s 22A (prev s 22) amd 1927 18 Geo 5 No. 13 s 2(vii)
amd 1929 20 Geo 5 No. 17 s 13; 1972 No. 31 s 6 sch 1
om 2004 No. 26 s 20

Private land—compensation before commencement of drilling

s 36 prev s 36 om 1962 No. 30 s 13
 pres s 36 amd 1995 No. 22 s 3 sch
 om 2004 No. 26 s 20

Expiration of permit

s 37 om 2004 No. 26 s 20

Cancellation of permit

s 38 om 2004 No. 26 s 20

Effect of termination of permit

s 39 om 2004 No. 26 s 20

PART 6—PROVISIONS RELATING TO LEASES**Division 1—General provisions for leases**

div hdg ins 2004 No. 26 s 22

Lease to holder of authority to prospect

prov hdg amd 2004 No. 26 s 23(1)
s 40 amd 1927 18 Geo 5 No. 13 s 2(ix); 1939 3 Geo 6 No. 19 s 12
 sub 1962 No. 30 s 6
 amd 1972 No. 31 s 6 sch 1; 1991 No. 65 s 8; 2004 No. 26 s 22(2)–(6)
exp 1 November 2021 (see s 40(9))

Continuing effect, for s 40 application, of authority to prospect and its work program

s 40A ins 2004 No. 26 s 24
 amd 2005 No. 3 s 105 sch

Minister's power to decide excluded land for lease

s 40B ins 2004 No. 26 s 24

Preferent right to further lease

s 41 amd 1929 20 Geo 5 No. 17 s 15
 om 2004 No. 26 s 25

Lease to person other than a holder of an authority to prospect or permittee

s 42 ins 1939 3 Geo 6 No. 19 s 13
 sub 1962 No. 30 s 7
 amd 1972 No. 31 s 6 sch 1
 om 2004 No. 26 s 25

Security in respect of leases

s 43 amd 1927 18 Geo 5 No. 13 s 2(x); 1929 20 Geo 5 No. 17 s 16
 sub 1939 3 Geo 6 No. 19 s 14; 1962 No. 30 s 8
 amd 1997 No. 17 s 74 sch; 2001 No. 71 s 551 sch 1
 om 2004 No. 26 s 25

Form etc. of lease

s 44 amd 1962 No. 30 s 9; 1991 No. 65 s 9; 2004 No. 26 s 26

Entitlement to renewal of lease

s 45 ins 1991 No. 65 s 10
 amd 2004 No. 26 s 27; 2005 No. 3 s 13

Annual rent

- s 46** sub 1927 18 Geo 5 No. 13 s 2(xi)
 amd 1929 20 Geo 5 No. 17 s 17; 1939 3 Geo 6 No. 19 s 15
 sub 1958 7 Eliz 2 No. 25 s 7
 amd 1972 No. 31 s 6 sch 1; 1976 No. 89 s 5; 1982 No. 23 s 75; 1995 No. 22
 s 3 sch
 sub 2004 No. 26 s 28

Application of GST to rents

- s 46A** ins 2000 No. 20 s 29 sch 1

Reservations, conditions and covenants of lease

- s 47** prev s 47 om 1958 7 Eliz No. 25 s 8
 pres s 47 ins 1962 No. 30 s 10
 amd 1991 No. 65 s 11; 2004 No. 26 s 29

Commencement of drilling

- s 48** amd 1927 18 Geo 5 No. 13 s 2(xii); 1939 3 Geo 6 No. 19 s 16; 1962 No. 30
 s 11; 1972 No. 31 s 6 sch 1; 1991 No. 65 s 12; 1995 No. 22 s 3 sch

Plans and reports

- s 49** amd 1962 No. 30 s 12
 om 2004 No. 26 s 30

Compliance with and modification of program for development and production

- s 50** ins 1991 No. 65 s 13
 om 2004 No. 26 s 30

Use and occupation of mining area on private or improved land

- s 51** amd 1962 No. 30 s 14; 1995 No. 22 s 3 sch; 2000 No. 34 s 1145 sch 3; 2004
 No. 26 ss 4(4), 31

Surrender and determination of lease

- s 52** amd 2004 No. 26 s 32

Application of 2004 Act provisions about coextensive natural underground reservoirs

- s 52A** ins 2004 No. 26 s 33

Division 2—Development plans

- div hdg** ins 2004 No. 26 s 34

Subdivision 1—Requirements for proposed later development plans

- sdiv hdg** ins 2004 No. 26 s 34

Operation of sdiv 1

- s 53** amd 1995 No. 22 s 3 sch
 sub 2004 No. 26 s 34

General requirements

- s 53A** ins 2004 No. 26 s 34

Plan period

- s 53B** ins 2004 No. 26 s 34

Subdivision 2—Approval of proposed later development plans

- sdiv 2 (ss 53C–53G)** ins 2004 No. 26 s 34

PART 7—PROVISIONS APPLICABLE TO PERMITS AND LEASES**pt hdg** om 2004 No. 26 s 35**Division 1—Miscellaneous provision****div hdg** ins 1995 No. 22 s 3 sch
sub 2004 No. 26 s 36**Division 2—Royalties****div hdg** ins 1995 No. 22 s 3 sch
om 2004 No. 26 s 37**Royalty****s 55** ins 1958 7 Eliz 2 No. 25 s 9
sub 1967 No. 37 s 7
om 2004 No. 26 s 38**When abandoned well may be declared to be an artesian well****s 55A** ins 1950 14 Geo 6 No. 20 s 4
amd 1955 4 Eliz 2 No. 25 s 15
om 1962 No. 30 s 23**Royalty not payable in certain cases****s 56** ins 1967 No. 37 s 8
om 2004 No. 26 s 38**Ascertainment of value****s 57** ins 1967 No. 37 s 8**Ascertainment of quantity of petroleum produced****s 58** ins 1967 No. 37 s 8
om 2004 No. 26 s 39**Assessment and payment of royalty****s 59** ins 1967 No. 37 s 8
amd 1982 No. 31 s 3 sch; 1995 No. 22 s 3 sch; 1995 No. 57 s 4 sch 1
om 2004 No. 26 s 39**Reduction of royalty rate****s 60** ins 1967 No. 37 s 8
amd 1993 No. 35 s 8
om 2004 No. 26 s 39**Division 3—Assignments and other dealings with permits and leases****div hdg** ins 1995 No. 22 s 3 sch
om 2004 No. 26 s 40**Obstruction of 1923 Act petroleum tenure holder****s 61** sub 1962 No. 30 s 15; 2004 No. 26 s 41

Subleases under unitisation arrangements

- s 62** ins 1991 No. 65 s 14
 amd 1995 No. 22 s 9; 2001 No. 71 s 551 sch 1
 om 2004 No. 26 s 41

Forfeiture of excess holding

- s 63** amd 1991 No. 65 s 15; 1995 No. 22 ss 10, 3 sch
 om 2004 No. 26 s 41

Trespass

- s 64** amd 1955 4 Eliz 2 No. 25 s 4
 om 2004 No. 26 s 41

Reservations in favour of State

- s 65** amd 1955 4 Eliz 2 No. 25 s 5; 1967 No. 37 s 9
 sub 1995 No. 22 s 11
 amd 2004 No. 26 s 42

Division 4—Refinery and entry permissions and pipeline licences

- div hdg** ins 1995 No. 22 s 12(1)
 om 2004 No. 26 s 43

Oil refineries

- s 66** prev s 66 sub 1993 No. 35 s 16
 om R1 (see RA s 37)
 pres s 66 amd 1955 4 Eliz 2 No. 25 s 6
 sub 1962 No. 30 s 16
 amd 1988 No. 51 s 10; 1991 No. 65 s 16; 1993 No. 35 s 9; 1994 No. 87 s 3
 sch 2
 sub 1995 No. 22 s 12(1)
 om 2004 No. 26 s 44

Permission to enter land

- s 67** prev s 67 ins 1993 No. 35 s 16
 om 1995 No. 22 s 17
 AIA s 20A applies (see prev s 68(1))
 pres s 67 ins 1995 No. 22 s 12(1)
 om 2004 No. 26 s 44

What happens if someone damages improvements

- s 68** prev s 68 ins 1995 No. 22 s 18
 exp 11 April 1995 (see prev s 68(2))
 pres s 68 ins 1995 No. 22 s 12(1)
 om 2004 No. 26 s 44

Pipeline licences

- s 69** prev s 69 ins 1995 No. 22 s 18
 exp 1 July 1995 (see prev s 69(4))
 AIA s 20A applies (see prev s 69(3))
 pres s 69 ins 1995 No. 22 s 12(1)
 amd 1996 No. 77 s 4; 1997 No. 71 s 1 sch; 1998 No. 28 s 73; 2003 No. 29
 s 375
 om 2004 No. 26 s 44

Access principles to be approved before grant of pipeline licence

s 70 prev s 70 ins 1995 No. 22 s 18
 exp 11 April 1995 (see s 70(2))
 pres s 70 ins 1995 No. 22 s 12(1)
 amd 1998 No. 28 s 74
 om 2003 No. 29 s 376

Decisions relating to the grant of pipeline licences after a competitive selection process

prov hdg amd 1997 No. 71 s 6(1)
s 70A ins 1996 No. 77 s 5
 amd 1997 No. 71 ss 6(2)–(3), 1 sch; 2003 No. 29 s 377
 om 2004 No. 26 s 44

Pipeline licence conditions

s 71 prev s 71 ins 1995 No. 22 s 18
 om R2 (see RA s 37)
 pres s 71 ins 1995 No. 22 s 12(1)
 amd 1997 No. 71 s 1 sch; 2003 No. 29 s 378
 om 2004 No. 26 s 44

What happens on contravention of refinery permission or pipeline licence conditions

s 72 ins 1995 No. 22 s 12(1)
 om 2004 No. 26 s 44

Recovery of amounts payable to the State

s 73 ins 1995 No. 22 s 12(1)
 amd 2004 No. 26 s 45

PART 6A—KEY MANDATORY CONDITIONS AND RELATED PROVISIONS

pt hdg ins 2004 No. 26 s 46

Division 1—Preliminary

div hdg ins 2004 No. 26 s 46

Operation of div 1

s 74 ins 1995 No. 22 s 12(1)
 sub 2004 No. 26 s 46

Division 5—Other provisions about pipelines

div hdg ins 1995 No. 22 s 12(1)
 om 2004 No. 26 s 46

Division 2—Specific mandatory conditions for authorities to prospect and related provisions

div hdg ins 2004 No. 26 s 46

Subdivision 1—Standard relinquishment condition and related provisions

sdiv hdg ins 2004 No. 26 s 46

Standard relinquishment condition

s 74A ins 2004 No. 26 s 46

Consequence of failure to comply with relinquishment condition

s 74B ins 2004 No. 26 s 46
amd 2005 No. 3 s 105 sch

Part usually required to be relinquished

s 74C ins 2004 No. 26 s 46

Sub-blocks that can not be counted towards relinquishment

s 74D ins 2004 No. 26 s 46

Adjustments for sub-blocks that can not be counted

s 74E ins 2004 No. 26 s 46

Relinquishment must be by blocks

s 74F ins 2004 No. 26 s 46

Ending of authority to prospect if all of area relinquished

s 74G ins 2004 No. 26 s 46

Subdivision 2—Work programs

sdiv hdg ins 2004 No. 26 s 46

Requirement to have work program

s 74H ins 2004 No. 26 s 46

Compliance with exploration activities in work program

s 74I ins 2004 No. 26 s 46

Penalty relinquishment if work program not completed within extended period

s 74J ins 2004 No. 26 s 46
amd 2005 No. 3 s 14

Subdivision 3—Miscellaneous conditions

sdiv 3 (ss 74M–74N) ins 2004 No. 26 s 46

Division 3—Specific mandatory conditions for leases and related provisions

div hdg ins 2004 No. 26 s 46

Subdivision 1—Development plans

sdiv hdg ins 2004 No. 26 s 46

Requirement to have development plan

s 74O ins 2004 No. 26 s 46
amd 2005 No. 3 s 105 sch

Compliance with development plan

s 74P ins 2004 No. 26 s 46

Obligation to lodge proposed later development plan

s 74Q ins 2004 No. 26 s 46
amd 2005 No. 3 s 105 sch

Consequence of failure to comply with notice to lodge proposed later development plan

s 74R ins 2004 No. 26 s 46

Subdivision 2—Other mandatory conditions for leases

sdiv hdg ins 2004 No. 26 s 46

Restriction on flaring or venting

s 74S ins 2004 No. 26 s 46
amd 2005 No. 3 s 105 sch

Obligation to commence production

s 74T ins 2004 No. 26 s 46

Division 4—Provisions for all 1923 Act petroleum tenures

div hdg ins 2004 No. 26 s 46

Subdivision 1—Preliminary

sdiv 1 (s 74U) ins 2004 No. 26 s 46

Subdivision 2—General mandatory conditions

sdiv hdg ins 2004 No. 26 s 46

Obligation to consult with particular owners and occupiers

s 74V ins 2004 No. 26 s 46
amd 2005 No. 3 s 105 sch

Civil penalty for nonpayment of annual rent

s 74W ins 2004 No. 26 s 46

Obligation to prevent spread of declared pests

s 74X ins 2004 No. 26 s 46
amd 2005 No. 3 s 105 sch

Requirement to consider using formed roads

s 74Y ins 2004 No. 26 s 46

Obligation to comply with Act and prescribed standards

s 74Z ins 2004 No. 26 s 46

Obligation to survey if Minister requires

s 75 ins 1962 No. 30 s 17
amd 1988 No. 51 s 11; 1993 No. 35 s 10; 1995 No. 22 s 3 sch
sub 2004 No. 26 s 46

Division 5—Mandatory conditions and related provisions for when 1923 Act petroleum tenure ends or area reduced

div hdg ins 2004 No. 26 s 46

Obligation to decommission pipelines

s 75A ins 2004 No. 26 s 46
amd 2005 No. 3 s 15

Obligation to remove equipment and improvements

s 75B ins 2004 No. 26 s 46

Authorisation to enter to facilitate compliance with s 74X or this division

s 75C ins 2004 No. 26 s 46

PART 6B—PROVISIONS RELATING TO AUTHORISED ACTIVITIES

pt 6B (ss 75D–75E) ins 2004 No. 26 s 46

PART 6C—COMMERCIAL VIABILITY ASSESSMENT

pt 6C (ss 75F–75I) ins 2004 No. 26 s 46

PART 6CA—EXISTING WATER ACT BORES**pt hdg** ins 2005 No. 3 s 16**Division 1—Preliminary****div 1** (ss 75IA–75IF) ins 2005 No. 3 s 16**Division 2—Obligation to make good for existing Water Act bores****div 2** (ss 75IG–75IH) ins 2005 No. 3 s 16**Division 3—Underground water impact reports****div hdg** ins 2005 No. 3 s 16**Subdivision 1—Fixing of trigger threshold for aquifers****sdiv 1** (ss 75II–75IL) ins 2005 No. 3 s 16**Subdivision 2—Lodging report****sdiv 2** (ss 75IM–75IO) ins 2005 No. 3 s 16**Subdivision 3—Consideration of underground water impact report****sdiv 3** (ss 75IP–75IQ) ins 2005 No. 3 s 16**Division 4—Pre-closure report****div 4** (ss 75IR–75IU) ins 2005 No. 3 s 16**Division 5—Monitoring and review reports****div 5** (ss 75IV–75IZB) ins 2005 No. 3 s 16**Division 6—Complying with make good obligation****div hdg** ins 2005 No. 3 s 16**Subdivision 1—Obligation to negotiate****sdiv 1** (s 75IZC) ins 2005 No. 3 s 16**Subdivision 2—Tribunal decision on how the obligation must be complied with****sdiv 2** (ss 75IZD–75IZG) ins 2005 No. 3 s 16**Subdivision 3—Miscellaneous provisions****sdiv 3** (ss 75IZH–75IZK) ins 2005 No. 3 s 16**PART 6D—WELLS, WATER SUPPLY BORES AND WATER OBSERVATION BORES****pt hdg** ins 2004 No. 26 s 46**Division 1—Restrictions on drilling****div hdg** ins 2004 No. 26 s 46**Requirements for drilling well****s 75J** ins 2004 No. 26 s 46

amd 2005 No. 3 s 17

Restriction on who may drill water observation bore or water supply bore**s 75K** ins 2004 No. 26 s 46**Division 2—Converting well to water supply bore****div hdg** ins 2004 No. 26 s 46

Restrictions on making conversion

s 75L ins 2004 No. 26 s 46
amd 2005 No. 3 s 18

Notice of conversion

s 75M ins 2004 No. 26 s 46

Division 3—Transfers of wells, water observation bores and water supply bores

div hdg ins 2004 No. 26 s 46

Subdivision 1—General provisions

sdiv hdg ins 2004 No. 26 s 46

Operation of div 3

s 75N ins 2004 No. 26 s 46

Transfer only permitted under div 3

s 75O ins 2004 No. 26 s 46

Effect of transfer

s 75P ins 2004 No. 26 s 46

Subdivision 2—Permitted transfers

sdiv hdg ins 2004 No. 26 s 46

Transfer of water observation bore or water supply bore to landowner

s 75Q ins 2004 No. 26 s 46
amd 2005 No. 3 s 19

Transfer of well to holder of geothermal exploration permit or mining tenement

s 75R ins 2004 No. 26 s 46
amd 2005 No. 3 s 20

Transfer of water observation bore to petroleum tenure holders or water monitoring authority holder

s 75S ins 2004 No. 26 s 46
sub 2005 No. 3 s 21

Subdivision 3—Notice of transfer

sdiv hdg ins 2004 No. 26 s 46

Notice of transfer to Water Act regulator or Mineral Resources Act chief executive

s 75T ins 2004 No. 26 s 46

Division 4—Decommissioning of wells, water observation bores and water supply bores

div hdg ins 2004 No. 26 s 46

Obligation to decommission

s 75U ins 2004 No. 26 s 46
amd 2005 No. 3 s 22

Right of entry to facilitate decommissioning

s 75V ins 2004 No. 26 s 46

Responsibility for well or bore after decommissioning

s 75W ins 2004 No. 26 s 46

Division 5—Water monitoring authorities**div hdg** ins 2005 No. 3 s 23**Subdivision 1—Obtaining water monitoring authority****sdiv 1** (ss 75WA–75WC) ins 2005 No. 3 s 23**Subdivision 2—Key authorised activities****sdiv 2** (ss 75WD–75WJ) ins 2005 No. 3 s 23**Subdivision 3—Miscellaneous provisions****sdiv 3** (ss 75WK–75WN) ins 2005 No. 3 s 23**PART 6E—REPORTING****pt hdg** ins 2004 No. 26 s 46**Division 1—General reporting provisions****div hdg** ins 2004 No. 26 s 46**Requirement to report outcome of testing****s 75X** ins 2004 No. 26 s 46**Notice about discovery and commercial viability****s 75Y** ins 2004 No. 26 s 46**Relinquishment report****s 75Z** ins 2004 No. 26 s 46**End of tenure report****s 76** ins 1962 No. 30 s 17
amd 1988 No. 51 s 12; 1993 No. 35 s 11; 1995 No. 22 s 3 sch
sub 2004 No. 26 s 46**Division 2—Records and samples****div hdg** ins 2004 No. 26 s 46**Requirement to keep records and samples****s 76A** ins 2004 No. 26 s 46**Requirement to lodge records and samples****s 76B** ins 2004 No. 26 s 46
amd 2005 No. 3 s 105 sch**Division 3—Releasing required information****div 3** (ss 76C–76G) ins 2004 No. 26 s 46**PART 6F—PROVISIONS FOR COAL SEAM GAS****pt hdg** ins 2004 No. 26 s 46**Division 1—Preliminary****div hdg** ins 2004 No. 26 s 46**Subdivision 1—Introduction****sdiv hdg** ins 2004 No. 26 s 46**Main purposes of pt 6F****s 76H** ins 2004 No. 26 s 46

How main purposes are achieved

s 76I ins 2004 No. 26 s 46
amd 2005 No. 3 s 105 sch

Relationship with other provisions of Act

s 76J ins 2004 No. 26 s 46
amd 2005 No. 3 s 105 sch

Subdivision 2—Definitions for pt 6F

s 76K ins 2004 No. 26 s 46

What is oil shale

s 76L ins 2004 No. 26 s 46

What is a coal exploration tenement and a coal mining lease

s 76M ins 2004 No. 26 s 46

What is an oil shale exploration tenement and an oil shale mining lease

s 76N ins 2004 No. 26 s 46

What is a coal or oil shale mining tenement

s 76O ins 2004 No. 26 s 46
amd 2005 No. 3 s 105 sch

Division 2—Additional provisions for authorities to prospect

div hdg ins 2004 No. 26 s 46

Subdivision 1—Grant of authority to prospect in area of coal or oil shale exploration tenement

sdiv hdg ins 2004 No. 26 s 46

Provisions for authority to prospect

s 76P ins 2004 No. 26 s 46

Subdivision 2—Restriction on authorised activities on coal or oil shale mining lease land

sdiv hdg ins 2004 No. 26 s 46
amd 2005 No. 3 s 105 sch

Application of sdiv 2

s 76Q ins 2004 No. 26 s 46
amd 2005 No. 3 s 105 sch

Restriction

s 76R ins 2004 No. 26 s 46
amd 2005 No. 3 s 24

Subdivision 3—Condition

sdiv hdg ins 2004 No. 26 s 46

Compliance with obligations under Mineral Resources Act

s 76S ins 2004 No. 26 s 46

Division 3—Renewal provisions

div hdg ins 2004 No. 26 s 46

Subdivision 1—Lease area overlapping with coal or oil shale exploration tenement

sdiv hdg ins 2004 No. 26 s 46
om 2005 No. 3 s 105 sch

Application of sdiv 1

prov hdg ins 2004 No. 26 s 46
amd 2005 No. 3 s 105 sch

s 76T ins 2004 No. 26 s 46
amd 2005 No. 3 s 105 sch

Additional requirements for making application

s 76U ins 2004 No. 26 s 46

Content requirements for CSG statement

s 76V ins 2004 No. 26 s 46
amd 2005 No. 3 s 105 sch

Applicant's obligations

s 76W ins 2004 No. 26 s 46
amd 2005 No. 3 s 25

Minister may require further negotiation

s 76X ins 2004 No. 26 s 46
amd 2005 No. 3 s 26

Consequence of applicant not complying with obligations or requirement

s 76Y ins 2004 No. 26 s 46

Obligations of coal or oil shale exploration tenement holder

s 76Z ins 2004 No. 26 s 46

Submissions by coal or oil shale exploration tenement holder

s 77 ins 1962 No. 30 s 17
amd 1995 No. 22 s 3 sch
sub 2004 No. 26 s 46
amd 2005 No. 3 s 27

Subdivision 2—Renewal application by petroleum lease holder

sdiv 2 (ss 77A–77G) ins 2004 No. 26 s 46
om 2005 No. 3 s 28

Subdivision 3—Renewal application by coal mining lease holder or oil shale mining lease holder

sdiv 3 (ss 77H–77M) ins 2004 No. 26 s 46
om 2005 No. 3 s 28

Division 4—Other additional provisions for leases

div hdg ins 2004 No. 26 s 46

Subdivision 1—Conditions

sdiv hdg ins 2004 No. 26 s 46

Compliance with obligation to negotiate with coal or oil shale mining lease applicant

s 77N ins 2004 No. 26 s 46

Requirement for giving of copy of relinquishment report

s 77O ins 2004 No. 26 s 46
amd 2005 No. 3 s 29

Cessation of relinquishment condition for area not overlapping with coal or oil shale exploration tenement

s 77P ins 2004 No. 26 s 46

Subdivision 2—Amendment of relinquishment condition by application

sdiv hdg ins 2004 No. 26 s 46

Application of sdiv 2

s 77Q ins 2004 No. 26 s 46

Conditions for applying to amend

s 77R ins 2004 No. 26 s 46

Obligation of coal or oil shale exploration tenement holder to negotiate

s 77S ins 2004 No. 26 s 46

Requirements for making application

s 77T ins 2004 No. 26 s 46

Notice of application

s 77U ins 2004 No. 26 s 46

Submissions by coal or oil shale exploration tenement holder

s 77V ins 2004 No. 26 s 46

Minister may require further negotiation

s 77W ins 2004 No. 26 s 46

Deciding amendment application

s 77X ins 2004 No. 26 s 46
amd 2005 No. 3 s 30

Subdivision 3—Restriction on amendment of other conditions

sdiv hdg ins 2004 No. 26 s 46
amd 2005 No. 3 s 105 sch

Interests of relevant coal or oil shale mining tenement holder to be considered

s 77Y ins 2004 No. 26 s 46

Division 5—Restrictions on particular transfers

div hdg ins 2004 No. 26 s 46

Requirement for coordination arrangement to transfer lease in tenure area of mining lease

s 77Z ins 2004 No. 26 s 46
amd 2005 No. 3 s 105 sch

Division 6—Additional provisions for development plans

div hdg ins 2004 No. 26 s 46
sub 2005 No. 3 s 31

Subdivision 1—Additional requirements for proposed later development plans

sdiv 1 (ss 77ZA–77ZD) ins 2005 No. 3 s 31

Subdivision 2—Other additional provisions for proposed later development plans**sdiv hdg** ins 2005 No. 3 s 31**Application of sdiv 2****s 77ZE** ins 2005 No. 3 s 31**Additional criteria for approval****s 78** ins 1962 No. 30 s 17
amd 1967 No. 37 s 10; 1995 No. 22 s 3 sch; 2000 No. 26 s 12 sch 1;
2000 No. 34 s 1145 sch 3; 2003 No. 19 s 3 sch
sub 2004 No. 26 s 46; 2005 No. 3 s 31**Division 7—Confidentiality of information****div hdg** ins 2004 No. 26 s 46**Application of div 7****s 78A** ins 2004 No. 26 s 46**Confidentiality obligations****s 78B** ins 2004 No. 26 s 46
amd 2005 No. 3 s 32**Civil remedies****s 78C** ins 2004 No. 26 s 46**PART 6G—SECURITY****pt hdg** ins 2004 No. 26 s 46**Operation and purpose of pt 6G****s 78D** ins 2004 No. 26 s 46
amd 2005 No. 3 s 105 sch**Power to require security for 1923 Act petroleum tenure****s 78E** ins 2004 No. 26 s 46**Minister's power to require additional security****s 78F** ins 2004 No. 26 s 46
amd 2005 No. 3 s 33**Interest on security****s 78G** ins 2004 No. 26 s 46**Power to use security****s 78H** ins 2004 No. 26 s 46**Replenishment of security****s 78I** ins 2004 No. 26 s 46**Security not affected by change in holder****s 78J** ins 2004 No. 26 s 46**Retention of security after 1923 petroleum tenure ends****s 78K** ins 2004 No. 26 s 46**PART 6H—PRIVATE LAND****pt hdg** ins 2004 No. 26 s 46

Division 1—Preliminary**div hdg** ins 2004 No. 26 s 46**Application of pt 6H****s 78L** ins 2004 No. 26 s 46**Division 2—Requirement for entry notice for entry to private land in area of 1923****Act petroleum tenure****div hdg** ins 2004 No. 26 s 46**Requirement for entry notice to carry out authorised activities****s 78M** ins 2004 No. 26 s 46

amd 2005 No. 3 s 34

Waiver of entry notice**s 78N** ins 2004 No. 26 s 46**Required contents of entry notice****s 78O** ins 2004 No. 26 s 46**Giving entry notice by publication****s 78P** ins 2004 No. 26 s 46**Division 3—Requirement for further notice before carrying out authorised activities****on private land****div 3 (ss 78Q–78S)** ins 2004 No. 26 s 46**Division 4—Provisions for dealings or change in ownership or occupancy****div 4 (ss 78T–78U)** ins 2004 No. 26 s 46**Division 5—Periodic notice after entry of land****div hdg** ins 2004 No. 26 s 46**Notice to owners and occupiers****s 78V** ins 2004 No. 26 s 46

amd 2005 No. 3 s 105 sch

Division 6—Access to carry out rehabilitation or environmental management**div 6 (s 78W)** ins 2004 No. 26 s 46**PART 6I—PUBLIC LAND****pt hdg** ins 2004 No. 26 s 46**Division 1—Public roads****div hdg** ins 2004 No. 26 s 46**Subdivision 1—Preliminary****sdiv hdg** ins 2004 No. 26 s 46**Significant projects excluded from div 1****s 78X** ins 2004 No. 26 s 46**What is a notifiable road use****s 78Y** ins 2004 No. 26 s 46**Subdivision 2—Notifiable road uses****sdiv hdg** ins 2004 No. 26 s 46

Notice of notifiable road use

s 78Z ins 2004 No. 26 s 46

Directions about notifiable road uses 79 ins 1962 No. 30 s 17
amd 1986 No. 26 s 4 sch; 1995 No. 22 s 3 sch
sub 2004 No. 26 s 46**Obligation to comply with road use directions**

s 79A ins 2004 No. 26 s 46

Subdivision 3—Compensation for notifiable road uses

sdiv 3 (ss 79B–79H) ins 2004 No. 26 s 46

Division 2—Other public land

div hdg ins 2004 No. 26 s 46

Requirement for entry notice to carry out authorised activities

s 79I ins 2004 No. 26 s 46

Waiver of entry notice

s 79J ins 2004 No. 26 s 46

Required contents of entry notices 79K ins 2004 No. 26 s 46
amd 2005 No. 3 s 105 sch**Conditions public land authority may impose**

s 79L ins 2004 No. 26 s 46

**PART 6J—ACCESS TO LAND IN AREA OF ANOTHER 1923 ACT PETROLEUM
TENURE OR A MINING TENEMENT**

pt hdg ins 2004 No. 26 s 46

Application of pt 6Js 79M ins 2004 No. 26 s 46
amd 2005 No. 3 s 105 sch**Access to land in area of lease under this Act, a 2004 Act lease or a mining lease**prov hdg amd 2005 No. 3 s 105 sch
s 79N ins 2004 No. 26 s 46
amd 2005 No. 3 s 105 sch**Access to land in area of another type of mining tenement or 1923 Act petroleum
tenure**s 79O ins 2004 No. 26 s 46
amd 2005 No. 3 s 105 sch**PART 6K—GENERAL COMPENSATION PROVISIONS**

pt hdg ins 2004 No. 26 s 46

General liability to compensates 79P ins 2004 No. 26 s 46
amd 2005 No. 3 s 35

Compensation agreement

s 79Q ins 2004 No. 26 s 46
amd 2005 No. 3 s 105 sch

Deciding compensation through tribunal

s 79R ins 2004 No. 26 s 46

Tribunal review of compensation

s 79S ins 2004 No. 26 s 46

Orders tribunal may take

s 79T ins 2004 No. 26 s 46

Compensation to be addressed before entry to private land

s 79U ins 2004 No. 26 s 46

Compensation not affected by change in ownership or occupancy

s 79V ins 2004 No. 26 s 46

PART 6L—OWNERSHIP OF PIPELINES, EQUIPMENT AND IMPROVEMENTS

pt hdg ins 2004 No. 26 s 46

Division 1—Pipelines

div hdg ins 2004 No. 26 s 46

Application of div 1

s 79W ins 2004 No. 26 s 46

General provision about ownership while tenure is in force for pipeline

s 79X ins 2004 No. 26 s 46
amd 2005 No. 3 s 105 sch

Ownership afterwards

s 79Y ins 2004 No. 26 s 46

Division 2—Equipment and improvements

div hdg ins 2004 No. 26 s 46

Application of div 2

s 79Z ins 2004 No. 26 s 46

Ownership of equipment and improvements

s 80 ins 1985 No. 101 s 3
amd 1993 No. 35 s 12; 1995 No. 22 s 13
sub 2004 No. 26 s 46
amd 2005 No. 3 s 105 sch

PART 6M—PETROLEUM REGISTER

pt hdg ins 2004 No. 26 s 46

Petroleum register

s 80A ins 2004 No. 26 s 46
amd 2005 No. 3 s 36

Keeping of register

s 80B ins 2004 No. 26 s 46

Access to register

s 80C ins 2004 No. 26 s 46

Chief executive may correct register

s 80D ins 2004 No. 26 s 46

PART 6N—DEALINGS

pt hdg ins 2004 No. 26 s 46

Division 1—Permitted dealings

div hdg ins 2004 No. 26 s 46

What is a permitted dealing

s 80E ins 2004 No. 26 s 46

Dealings other than permitted dealings of no effect

s 80F ins 2004 No. 26 s 46

Conditions for permitted dealings

s 80G ins 2004 No. 26 s 46

Division 2—Obtaining approval for permitted dealing

div hdg ins 2004 No. 26 s 46

Minister may give indication for proposed permitted dealing

s 80H ins 2004 No. 26 s 46

Applying for approval

s 80I ins 2004 No. 26 s 46

Deciding applications 80J ins 2004 No. 26 s 46
amd 2005 No. 3 s 37**Criteria for decision**s 80K ins 2004 No. 26 s 46
amd 2005 No. 3 s 38**PART 6O—ENFORCEMENT OF END OF TENURE AND AREA REDUCTION OBLIGATIONS**

pt 6O (ss 80L–80R) ins 2004 No. 26 s 46

PART 6P—NONCOMPLIANCE PROCEDURE

pt hdg ins 2004 No. 26 s 46

Division 1—Introduction

div hdg ins 2004 No. 26 s 46

Operation of pt 6P

s 80S ins 2004 No. 26 s 46

Division 2—Noncompliance action

div hdg ins 2004 No. 26 s 46

Types of noncompliance action that may be takens 80T ins 2004 No. 26 s 46
amd 2005 No. 3 s 39

When noncompliance action may be taken

s 80U ins 2004 No. 26 s 46

Division 3—Procedure for noncompliance action

div hdg ins 2004 No. 26 s 46

Application of div 3

s 80V ins 2004 No. 26 s 46

Notice of proposed noncompliance action

s 80W ins 2004 No. 26 s 46

Considering submissions

s 80X ins 2004 No. 26 s 46

Decision on proposed noncompliance action

s 80Y ins 2004 No. 26 s 46

Notice and taking effect of decision

s 80Z ins 2004 No. 26 s 46

Consequence of failure to comply with relinquishment requirements 81 amd 1927 18 Geo 5 No. 13 s 2(xiii); 1939 3 Geo 6 No. 19 s 17
sub 2004 No. 26 s 46**PART 6Q—OTHER COMMON PROVISIONS FOR 1923 ACT PETROLEUM TENURES**

pt hdg ins 2004 No. 26 s 46

Logs of wells

s 82 amd 1955 4 Eliz 2 No. 25 s 7

Restrictions on location of drillss 83 sub 1927 18 Geo 5 No. 13 s 2(xiv)
amd 1955 4 Eliz 2 No. 25 s 8; 1972 No. 31 s 6 sch 1; 2004 No. 26 s 47**Prevention of waste etc.**

s 84 amd 1955 4 Eliz 2 No. 25 s 9; 2004 No. 26 s 48

Casing well

prov hdg amd 2004 No. 26 s 49(1)

s 85 sub 1927 18 Geo 5 No. 13 s 2(xv); 1950 14 Geo 6 No. 20 s 2
amd 1955 4 Eliz 2 No. 25 s 10; 1962 No. 30 s 18; 2004 No. 26 s 49(2)**Water rights**s 86 ins 1962 No. 30 s 19
amd 2000 No. 26 s 12 sch 1; 2000 No. 34 s 1145 sch 3; 2003 No. 19 s 3 sch;
2004 No. 26 s 50**Abandonment of well**s 87 sub 1950 14 Geo 6 No. 20 s 3
amd 1955 4 Eliz 2 No. 25 s 11; 1958 7 Eliz 2 No. 25 s 10
sub 1962 No. 30 s 20
amd 2000 No. 34 s 1145 sch 3
om 2004 No. 26 s 51

Conduct of operations on land

- s 88** amd 1955 4 Eliz 2 No. 25 s 12
 sub 1962 No. 30 s 21
 amd 1995 No. 22 s 3 sch; 2004 No. 26 s 52

Compliance with Act etc.

- s 89** amd 1927 18 Geo 5 No. 13 s 2(xvi); 1955 4 Eliz 2 No. 25 s 13; 2004 No. 26 s 53

Regulations may prescribe further provisions

- s 90** amd 1927 18 Geo 5 No. 13 s 2(xvii); 1955 4 Eliz 2 No. 25 s 14; 2004 No. 26 s 54

Minister's powers concerning petroleum

- s 91** ins 1929 20 Geo 5 No. 17 s 18
 amd 1962 No. 30 s 22
 sub 1988 No. 51 s 13
 amd 1993 No. 35 s 13
 om 2004 No. 26 s 55

Delivery of premises in case of forfeiture

- s 92** amd 1927 18 Geo 5 No. 13 s 2(xviii); 2004 No. 26 s 56

Right to mine for other minerals

- s 93** amd 1927 18 Geo 5 No. 13 s 2(xix); 1982 No. 23 s 76; 1991 No. 65 s 17; 2004 No. 26 s 57

Drills for water on lands under permit or lease

- s 94** om 2000 No. 34 s 1145 sch 3

Limits on use of water from natural source

- s 95** ins 1967 No. 37 s 11
 amd 2004 No. 26 s 58

Who bound by terms of 1923 Act petroleum tenure

- prov hdg** amd 2004 No. 26 s 59(1)
s 96 sub 1962 No. 30 s 24
 amd 2004 No. 26 s 59(2)–(3)

Compensation

- s 97** amd 1955 4 Eliz 2 No. 25 s 16; 1962 No. 30 s 25; 1988 No. 51 s 14
 om 2004 No. 26 s 60

Power to agree as to compensation

- s 98** amd 1955 4 Eliz 2 No. 25 s 17; 1962 No. 30 s 26; 1995 No. 22 s 3 sch
 om 2004 No. 26 s 60

Measure of compensation

- s 99** om 2004 No. 26 s 60

Union of leases

- s 100** ins 1927 18 Geo 5 No. 13 s 3

Minister's power to ensure compliance by 1923 Act petroleum tenure holder

- s 101** ins 1927 18 Geo 5 No. 13 s 3
 amd 1929 20 Geo 5 No. 17 s 19; 1939 3 Geo 6 No. 19 s 18
 sub 1958 7 Eliz 2 No. 25 s 11
 amd 1962 No. 30 s 27; 1967 No. 37 s 12
 sub 2004 No. 26 s 61

Interest on amounts owing to the State under this Act

- s 102** (prev s 61C) ins 1927 18 Geo 5 No. 13 s 3
 amd 1929 20 Geo 5 No. 17 s 20
 om 1939 3 Geo 6 No. 19 s 19
 pres s 102 ins 1967 No. 37 s 13
 sub 2004 No. 26 s 61

Recovery of unpaid amounts

- s 103** prev s 103 ins 1995 No. 22 s 14
 om 2003 No. 29 s 379
 pres s 103 ins 2004 No. 26 s 61
 amd 2005 No. 3 s 40

PART 7—APPEALS

- pt hdg** ins 2004 No. 26 s 61

Who may appeal

- s 104** prev s 104 ins 1995 No. 22 s 14
 amd 1997 No. 71 s 7; 1998 No. 28 s 75
 om 2003 No. 29 s 379
 pres s 104 ins 2004 No. 26 s 61

Period to appeal

- s 105** prev s 105 ins 1995 No. 22 s 14
 om 2003 No. 29 s 379
 pres s 105 ins 2004 No. 26 s 61

Starting appeal

- s 106** prev s 106 ins 1995 No. 22 s 14
 om 2003 No. 29 s 379
 pres s 106 ins 2004 No. 26 s 61

Stay of operation of decision

- s 107** prev s 107 ins 1995 No. 22 s 14
 om 2003 No. 29 s 379
 pres s 107 ins 2004 No. 26 s 61

Hearing procedures

- prov hdg** amd 1997 No. 71 s 1 sch
s 108 prev s 108 ins 1995 No. 22 s 14
 om 2003 No. 29 s 379
 pres s 108 ins 2004 No. 26 s 61

Tribunal's powers on appeal

- prov hdg** amd 1997 No. 71 s 8
s 109 prev s 109 ins 1995 No. 22 s 14
 amd 1997 No. 71 ss 8, 1 sch

om 2003 No. 29 s 379
pres s 109 ins 2004 No. 26 s 61

PART 8—EVIDENCE AND LEGAL PROCEEDINGS

pt hdg prev pt hdg ins 1995 No. 22 s 14
om 2003 No. 29 s 379
pres pt hdg ins 2004 No. 26 s 61

Division 1—Evidentiary provisions

div hdg prev div hdg ins 1995 No. 22 s 14
om 2003 No. 29 s 379
pres div hdg ins 2004 No. 26 s 61

Application of div 1

s 110 prev s 110 ins 1995 No. 22 s 14
om 2003 No. 29 s 379
pres s 110 ins 2004 No. 26 s 61

Appointments and authority

s 111 prev s 111 ins 1995 No. 22 s 14
om 2003 No. 29 s 379
pres s 111 ins 2004 No. 26 s 61

Signatures

s 112 prev s 112 ins 1995 No. 22 s 14
amd 1995 No. 51 s 4 sch
sub 1997 No. 71 s 9
om 2003 No. 29 s 379
pres s 112 ins 2004 No. 26 s 61

Other evidentiary aids

s 113 prev s 113 ins 1995 No. 22 s 14
amd 1997 No. 71 s 1 sch
om 2003 No. 29 s 379
pres s 113 ins 2004 No. 26 s 61

Division 2—Offence proceedings

div hdg prev div hdg ins 1995 No. 22 s 14
om 2003 No. 29 s 379
pres div hdg ins 2004 No. 26 s 61

Offences under Act are summary

prov hdg prev s 114 amd 1997 No. 71 s 1 sch
s 114 ins 1995 No. 22 s 14
om 2003 No. 29 s 379
pres s 114 ins 2004 No. 26 s 61

Approval of minor amendment

s 114A ins 1997 No. 71 s 10
om 2003 No. 29 s 379

Application of access principles to extended pipeline

s 114B ins 1997 No. 71 s 10
om 2003 No. 29 s 379

Effect of approval on access agreements

s 114C ins 1997 No. 71 s 10
om 2003 No. 29 s 379

Statement of complainant's knowledge

s 115 prev s 115 ins 1995 No. 22 s 14
om 2003 No. 29 s 379
pres s 115 ins 2004 No. 26 s 61

Allegations of false or misleading matters

s 116 prev s 116 ins 1995 No. 22 s 14
om 2003 No. 29 s 379
pres s 116 ins 2004 No. 26 s 61

Conduct of representatives

s 117 prev s 117 ins 1995 No. 22 s 14
om 2003 No. 29 s 379
pres s 117 ins 2004 No. 26 s 61

Additional orders that may be made on conviction

s 118 prev s 118 ins 1995 No. 22 s 14
om 2003 No. 29 s 379
pres s 118 ins 2004 No. 26 s 61

Division 3—Access principles

div hdg ins 1995 No. 22 s 14
om 2003 No. 29 s 379

Division 3A—Amendment of access principles

div hdg ins 1997 No. 71 s 10
om 2003 No. 29 s 379

Subdivision 1—Minor amendments

sdiv hdg ins 1997 No. 71 s 10
om 2003 No. 29 s 379

Subdivision 2—Amendments for addition to route of pipeline

sdiv hdg ins 1997 No. 71 s 10
om 2003 No. 29 s 379

Division 4—Negotiating access to facilities

div hdg ins 1995 No. 22 s 14
om 2003 No. 29 s 379

Division 5—Arbitration

div hdg ins 1995 No. 22 s 14
om 2003 No. 29 s 379

Division 6—Provisions aiding enforcement of part

div hdg ins 1995 No. 22 s 14
om 2003 No. 29 s 379

Division 7—General

div hdg ins 1995 No. 22 s 14
om 2003 No. 29 s 379

PART 9—MISCELLANEOUS**Division 1—Applications****div hdg** ins 2004 No. 26 s 62**Application of div 1****s 119** prev s 119 ins 1995 No. 22 s 14
om 2003 No. 29 s 379
pres s 119 ins 2004 No. 26 s 62**Substantial compliance with application requirements may be accepted****s 120** prev s 120 ins 1995 No. 22 s 14
om 2003 No. 29 s 379
pres s 120 ins 2004 No. 26 s 62**Additional information may be required about application****s 121** prev s 121 ins 1995 No. 22 s 14
om 2003 No. 29 s 379
pres s 121 ins 2004 No. 26 s 62**Amending applications****s 122** prev s 122 ins 1995 No. 22 s 14
om 2003 No. 29 s 379
pres s 122 ins 2004 No. 26 s 62**Withdrawal of application****s 123** prev s 123 ins 1995 No. 22 s 14
amd 1997 No. 71 s 11
om 2003 No. 29 s 379
pres s 123 ins 2004 No. 26 s 62**Minister's power to refund application fee****s 124** prev s 124 ins 1995 No. 22 s 14
om 2003 No. 29 s 379
pres s 124 ins 2004 No. 26 s 62**Division 2—Miscellaneous provisions for 1923 Act petroleum tenures****div hdg** ins 2004 No. 26 s 62**Power to correct or amend****s 125** prev s 125 ins 1995 No. 22 s 14
om 2003 No. 29 s 379
pres s 125 ins 2004 No. 26 s 62**Replacement of instrument for tenure****s 126** prev s 126 ins 1995 No. 22 s 14
om 2003 No. 29 s 379
pres s 126 ins 2004 No. 26 s 62**Joint and several liability for conditions and for debts to State****s 127** prev s 127 ins 1995 No. 22 s 14
om 2003 No. 29 s 379
pres s 127 ins 2004 No. 26 s 62

Notice of agent

- s 128** prev s 128 ins 1995 No. 22 s 14
 om 2003 No. 29 s 379
 pres s 128 ins 2004 No. 26 s 62

Division 3—Other miscellaneous provisions

- div hdg** ins 2004 No. 26 s 62

Name and address for service

- s 129** prev s 129 ins 1995 No. 22 s 14
 amd 1997 No. 71 s 12
 om 2003 No. 29 s 379
 pres s 129 ins 2004 No. 26 s 62

Additional information about reports and other matters

- s 130** prev s 130 ins 1995 No. 22 s 14
 om 2003 No. 29 s 379
 pres s 130 ins 2004 No. 26 s 62

References to right to enter

- s 131** prev s 131 ins 1995 No. 22 s 14
 om 2003 No. 29 s 379
 pres s 131 ins 2004 No. 26 s 62

Application of provisions

- s 132** prev s 132 ins 1995 No. 22 s 14
 om 2003 No. 29 s 379
 pres s 132 ins 2004 No. 26 s 62

Protection from liability for particular persons

- s 133** prev s 133 ins 1995 No. 22 s 14
 om 2003 No. 29 s 379
 pres s 133 ins 2004 No. 26 s 62

Delegation by Minister or chief executive

- s 134** prev s 134 ins 1995 No. 22 s 14
 om 2003 No. 29 s 379
 pres s 134 ins 2004 No. 26 s 62

Approved forms

- s 135** prev s 135 ins 1995 No. 22 s 14
 om 2003 No. 29 s 379
 pres s 135 ins 2004 No. 26 s 62

Ending arbitration

- s 136** ins 1995 No. 22 s 14
 om 2003 No. 29 s 379

Arbitrator's power when making an award

- s 137** ins 1995 No. 22 s 14
 om 2003 No. 29 s 379

Giving effect to arbitrator's award

- s 138** ins 1995 No. 22 s 14
 om 2003 No. 29 s 379

Costs of arbitration

s 139 ins 1995 No. 22 s 14
om 2003 No. 29 s 379

Responsibility for acts or omissions of representatives

s 140 ins 1995 No. 22 s 14
om 2003 No. 29 s 379

Minister to be given information

s 141 ins 1995 No. 22 s 14
om 2003 No. 29 s 379

Points etc. to be ascertained by reference to Australian Geodetic Datum

s 143 ins 1967 No. 37 s 14

Interference with pipeline or petroleum activities under this Act

prov hdg amd 2004 No. 26 s 63(1)
s 144 ins 1988 No. 51 s 15
amd 1995 No. 22 s 15; 2004 No. 26 s 63(2)–(4)

Interference with water

s 144A ins 2000 No. 34 s 1145 sch 3
om 2004 No. 26 s 64

Interference with access

s 145 ins 1988 No. 51 s 15
amd 1995 No. 22 s 16
om 2004 No. 26 s 64

Control of prospectus

s 146 amd 1955 4 Eliz 2 No. 25 s 18; 1962 No. 30 s 28; 1995 No. 22 s 3 sch;
2001 No. 45 s 29 sch 3
om 2004 No. 26 s 64

Penalties

s 147 ins 1962 No. 30 s 29
amd 1981 No. 14 s 3; 1993 No. 35 s 14

Other rights of action not affected

s 148 amd 1995 No. 22 s 3 sch; 2004 No. 26 s 65

Regulation-making power

prov hdg amd 1997 No. 71 s 1 sch
s 149 amd 1929 20 Geo 5 No. 17 s 21; 1962 No. 30 s 30; 1981 No. 14 s 4
sub 1993 No. 35 s 15
amd 1997 No. 71 s 1 sch
sub 2004 No. 26 s 66

Declaration about certain 1923 Act petroleum tenures

prov hdg amd 2004 No. 26 s 67(1)
s 150 ins 1996 No. 1 s 3
amd 2004 No. 26(2)–(4)

PART 10—TRANSITIONAL PROVISIONS FOR 1923 ACT PETROLEUM TENURES FROM 2004 ACT START DAY

pt hdg prev pt hdg ins 2003 No. 56 s 5
 exp beginning of 31 December 2004 (see prev s 158)
 pres pt hdg ins 2004 No. 26 s 68

Division 1—General transitional provisions

div hdg prev div hdg ins 2003 No. 56 s 5
 exp beginning of 31 December 2004 (see prev s 158)
 pres div hdg ins 2004 No. 26 s 68

Subdivision 1—Particular unfinished applications

sdiv hdg ins 2004 No. 26 s 68

Unfinished authority to prospect applications for which a Commonwealth Native Title Act s 29 notice has been given

s 151 orig s 151 ins 1996 No. 77 s 6
 exp 12 December 2001 (see s 151(7))
 AIA s 20A applies (see s 151(8))
 prev s 151 ins 2003 No. 56 s 5
 def “**prescribed day**” amd 2004 No. 4 s 53E
 exp beginning of 31 December 2004 (see prev s 158)
 pres s 151 ins 2004 No. 26 s 68
 amd 2005 No. 3 s 41

Additional condition of authority to prospect granted under s 151

s 152 orig s 152 ins 1996 No. 77 s 6
 exp 12 December 2001 (see s 152(4))
 AIA s 20A applies (see s 152(5))
 prev s 152 ins 2003 No. 56 s 5
 exp beginning of 31 December 2004 (see prev s 158)
 pres s 152 ins 2004 No. 26 s 68

Lapsing of unfinished former s 42 applications

s 153 orig s 153 ins 1997 No. 71 s 13
 exp 1 December 2002 (see s 153(6))
 AIA s 20A applies (see s 152(5))
 prev s 153 ins 2003 No. 56 s 5
 exp beginning of 31 December 2004 (see prev s 158)
 pres s 153 ins 2004 No. 26 s 68

Subdivision 2—Authorities to prospect

sdiv hdg ins 2004 No. 26 s 68

Area of land in area of coal or oil shale mining lease becomes excluded land

prov hdg amd 2005 No. 3 s 105 sch
s 154 prev s 154 ins 2003 No. 56 s 5
 exp beginning of 31 December 2004 (see prev s 158)
 pres s 154 ins 2004 No. 26 s 68
 amd 2005 No. 3 s 105 sch

Conditions of an authority to prospect about expenditure or work becomes its work program

- s 155** prev s 155 ins 2003 No. 56 s 5
 exp beginning of 31 December 2004 (see prev s 158)
 pres s 155 ins 2004 No. 26 s 68
 amd 2005 No. 3 s 105 sch

Subdivision 3—Leases

- sdiv hdg** ins 2004 No. 26 s 68

Program for development and production for a lease becomes its development plan

- s 156** prev s 156 ins 2003 No. 56 s 5
 exp beginning of 31 December 2004 (see prev s 158)
 pres s 156 ins 2004 No. 26 s 68

Subdivision 4—Conflict between 1923 Act petroleum tenure conditions and relevant environmental conditions

- sdiv hdg** ins 2004 No. 26 s 68

Environmental conditions prevail

- s 157** prev s 157 ins 2003 No. 56 s 5
 exp beginning of 31 December 2004 (see prev s 158)
 pres s 157 ins 2004 No. 26 s 68

Subdivision 5—Securities

- sdiv hdg** ins 2004 No. 26 s 68

Provision for existing demands for additional or alternative security under former s 43(8)

- s 158** prev s 158 ins 2003 No. 56 s 5
 exp beginning of 31 December 2004 (see prev s 158)
 pres s 158 ins 2004 No. 26 s 68

Monetary securities

- s 159** ins 2004 No. 26 s 68

Non-monetary securities

- s 160** ins 2004 No. 26 s 68

Subdivision 6—Notices of entry under Petroleum Regulation 1966 relating to 1923 Act petroleum tenure

- sdiv 6 (s 161)** ins 2004 No. 26 s 68

Subdivision 7—Compensation

- sdiv 7 (ss 162–163)** ins 2004 No. 26 s 68

Subdivision 8—Continuation of former cancellation provision in particular circumstances

- sdiv 8 (s 164)** ins 2004 No. 26 s 68

Subdivision 9—Existing road uses

- sdiv 9 (s 165)** ins 2004 No. 26 s 68

Subdivision 9A—Provisions for existing Water Act bores

- sdiv 9 (ss 165A–165B)** ins 2005 No. 3 s 42

Subdivision 10—Miscellaneous provisions**sdiv 10** (ss 166–169) ins 2004 No. 26 s 68**Division 2—Relinquishment condition until first renewal after 2004 Act start day, and related provisions****div hdg** prev div hdg ins 2003 No. 56 s 5
exp beginning of 31 December 2004 (see prev s 158)
pres div hdg ins 2004 No. 26 s 68**Application of div 2****s 170** ins 2004 No. 26 s 68**What is the “current term” of an authority to prospect****s 171** ins 2004 No. 26 s 68**What are the “transitional notional sub-blocks” of an authority to prospect****s 172** ins 2004 No. 26 s 68**Relinquishment condition if authority includes a reduction requirement****s 173** ins 2004 No. 26 s 68**Relinquishment condition if authority does not include a reduction requirement****s 174** ins 2004 No. 26 s 68**Division 3—Leases overlapping with an existing or proposed mineral development licence****div hdg** prev div hdg ins 2003 No. 56 s 5
exp beginning of 31 December 2004 (see prev s 158)
pres div hdg ins 2004 No. 26 s 68**Subdivision 1—Preliminary****sdiv 1** (ss 175–176) ins 2004 No. 26 s 68**Subdivision 2—Additional provisions****sdiv 2** (ss 177–179) ins 2004 No. 26 s 68**Subdivision 3—Confidentiality of information****sdiv hdg** ins 2004 No. 26 s 68**Application of sdiv 3****s 180** ins 2004 No. 26 s 68**Confidentiality obligations****s 181** ins 2004 No. 26 s 68
amd 2005 No. 3 s 43**Civil remedies****s 182** ins 2004 No. 26 s 68**Division 4—Expiry****div hdg** ins 2003 No. 56 s 5
exp beginning of 31 December 2004 (see prev s 158)**PART 11—TRANSITIONAL PROVISIONS FOR PETROLEUM AND OTHER LEGISLATION AMENDMENT ACT 2005****pt 11** (ss 183–184) ins 2005 No. 3 s 44

SCHEDULE—DECISIONS SUBJECT TO APPEAL

ins 2004 No. 26 s 68

amd 2005 No. 3 s 45

**8 List of forms notified or published in the
gazette****Form ATP-02A Version 1—Application for Renewal of Authority to Prospect**
pubd gaz 17 December 2004 p 1215**Form PA-01A Version 1—Application for Surrender of Petroleum Authorities
(Whole or Part)**
pubd gaz 17 December 2004 p 1215**Form PA-05A Version 1—Application for Registration of a Dealing**
pubd gaz 17 December 2004 p 1215**Form PA-11A Version 1—Administrative Notifications**
pubd gaz 17 December 2004 p 1215**Form PA-18A Version 1—Lodging a Prescribed Agreement**
pubd gaz 17 December 2004 p 1215**Form PA-19A Version 2—Notice of Intention to Drill a Petroleum Well or a Water
Bore**
pubd gaz 11 February 2005 p 455**Form PA-20A Version 2—Notice of the Completion, Alteration or Abandonment of a
Petroleum Well or Water Bore**
pubd gaz 11 February 2005 p 455**Form PA-21A Version 2—Notice of Intention to Carry Out Seismic Survey or
Scientific or Technical Survey**
pubd gaz 11 February 2005 p 455**Form PA-22A Version 2—Notice of Completion of Seismic Survey or Scientific or
Technical Survey**
pubd gaz 11 February 2005 p 455**Form PA-23AAA Version 1—The Rights and Obligations of Holders, Owners and
Occupiers Relating to the Entry of Land under a Petroleum Authority**
pubd gaz 11 February 2005 p 455**Form PL-03AA Version 1—Application for Renewal of Petroleum Lease**
pubd gaz 17 December 2004 p 1215**Form PL-05A Version 1—Application to Amend Relinquishment Condition of
Petroleum Lease**
pubd gaz 17 December 2004 p 1215

9 Table of renumbered provisions

under the Reprints Act 1992 s 43 as required by the Petroleum Act 1923 s 71
[Reprint No. 2]

Previous	Renumbered as
3	2
3A	3
3B	4
3C	5
3D	6
4	7
pt 1A	pt 2
4A	8
pt 2	pt 3
5	9
6	10
7	11
7A	12
7A(3A)	12(4)
7A(4)	12(5)
7B	13
7C	14
7C(1A)	14(2)
7C(1B)	14(3)
7C(2)	14(4)
7D	15
8	16
pt 3	pt 4
9	17
9A	18
9A(1A)	18(2)
9A(1B)	18(3)
9A(2)	18(4)
9A(3)	18(5)
9A(4)	18(6)
9A(4A)	18(7)
9A(5)	18(8)
9B	19
9C	20
9D	21
9E	22
9F	23
10	24
12	25
pt 4	pt 5
14	26
14(1)(d)	26(1)(c)
14(3)	26(2)

Petroleum Act 1923

Previous	Renumbered as
14(4)	26(3)
14(4A)	26(4)
14(5A)	26(6)
14(6)	26(7)
14(7)	26(8)
15	27
16	28
17	29
18	30
19	31
20	32
22	33
22A	34
23	35
24	36
25	37
26	38
27	39
pt 5	pt 6
28	40
28(1A)	40(2)
28(1B)	40(3)
28(1C)	40(4)
28(2)	40(5)
28(3)	40(6)
28(4)	40(7)
28(5)	40(8)
29	41
29A	42
29A(5A)	42(6)
29A(5B)	42(7)
29A(6)	42(8)
29A(6A)	42(9)
29A(6B)	42(10)
29A(6C)	42(11)
29A(7)	42(12)
29A(8)	42(13)
30	43
30(2A)	43(3)
30(2B)	43(4)
30(2C)	43(5)
30(2D)	43(6)
30(2E)	43(7)
30(3)	43(8)
30(4)	43(9)
30(4A)	43(10)
30(5)	43(11)
31	44

Petroleum Act 1923

Previous	Renumbered as
31A	.45
32	.46
33	.47
34	.48
34(1A)	.48(2)
34(1B)	.48(3)
34(1C)	.48(4)
34(1D)	.48(5)
34(2)	.48(6)
35	.49
36	.50
37	.51
38	.52
39	.53
pt 6	.pt 7
40	.54
40A	.55
40B	.56
40C	.57
40D	.58
40E	.59
40E(2A)	.59(3)
40E(3)	.59(4)
40E(4)	.59(5)
40E(5)	.59(6)
40E(6)	.59(7)
40E(7)	.59(8)
40F	.60
41	.61
41(1A)	.61(2)
41(1B)	.61(3)
41(1C)	.61(4)
41(2)	.61(5)
41A(2)	.62(1)
41A(3)	.62(2)
41A(4)	.62(3)
41A(5)	.62(4)
41A(6)	.62(5)
42	.63
42(1A)	.63(2)
42(2)	.63(3)
42(3)	.63(4)
42(4)	.63(5)
43	.64
44	.65
45	.66
45AA	.67
45AB	.68

Previous	Renumbered as
45AC	.69
45AD	.70
45AE	.71
45AF	.72
45AG	.73
45AH	.74
45A	.75
45A(2A)	.75(3)
45A(3)	.75(4)
45A(4)	.75(5)
45A(4A)	.75(6)
45A(5)	.75(7)
45B	.76
45B(2A)	.76(3)
45B(2B)	.76(4)
45B(2C)	.76(5)
45B(3)	.76(6)
45B(3A)	.76(7)
45B(3B)	.76(8)
45B(4)	.76(9)
45B(5)	.76(10)
45B(6)	.76(11)
45C	.77
45C(1A)	.77(2)
45C(2)	.77(3)
45C(3)	.77(4)
45D	.78
45D(1A)	.78(2)
45D(1B)	.78(3)
45D(1C)	.78(4)
45D(1D)	.78(5)
45D(1E)	.78(6)
45D(2)	.78(7)
45D(2A)	.78(8)
45D(2B)	.78(9)
45D(2C)	.78(10)
45D(3)	.78(11)
45D(3A)	.78(12)
45D(4)	.78(13)
45D(5)	.78(14)
45D(6)	.78(15)
45D(7)	.78(16)
45D(8)	.78(17)
45D(9)	.78(18)
45E	.79
45F	.80
46	.81
47	.82

Petroleum Act 1923

Previous	Renumbered as
48.....	83
49.....	84
50.....	85
50A.....	86
50A(aa).....	86(b)
50A(ab).....	86(c)
50A(b).....	86(d)
51.....	87
51(2A).....	87(3)
51(3).....	87(4)
51(3A).....	87(5)
51(4).....	87(6)
51(4A).....	87(7)
51(4B).....	87(8)
51(4C).....	87(9)
51(4D).....	87(10)
51(5).....	87(11)
51(6).....	87(12)
52.....	88
52(1A).....	88(2)
52(2).....	88(3)
52(3).....	88(4)
52(4).....	88(5)
53.....	89
54.....	90
54A.....	91
55.....	92
56.....	93
57.....	94
57A.....	95
58.....	96
59.....	97
60.....	98
60(1A).....	98(2)
60(2).....	98(3)
61.....	99
61(1A).....	99(2)
61(2).....	99(3)
61A.....	100
61B.....	101
61B(1A).....	101(2)
61B(1B).....	101(3)
61B(2).....	101(4)
61B(3).....	101(5)
61B(4).....	101(6)
61C.....	102
61C(2A).....	102(3)
61C(2B).....	102(4)

Petroleum Act 1923

Previous	Renumbered as
61C(3)	102(5)
61C(3A).....	102(6)
61C(4)	102(7)
61C(5)	102(8)
61C(6)	102(9)
61C(7)	102(10)
61C(8)	102(11)
61C(9)	102(12)
pt 6A	pt 8
61D	103
61E.....	104
61F.....	105
61G	106
61H	107
61I.....	108
61J	109
61K	110
61L.....	111
61M.....	112
61N	113
61O	114
61P.....	115
61Q	116
61R	117
61S.....	118
61T.....	119
61U	120
61V	121
61W.....	122
61X	123
61Y	124
61Z.....	125
61ZA	126
61ZB	127
61ZC	128
61ZD	129
61ZE	130
61ZF	131
61ZG	132
61ZH	133
61ZI.....	134
61ZJ.....	135
61ZK	136
61ZL	137
61ZM.....	138
61ZN	139
61ZO	140
61ZP	141

Previous	Renumbered as
pt 7.....	pt 9
62.....	142
62A.....	143
62B.....	144
62C.....	145
63.....	146
63(3)(ea).....	146(3)(f)
63(3)(f).....	146(3)(g)
63(3)(g).....	146(3)(h)
63(3)(h).....	146(3)(i)
63(3)(i).....	146(3)(j)
63A.....	147
64.....	148
65.....	149