Queensland

Environmental Protection Act 1994

Reprinted as in force on 9 November 2007

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Also see endnotes for information about—

- **when provisions commenced**
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Environmental Protection Act 1994

[as amended by all amendments that commenced on or before 9 November 2007]

An Act about the protection of Queensland's environment

Chapter 1 Preliminary

Part 1 Introductory provisions

1 Short title

This Act may be cited as the *Environmental Protection Act 1994*.

Part 2 Object and achievement of Act

3 Object

The object of this Act is to protect Queensland's environment while allowing for development that improves the total quality of life, both now and in the future, in a way that maintains the ecological processes on which life depends (***ecologically sustainable development***).

4 How object of Act is to be achieved

(1) The protection of Queensland's environment is to be achieved by an integrated management program that is consistent with ecologically sustainable development.

(2) The program is cyclical and involves the following phases—

(a) phase 1—establishing the state of the environment and defining environmental objectives;

(b) phase 2—developing effective environmental strategies;

(c) phase 3—implementing environmental strategies and integrating them into efficient resource management;

(d) phase 4—ensuring accountability of environmental strategies.

(3) The relationship between each of the phases is shown in the figure appearing at the end of this Act.

(4) Phase 1 is achieved by—

(a) researching the state of the environment, including essential ecological processes; and

(b) deciding environmental values to be protected or achieved by consulting industry, government departments and the community.

(5) Phase 2 is achieved by—

(a) developing environmental protection policies that, among other things—

(i) decide environmental indicators; and

(ii) establish ambient and emission standards for contaminants; and

(iii) require waste management, including waste prevention and minimisation; and

(iv) advise on management practices; and

(b) promoting environmental responsibility and involvement within the community.

(6) Phase 3 is achieved by—

(a) integrating environmental values into land use planning and management of natural resources; and

(b) ensuring all reasonable and practicable measures are taken to protect environmental values from all sources of environmental harm; and

(c) monitoring the impact of the release of contaminants into the environment; and

(d) requiring persons who cause environmental harm to pay costs and penalties for the harm.

(7) Phase 4 is achieved by—

(a) reviewing the results of human activities on the environment; and

(b) evaluating the efficiency and effectiveness of environmental strategies; and

(c) reporting publicly on the state of the environment.

5 Obligations of persons to achieve object of Act

If, under this Act, a function or power is conferred on a person, the person must perform the function or exercise the power in the way that best achieves the object of this Act.

6 Community involvement in administration of Act

This Act is to be administered, as far as practicable, in consultation with, and having regard to the views and interests of, industry, Aborigines and Torres Strait Islanders under Aboriginal tradition and Island custom, interested groups and persons and the community generally.

Part 3 Interpretation

Division 1 Dictionary

7 Definitions—dictionary

The dictionary in schedule 3 defines particular words used in this Act.

Division 2 Key concepts

Subdivision 1 The environment and its values

8 Environment

Environment includes—

(a) ecosystems and their constituent parts, including people and communities; and

(b) all natural and physical resources; and

(c) the qualities and characteristics of locations, places and areas, however large or small, that contribute to their biological diversity and integrity, intrinsic or attributed scientific value or interest, amenity, harmony and sense of community; and

(d) the social, economic, aesthetic and cultural conditions that affect, or are affected by, things mentioned in paragraphs (a) to (c).

9 Environmental value

Environmental value is—

(a) a quality or physical characteristic of the environment that is conducive to ecological health or public amenity or safety; or

(b) another quality of the environment identified and declared to be an environmental value under an environmental protection policy or regulation.

Subdivision 2 Environmental contamination

10 Contamination

Contamination of the environment is the release (whether by act or omission) of a contaminant into the environment.

11 Contaminant

A ***contaminant*** can be—

(a) a gas, liquid or solid; or

(b) an odour; or

(c) an organism (whether alive or dead), including a virus; or

(d) energy, including noise, heat, radioactivity and electromagnetic radiation; or

(e) a combination of contaminants.

12 Noise

Noise includes vibration of any frequency, whether emitted through air or another medium.

13 Waste

(1) ***Waste*** includes any thing, other than a resource approved under subsection (4), that is—

(a) left over, or an unwanted by-product, from an industrial, commercial, domestic or other activity; or

(b) surplus to the industrial, commercial, domestic or other activity generating the waste.

Example of paragraph (a)—

abandoned or discarded material from an activity is left over, or an unwanted by-product, from the activity

(2) ***Waste*** can be a gas, liquid, solid or energy, or a combination of any of them.

(3) A thing can be waste whether or not it is of value.

(4) The administering authority may approve a resource, or a stated type of resource, for subsection (1) if it considers the resource, or type of resource, has a beneficial use other than disposal.

Example of beneficial use for subsection (4)—

re-using or recycling a resource

Subdivision 3 Environmental harm and nuisance

14 Environmental harm

(1) ***Environmental harm*** is any adverse effect, or potential adverse effect (whether temporary or permanent and of whatever magnitude, duration or frequency) on an environmental value, and includes environmental nuisance.

(2) ***Environmental harm*** may be caused by an activity—

(a) whether the harm is a direct or indirect result of the activity; or

(b) whether the harm results from the activity alone or from the combined effects of the activity and other activities or factors.

15 Environmental nuisance

Environmental nuisance is unreasonable interference or likely interference with an environmental value caused by—

(a) noise, dust, odour, light; or

(b) an unhealthy, offensive or unsightly condition because of contamination; or

(c) another way prescribed by regulation.

16 Material environmental harm

(1) ***Material environmental harm*** is environmental harm (other than environmental nuisance)—

(a) that is not trivial or negligible in nature, extent or context; or

(b) that causes actual or potential loss or damage to property of an amount of, or amounts totalling, more than the threshold amount but less than the maximum amount; or

(c) that results in costs of more than the threshold amount but less than the maximum amount being incurred in taking appropriate action to—

(i) prevent or minimise the harm; and

(ii) rehabilitate or restore the environment to its condition before the harm.

(2) In this section—

maximum amount means the threshold amount for serious environmental harm.

threshold amount means $5000 or, if a greater amount is prescribed by regulation, the greater amount.

17 Serious environmental harm

(1) ***Serious environmental harm*** is environmental harm (other than environmental nuisance)—

(a) that causes actual or potential harm to environmental values that is irreversible, of a high impact or widespread; or

(b) that causes actual or potential harm to environmental values of an area of high conservation value or special significance; or

(c) that causes actual or potential loss or damage to property of an amount of, or amounts totalling, more than the threshold amount; or

(d) that results in costs of more than the threshold amount being incurred in taking appropriate action to—

(i) prevent or minimise the harm; and

(ii) rehabilitate or restore the environment to its condition before the harm.

(2) In this section—

threshold amount means $50000 or, if a greater amount is prescribed by regulation, the greater amount.

Subdivision 4 Environmentally relevant activities

18 Meaning of *environmentally relevant activity*

An ***environmentally relevant activity*** means—

(a) a mining activity;[1] or

(b) another activity prescribed under section 19 as an environmentally relevant activity.

19 Environmentally relevant activity may be prescribed

A regulation may prescribe an activity, other than a mining activity, as an environmentally relevant activity if the Governor in Council is satisfied—

(a) a contaminant will or may be released into the environment when the activity is carried out; and

(b) the release of the contaminant will or may cause environmental harm.

20 Levels for environmentally relevant activities

(1) An environmentally relevant activity, other than a mining activity, must be prescribed under a regulation as a level 1 or level 2 environmentally relevant activity, depending on the risk of environmental harm.

(2) A level 1 mining project is a level 1 environmentally relevant activity.

(3) A level 2 mining project is a level 2 environmentally relevant activity.

Subdivision 5 Environmental management

21 Best practice environmental management

(1) The ***best practice environmental management*** of an activity

1 See section 147 (What is a *mining activity*).

is the management of the activity to achieve an ongoing minimisation of the activity's environmental harm through cost-effective measures assessed against the measures currently used nationally and internationally for the activity.

(2) In deciding the ***best practice environmental management*** of an activity, regard must be had to the following measures—

(a) strategic planning by the person carrying out, or proposing to carry out, the activity;

(b) administrative systems put into effect by the person, including staff training and monitoring and review of the systems;

(c) public consultation carried out by the person;

(d) product and process design;

(e) waste prevention, treatment and disposal.

(3) Subsection (2) does not limit the measures to which regard may be had in deciding the ***best practice environmental management*** of an activity.

Part 4 Operation of Act

22 Act binds all persons

This Act binds all persons, including the State, and, as far as the legislative power of the Parliament permits, the Commonwealth and the other States.

23 Relationship with other Acts

(1) This Act is in addition to, and does not limit, any other Act.

(2) If this Act conflicts with an Act as follows, that Act prevails, but only to the extent of the conflict—

- *Ambulance Service Act 1991*
- *Disaster Management Act 2003*
- *Exotic Diseases in Animals Act 1981*

- *Fire and Rescue Service Act 1990*
- *Public Safety Preservation Act 1986*, part 3[2]
- *Radiation Safety Act 1999*
- *Transport Operations (Marine Pollution) Act 1995.*

24 Effect of Act on other rights, civil remedies etc.

(1) This Act does not limit any civil right or remedy that exists apart from this Act, whether at common law or otherwise.

(2) Without limiting subsection (1), compliance with this Act does not necessarily show that an obligation that exists apart from this Act has been satisfied or has not been breached.

(3) In addition, a breach of the general environmental duty does not, of itself, give rise to a civil right or remedy.

25 Extra-territorial application of Act

A person commits an offence against this Act if—

(a) the person causes environmental harm within the State by conduct engaged in outside the State; and

(b) the conduct would constitute the offence against this Act if it were engaged in by the person within the State.

Chapter 2 Environmental protection policies

26 Minister may make policies

The Minister may make environmental protection policies to enhance or protect Queensland's environment.

2 *Public Safety Preservation Act 1986*, part 3 (Chemical, biological and radiological emergencies)

27 Scope of policies

(1) An environmental protection policy may be made about the environment or anything that affects or may affect the environment.

(2) Without limiting subsection (1), an environmental protection policy may be made about any of the following—

(a) a contaminant, including, for example, an ozone depleting substance;

(b) an industry or activity;

(c) a technology or process;

(d) an environmental value;

(e) waste management;

(f) contamination control practice;

(g) land, air or water quality;

(h) noise;

(i) litter.

28 Contents of policies

(1) An environmental protection policy must—

(a) state that the policy applies to the environment generally or to an aspect or part of the environment specified in the policy; and

(b) identify the environmental values to be enhanced or protected under the policy.

(2) An environmental protection policy may—

(a) state the objectives to be achieved and maintained under the policy; or

(b) state indicators, parameters, factors or criteria to be used in measuring or deciding any quality or condition of the environment; or

(c) establish a program by which the stated objectives are to be achieved and maintained, including, for example, the following—

(i) quantifying ambient conditions;

(ii) the qualities and maximum quantities of any contaminant permitted to be released into the environment;

(iii) the minimum standards to be complied with in the installation or operation of vehicles, plant or equipment for the control of contaminants or waste from stated sources or places;

(iv) measures designed to protect the environment or minimise the possibility of environmental harm; or

(d) provide for a program performance assessment procedure.

(3) An environmental protection policy may make provision about anything about which a regulation may be made under this Act, and, in particular—

(a) prescribing offences for contraventions of the policy; and

(b) fixing a maximum penalty of a fine of not more than 40 penalty units for the contravention.

33 Policies are subordinate legislation

An environmental protection policy is subordinate legislation and does not have effect until it is approved by the Governor in Council.

34 Giving effect to policies

On approval of an environmental protection policy, the administering authority must give effect to the policy.

Chapter 3 Environmental impact statements

Part 1 EIS process

Division 1 Preliminary

Subdivision 1 Application

37 When EIS process applies

(1) This part applies for a project, other than a significant project, if—

(a) an EIS requirement is in force in relation to an application for an environmental authority (mining activities) and a relevant mining activity for the application is, or is part of, the project; or

(b) an EIS requirement is in force in relation to an application for an environmental authority (petroleum activities); or

(c) an EIS has been required for the project under an Act as follows for which it has, under the Act, been decided or required that this part applies to the preparation of the EIS—

(i) the Commonwealth Environment Act;

(ii) the State Development Act;[3]

(iii) another State Act or another Commonwealth Act; or

(d) the voluntary preparation of an EIS for the project has been approved under part 2;[4] or

3 See the State Development Act, part 4, divisions 2 (Significant project) and 3 (EIS process).

4 Part 2 (Voluntary preparation of EIS)

(e) the project is of a type prescribed under a regulation for which approval by a Commonwealth or State authority is required.

(2) However, an EIS under this Act can not be used for making a decision under the Integrated Planning Act, other than a decision in relation to a project mentioned in subsection (1)(a) or (b).

(3) In this section—

authority, for the Commonwealth, includes the Minister of the Commonwealth for the time being administering the Commonwealth Environment Act.

EIS includes a statement, however called, that is similar to an EIS.

project includes—

(a) a development or proposed development; and

(b) an action or proposed action; and

(c) a plan or policy.

Subdivision 2 Definitions for pt 1

38 Who is an *affected person* for a project

(1) A person is an ***affected person*** for a project if the person is—

(a) a person mentioned in subsection (2) for the operational land or any land joining it; or

(b) any of the following under the *Native Title Act 1993* (Cwlth) for the operational land or for an area that includes any of the land—

(i) a registered native title body corporate;

(ii) a registered native title claimant;

(iii) a representative Aboriginal/Torres Strait Islander body; or

(c) a relevant local government for the operational land.

(2) For subsection (1)(a), the persons are as follows—

(a) for freehold land—a registered proprietor;

(b) for land that is held from the State for an estate or interest less than fee simple and for which the interest is recorded in a register mentioned in the *Land Act 1994* (***Land Act***), section 276[5]—a person recorded in the register as the registered holder of the interest;

(c) for land subject to a mining claim, mineral development licence or mining lease—a holder of, or an applicant for, the tenement;

(d) for land subject to an authority to prospect or a lease or licence under the *Petroleum Act 1923*—

(i) a holder of the authority; or

(ii) a lessee under the lease; or

(iii) a licensee under the licence;

(e) for land under the Land Act or the *Nature Conservation Act 1992* (***NCA***) for which there are trustees—a trustee of the land;

(f) for Aboriginal land under the *Aboriginal Land Act 1991* (***ALA***) that is taken to be a reserve because of section 87(2) or 87(4)(b)[6] of that Act—a grantee of the land;

(g) for DOGIT land under the ALA or the *Torres Strait Islander Land Act 1991*—a trustee for the land;

(h) for land held under a lease under the *Local Government (Aboriginal Lands) Act 1978*, section 3[7]—a relevant local government;

(i) 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)[8] of that Act—a grantee of the land;

5 *Land Act 1994*, section 276 (Registers to be kept by chief executive)

6 *Aboriginal Land Act 1991*, section 87 (Application of Mineral Resources Act)

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

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

(j) for land under a lease from the State under the *Aborigines and Torres Strait Islanders (Land Holding) Act 1985* that has been excised from land granted in trust for Aboriginal or Torres Strait Islander purposes under the Land Act—a trustee of the land;

(k) for land that is any of the following, the State—

(i) unallocated State land;

(ii) a reserve under the Land Act for which there is no trustee;

(iii) a national park, national park (Aboriginal land), national park (scientific), national park (Torres Strait Islander land), national park (recovery) or forest reserve under the NCA;

(iv) a conservation park under the NCA for which there are no trustees;

(v) a State forest or timber reserve under the *Forestry Act 1959*;

(vi) a State controlled road under the *Transport Infrastructure Act 1994*;

(vii) a fish habitat area under the *Fisheries Act 1994*.

(l) another person prescribed under a regulation.

39 Other definitions

In this part—

business days does not include a business day between 20 December and 5 January in the following year.

comment period, for an EIS, means the comment period for the EIS under section 42(2)(e) and (3) or section 68(3)(b)(i).

draft terms of reference, for an EIS, means draft terms of reference submitted under section 41.

environmental management plan means—

(a) an environmental management document; or

(b) another document, however called, that proposes conditions and mechanisms to manage the potential environmental impact of the project.

final terms of reference, for an EIS, means the final terms of reference for the EIS published under section 46.

interested person means an interested person proposed by the proponent under section 41(3)(b).

operational land means the land on which the project is to be carried out.

person includes a body of persons, whether incorporated or unincorporated.

properly made submission see section 55(2).

proponent means the person who proposes the project to which this part applies.

submission period, for an EIS, means—

(a) the submission period for the EIS under section 52(1)(e) and (2); or

(b) if section 68 applies—any new submission period fixed under section 68(3)(b)(ii).

Subdivision 3 Purposes of EIS and EIS process

40 Purposes

The purposes of an EIS and the EIS process are as follows—

(a) to assess—

(i) the potential adverse and beneficial environmental, economic and social impacts of the project; and

(ii) management, monitoring, planning and other measures proposed to minimise any adverse environmental impacts of the project;

(b) to consider feasible alternative ways to carry out the project;

(c) to give enough information about the matters mentioned in paragraphs (a) and (b) to the proponent, Commonwealth and State authorities and the public;

(d) to prepare or propose an environmental management plan for the project;

(e) to help the administering authority decide an environmental authority application for which the EIS is required;

(f) to give information to other Commonwealth and State authorities to help them make informed decisions;

(g) to meet any assessment requirements under—

(i) the Commonwealth Environment Act for a project that is, or includes, a controlled action under that Act; or

(ii) a bilateral agreement;[9]

(h) to allow the State to meet its obligations under a bilateral agreement.

Division 2 Terms of reference stage

Subdivision 1 Draft terms of reference

41 Submission

(1) The proponent must submit to the chief executive draft terms of reference for the EIS that allow the purposes of the EIS to be achieved for the project.

(2) The submitted draft must—

9 For what is a *controlled action* under the Commonwealth Environment Act, see section 67 (What is a controlled action?) of that Act.

For assessment requirements of controlled actions, see the Commonwealth Environment Act, chapter 4, part 8 (Assessing impacts of controlled actions).

For bilateral agreements, see the Commonwealth Environment Act, chapter 3 (Bilateral agreements).

(a) be in the approved form; and

(b) be accompanied by the fee prescribed under a regulation; and

(c) if any of the operational land for the project is in a wild river area—

(i) if mining activities are to be carried out in the wild river high preservation area or under a nominated waterway in the wild river area—include a statement of how the proponent proposes to decide the minimum depth below the surface of the land under which the mining activities can be carried out to comply with the wild river declaration for the area; and

(ii) include any other matter that the wild river declaration states must be included in the draft terms of reference for the EIS; and

(d) include any matter prescribed under a regulation.

(3) Also, if an approval has not been given under part 2[10] for the project, the submitted draft must be accompanied by the following—

(a) a written description of the project and the operational land;

(b) a list stating the name and address of each person the proponent proposes as an interested person for the project;

Example of persons who may be proposed as an interested person—

an unincorporated community or environmental body with a financial or non-financial interest in the local government area that the operational land is in

(c) a statement of how the proponent proposes to consult with the interested persons;

(d) a list of the names and addresses of the affected persons for the project.

10 Part 2 (Voluntary preparation of EIS)

Subdivision 2 Public notification of draft terms of reference

42 Preparation of TOR notice

(1) The chief executive must, within 15 business days after the draft terms of reference are submitted, give the proponent written notice about the draft (the ***TOR notice***) for public notification.

(2) The notice must state the following—

(a) a description of the project and the operational land;

(b) that the proponent has prepared draft terms of reference for the EIS;

(c) where or how the draft may be obtained;[11]

(d) that anyone may make written comments to the chief executive about the draft;

(e) a period decided by the chief executive (the ***comment period***) during which comments may be made;

(f) another matter prescribed under a regulation.

(3) The comment period must not end before 30 business days after the notice is published.

43 Public notification

(1) The chief executive must publish the TOR notice within 5 business days after giving it to the proponent.[12]

(2) The proponent must, if asked by the chief executive, pay the chief executive's reasonable costs incurred in publishing the notice.

(3) The proponent must, within the 5 business days, give a copy of the notice to—

(a) each affected person for the project; and

11 See section 65 (Public access to draft terms of reference or submitted EIS).

12 See section 558 (Publication of decision or document by administering authority).

(b) each interested person; and

(c) any other person decided by the chief executive.

(4) The chief executive may decide another person for subsection (3)(c) only by giving the proponent an information notice about the decision before the notice is published.

44 Proponent to be given comments

The chief executive must, within 10 business days after the comment period ends, give the proponent a copy of all comments received by the chief executive within the period.

45 Advice to chief executive

The proponent must, within the period prescribed under a regulation, give the chief executive—

(a) a written summary of the comments; and

(b) a statement of the proponent's response to the comments; and

(c) any amendments of the draft terms of reference the proponent proposes because of the comments.

Subdivision 3 Final terms of reference

46 Finalising terms of reference

(1) The chief executive must, within the period prescribed under a regulation, do the following—

(a) consider the documents mentioned in section 45;

(b) prepare the final terms of reference;

(c) give the proponent a copy of the final terms of reference;

(d) publish the final terms of reference.

(2) The proponent must, if asked by the chief executive, pay the chief executive's reasonable costs incurred in publishing the final terms of reference.

Division 3 Submission stage

47 When EIS may be submitted

(1) The proponent may submit the EIS to the chief executive only within—

(a) 2 years after the final terms of reference are given to the proponent; or

(b) any longer period decided by the chief executive before or after the 2 years ends.

(2) If an EIS is not submitted under subsection (1)—

(a) the final terms of reference cease to have effect; and

(b) division 2 must be complied with again before the EIS may be submitted.

48 Chief executive may require copies of EIS

(1) The chief executive may, at any time before the submission period ends, by written notice require the proponent to give the chief executive a stated number of copies of the submitted EIS that the chief executive reasonably requires.

(2) The notice may require—

(a) the copies to be in hard copy form or in an electronic form or forms; and

(b) a stated part of the stated number to be given in hard copy form and a stated part of the number to be given in an electronic form or forms.

49 Decision on whether EIS may proceed

(1) The chief executive must, within the period prescribed under a regulation, consider the submitted EIS and decide whether to allow it to proceed under division 4.

(2) The chief executive may allow the EIS to proceed only if the chief executive considers it addresses the final terms of reference in an acceptable form.

(3) If the decision is to allow the EIS to proceed, the chief executive may also fix a minimum period for the making of submissions about the EIS.

(4) However, the period fixed must be at least 30 business days and must end at least 30 business days after the EIS notice is published.

(5) The chief executive must, within 10 business days after the decision is made, give the proponent written notice of the decision and of any submission period fixed.

(6) If the decision is to refuse to allow the EIS to proceed, the notice must also state—

(a) the reasons for the decision; and

(b) that the proponent may, under section 50, apply to the Minister to review the decision; and

(c) how to apply for a review.

50 Ministerial review of refusal to allow to proceed

(1) If the chief executive decides to refuse to allow the EIS to proceed, the proponent may, by written notice, apply to the Minister to review the decision.

(2) The notice must—

(a) state why the proponent considers the EIS should be allowed to proceed; and

(b) be given within 10 business days after the proponent receives a notice under section 49(6) about the decision.

(3) However, the Minister may, at any time, extend the time for giving the notice.

(4) In reviewing the decision, the Minister—

(a) has the same powers as the chief executive; and

(b) may confirm the chief executive's decision or decide to allow the EIS to proceed under division 4.

(5) The Minister's decision on the review is taken for this part, other than section 49(6), to be the chief executive's decision.

(6) The chief executive must give the proponent written notice of the Minister's decision within 10 business days after it is made.

(7) If the Minister's decision is to confirm the chief executive's decision, the notice must state reasons for the Minister's decision.

Division 4 Notification stage

Subdivision 1 Public notice requirements

51 Public notification

(1) This section applies if the chief executive has given the proponent a notice, under section 49(5), that the EIS may proceed under this division.

(2) Within 20 business days after the giving of the notice, the proponent must—

(a) give written notice about the EIS (the ***EIS notice***) to—

(i) each affected person for the project; and

(ii) each interested person; and

(iii) any other person decided by the chief executive; and

(b) publish the EIS notice—

(i) at least once in a newspaper circulating in the locality of the operational land; and

(ii) in another way prescribed under a regulation or decided by the chief executive.

(3) The chief executive may decide another person for subsection (2)(a)(iii) or another way of publishing the EIS notice for subsection (2)(b)(ii) only by giving the proponent an

information notice about the decision before the notice is published.

(4) This section is subject to section 68.[13]

52 Required content of EIS notice

(1) The EIS notice must be in the approved form and state the following—

(a) a description of the project and the operational land;

(b) where the submitted EIS may be inspected;[14]

(c) where copies of, or extracts from, the submitted EIS may be obtained;[15]

(d) that anyone may make a submission to the chief executive about the submitted EIS;

(e) the period (the ***submission period***) during which submissions may be made;

(f) how to make a properly made submission;

(g) another matter prescribed under a regulation.

(2) The submission period must be at least 30 business days and must end after the later of the following to end—

(a) any minimum period for the making of submissions about the EIS fixed by the chief executive under section 49(3) before the notice is published under section 51(2)(b);

(b) 20 business days after the publication.

53 Declaration of compliance

(1) The proponent must, within 10 business days after the EIS notice is published, give the chief executive a statutory declaration declaring—

13 Section 68 (Substantial compliance with notice requirements may be accepted)

14 See sections 65 (Public access to draft terms of reference or submitted EIS), 540 (Required registers) and 542 (Inspection of register).

15 See sections 540 (Required registers) and 542 (Inspection of register).

(a) whether or not the proponent has complied with the notice requirements under sections 51 and 52; and

(b) the name and address of each person to whom the EIS notice was given under section 51.

(2) A copy of the EIS notice must be attached to the declaration.

(3) The proponent is taken to have complied with the requirements if—

(a) a declaration is given under this section; and

(b) the declaration states the proponent has complied with the notice requirements.[16]

Subdivision 2 Submissions

54 Right to make submission

A person may, within the submission period, make a submission to the chief executive about the submitted EIS.

55 Acceptance of submissions

(1) The chief executive must accept a submission if it—

(a) is written; and

(b) is signed by or for each person (***signatory***) who made the submission; and

(c) states the name and address of each signatory; and

(d) is made to the chief executive; and

(e) is received on or before the last day of the submission period.

(2) A submission that complies with subsection (1) is called a ***properly made submission***.

16 For what happens if the declaration states the requirements have not been complied with, see section 68 (Substantial compliance with notice requirements may be accepted).

(3) The chief executive may accept a written submission even if it is not a properly made submission.

56 Response to submissions

(1) The chief executive must, within 10 business days after the submission period ends, give the proponent a copy of all submissions accepted by the chief executive.

(2) The proponent must, within the relevant period, consider the submissions and give the chief executive—

(a) a summary of the submissions; and

(b) a statement of the proponent's response to the submissions; and

(c) any amendments of the submitted EIS because of the submissions, together with an EIS amendment notice under section 66 for the amendments.

(3) In this section—

relevant period means—

(a) generally—20 business days after the proponent is given a copy of all submissions accepted by the chief executive; or

(b) if the chief executive and the proponent have, within the 20 business days, agreed to a different period—the different period.

56A Assessment of adequacy of response to submission and submitted EIS

(1) This section applies only if, under section 55, a submission has been accepted by the chief executive.

(2) The chief executive must, within 20 business days after the relevant period under section 56—

(a) consider the submitted EIS and the documents given under section 56(2); and

(b) decide whether to allow the submitted EIS to proceed under divisions 5 and 6.

(3) The chief executive may allow the submitted EIS to proceed only if the chief executive considers—

(a) the proponent's response to the submission is adequate; and

(b) the proponent has made all appropriate amendments to the submitted EIS because of the submission.

(4) The chief executive must, within 10 business days after the decision is made, give the proponent written notice of the decision.

(5) If the decision is to refuse to allow the submitted EIS to proceed, the notice must also state—

(a) the reasons for the decision; and

(b) that the proponent may, under section 56B, apply to the Minister to review the decision; and

(c) how to apply for a review.

56B Ministerial review of refusal to allow submitted EIS to proceed

(1) If, under section 56A, the chief executive decides to refuse to allow the submitted EIS to proceed, the proponent may, by written notice, apply to the Minister to review the decision.

(2) Section 50 applies to the notice and the review as if—

(a) they were a notice and review under that section; and

(b) the reference to division 4 in section 50(4)(b) were a reference to divisions 5 and 6; and

(c) the reference to section 49(6) in section 50(2)(b) were a reference to section 56A(4).

Division 5 EIS assessment report

57 EIS assessment report

(1) This section applies only if the chief executive has given the proponent a notice under section 56A(4), or under 50(6) as

applied by section 56B(2), of a decision that the submitted EIS may proceed under this division and division 6.

(2) The chief executive must give the proponent a report (an ***EIS assessment report***) about the submitted EIS within 30 business days after—

(a) if, at the end of the submission period, the chief executive has accepted any submissions—the end of the relevant period under section 56; or

(b) if, under section 56A, the chief executive originally decided to refuse to allow the submitted EIS to proceed but, under section 56B, the Minister decided to allow it to proceed—the giving to the proponent of notice of the Minister's decision; or

(c) otherwise—the end of the submission period.[17]

58 Criteria for preparing report

In preparing an EIS assessment report, the chief executive must consider the following—

(a) the final terms of reference for the EIS;

(b) the submitted EIS;

(c) all properly made submissions and any other submissions accepted by the chief executive;

(d) the standard criteria;

(e) another matter prescribed under a regulation.

59 Required content of report

An EIS assessment report must—

(a) address the adequacy of the EIS in addressing the final terms of reference; and

(b) address the adequacy of any environmental management plan for the project; and

17 For public inspection of the EIS assessment report, see sections 540 (Required registers) and 542 (Inspection of register).

(c) make recommendations about the suitability of the project; and

(d) recommend any conditions on which any approval required for the project may be given; and

(e) contain another matter prescribed under a regulation.

Division 6 Completion of process

60 When process is completed

(1) The process under this part is completed for an EIS when the proponent is given an EIS assessment report for the EIS.

(2) The process is taken to have been completed for a significant project if the Coordinator-General's report for the project has been given to the project's proponent.

(3) The process is taken to have been completed for another project if—

(a) an EIS or a similar statement, however called, for the project has been—

(i) finalised under the Commonwealth Environment Act, section 104(1);[18] or

(ii) completed under another Commonwealth Act or a State Act; and

(b) the chief executive decides the process under this part has been complied with, or substantially complied with, for the EIS or statement.

18 Commonwealth Environment Act, section 104 (Finalising environmental impact statement)

Division 7 Miscellaneous provisions

Subdivision 1 Inquiries by chief executive

61 Application of sdiv 1

This subdivision applies during—

(a) any stage under divisions 2 to 6; and

(b) the taking of a step or the making of a decision within any stage under divisions 2 to 6.

Example of when subdivision applies—

1 when the chief executive is preparing the final terms of reference

2 when the proponent is preparing the EIS

3 when the administering authority is preparing an EIS assessment report

62 Chief executive may seek advice, comment or information

(1) The chief executive may seek and consider relevant advice, comment or information from the proponent or another person.

(2) The request may be by public notice.

(3) If the request is made of the proponent, it must be written, and must state a reasonable period for the giving of the advice, comment or information sought.

63 Disclosure of relevant documents or information

The chief executive may give anyone a document or information if it—

(a) is mentioned in this part, required to be given to the chief executive under this part or relates to the project or to the process under this part; and

(b) is not subject to a disclosure exemption.

64 Making of inquiry does not of itself alter EIS process

Asking for and receiving, or giving, a document or advice, comment or information under this subdivision does not—

(a) replace any public notice or other stage or step required under divisions 2 to 6; or

(b) extend or reduce the period required to take a step or make a decision under divisions 2 to 6; or

(c) affect or limit a provision of divisions 2 to 6 that allows the chief executive and the proponent to agree about the period for the taking of a step under the EIS process.

Note—

for the consequences of not giving advice, comment or information required under section 62, see section 67

Subdivision 2 Public inspection

65 Public access to draft terms of reference or submitted EIS

If a person asks the proponent for a copy of the draft terms of reference for an EIS or the submitted EIS, the proponent must, on payment of the appropriate fee to the proponent, give the person the copy.[19]

Subdivision 3 Amending EIS

66 Amending EIS

(1) The proponent may amend or replace the submitted EIS (the ***original EIS***) at any time before the EIS assessment report is given to the proponent.

(2) However, the submitted EIS can not be amended during the submission period for the EIS.

19 See also sections 540 (Required registers) and 542 (Inspection of register).
For the appropriate fee, see section 543 (Appropriate fee for copies).

(3) Also, an amendment may be made only by giving the chief executive written notice of the amendment (an ***EIS amendment notice***).

(4) An EIS amendment notice must be accompanied by the fee prescribed under a regulation.

(5) The submitted EIS is taken to be the original EIS, as amended from time to time by an EIS amendment notice given for the original EIS.

Subdivision 4 Effects of noncompliance with process

67 Process is suspended

(1) This section applies if the proponent—

(a) does not comply with a requirement under the EIS process for an EIS; or

(b) becomes entitled to take the next step under the process and has not taken the step.

(2) The following are suspended until the requirement is complied with or the step is taken—

(a) the EIS process for the EIS;

(b) any obligations of the chief executive under this part for the EIS.

(3) The proponent's draft terms of reference or submitted EIS lapse on the later of the following days if the requirement has not been complied with or the step has not been taken—

(a) the first anniversary of the suspension;

(b) if the chief executive and the proponent have, before the first anniversary, agreed to a later day—the later day.

(4) This section is subject to sections 47 and 68.

68 Substantial compliance with notice requirements may be accepted

(1) If the proponent has not complied with the notice

requirements under division 2, subdivision 2 or division 4, subdivision 1, the chief executive must decide whether to allow the EIS to proceed under this part as if the noncompliance had not happened.

(2) The chief executive may decide to allow the EIS to proceed only if the chief executive is satisfied there has been substantial compliance with the requirements.

(3) If the chief executive decides not to allow the EIS to proceed, the chief executive must, within 10 business days after the decision is made—

(a) fix a new period for compliance with the requirements (the ***new notice period***); and

(b) either fix—

(i) if the noncompliance was with division 2, subdivision 2—a new comment period; or

(ii) if the noncompliance was with division 4, subdivision 1—a new submission period; and

(c) give the proponent an information notice about the decision not to allow the EIS to proceed and the decision about the new notice period.

(4) The information notice must state the new notice period and the new comment or submission period.

(5) The new notice period applies despite the period for giving the notice under section 43(3) or 51(2).

Part 2 Voluntary preparation of EIS

69 Purpose of pt 2

(1) The purpose of this part is to allow the proponent for a project to voluntarily prepare an EIS for the project by using the EIS process, if it is appropriate to do so.

(2) The purpose is achieved by providing for an approval process for the voluntary preparation of an EIS.

70 Projects that may be approved for EIS

(1) The proponent for a project may apply to the chief executive for approval to prepare an EIS for a project.

(2) However, an application can not be made for a project if—

(a) an EIS requirement is in force for an application under this Act relating to the project; or

(b) the Commonwealth Environment Act requires the project to be assessed under chapter 4, part 8 of that Act and the EIS process has not been decided as an accredited process under the Commonwealth Environment Act;[20] or

(c) an EIS or similar statement, however called, must be prepared for the project under another State Act and that Act does not allow the EIS or statement to be prepared under the EIS process.

71 Requirements for application

An approval application must be—

(a) in the approved form; and

(b) supported by enough information to allow the chief executive to decide whether an EIS is appropriate for the project; and

(c) supported by enough documents or information to establish that the applicant may enter land to which the project relates to carry out any necessary studies for the EIS; and

(d) accompanied by—

(i) the documents that, under section 41(3), must accompany a submitted draft terms of reference for an EIS; and

(ii) the fee prescribed under a regulation.

20 See the Commonwealth Environment Act, sections 47 (Agreement may declare classes of actions do not need assessment) and 87 (Minister must decide on approach for assessment).

72 Deciding application

(1) The chief executive must consider the application and decide either to grant or refuse the approval.

(2) However, the chief executive may grant the approval only if the chief executive considers an EIS is appropriate for the project.

(3) The chief executive must, within 10 business days after the decision is made, give the proponent a written notice stating the decision, and the reasons for it.

Chapter 4 Development approvals and registration (other than for mining or petroleum activities)

Part 1 Assessing development applications

73 Application of pt 1

This part applies if the administering authority is the assessment manager or a referral agency for a development application for a chapter 4 activity.

73A Assessing development applications

(1) In assessing the application, the administering authority—

(a) must comply with any relevant regulatory requirement; and

(b) subject to paragraph (a), must consider the following—

(i) the standard criteria;

(ii) any additional information given in relation to the application.

(2) This section does not limit the Integrated Planning Act, section 3.3.15[21] or chapter 3, part 5, division 2[22] of that Act.

(3) If the application is an application for an increase in the scale or intensity of a chapter 4 activity, the administering authority must assess the application having regard to—

(a) the proposed activity; and

(b) the existing activity; and

(c) the total likely or potential environmental harm the proposed activity and the existing activity, may cause.

Example of how application is assessed—

If a chapter 4 activity is carried out on premises and a development application is made because of a proposed intensification of the activity, the application is assessed on the basis of the activity, including the intensification.

73AA Development applications in relation to wild river areas

(1) This section applies to a development application for—

(a) a material change of use of premises mentioned in the Integrated Planning Act, schedule 8, part 1, table 2, item 1; or

(b) development mentioned in the Integrated Planning Act, schedule 8, part 1, table 5, item 4.

(2) Subsection (5) applies if any part of the application relates to development in waters in a wild river area that is for an environmentally relevant activity mentioned in the *Environmental Protection Regulation 1998,* schedule 1, item 20 (extracting rock or other material), other than if the development application is accompanied by an allocation notice.

(3) Subsection (5) applies if any part of the application relates to development in a wild river high preservation area, other than for the following—

21 Integrated Planning Act, section 3.3.15 (Referral agency assesses application)

22 Integrated Planning Act, chapter 3 (Integrated development assessment system (IDAS)), part 5 (Decision stage), division 2 (Assessment process)

(a) an environmentally relevant activity mentioned in the following provisions of the *Environmental Protection Regulation 1998*—

(i) schedule 1, item 15 (sewage treatment) or 16 (municipal water treatment plant);

(ii) schedule 1, item 19 (dredging material);

(iii) schedule 1, item 20 (extracting rock or other material), if the activity is a low impact activity carried out outside waters and is for specified works, or residential complexes, in the area;

(iv) schedule 1, item 22 (screening etc. materials), if the activity is carried out outside waters and is for specified works, or residential complexes, in the area;

(v) schedule 1, item 11 (crude oil or petroleum product storage), if the activity is—

(A) a level 2 environmentally relevant activity; and

(B) for residential complexes in the area; and

(C) carried out outside a designated urban area;

(b) an exempt environmentally relevant activity in a designated urban area.

(4) Subsection (5) applies if any part of the application relates to development in a floodplain management area that is for an environmentally relevant activity mentioned in the *Environmental Protection Regulation 1998,* schedule 1, item 20, other than if the activity is a low impact activity carried out outside waters and is for specified works, or residential complexes, in the area.

(5) Despite the Integrated Planning Act, section 3.2.1—

(a) the application is taken not to be a properly made application for that Act; and

(b) the assessment manager must refuse to receive the application.

(6) Subsection (7) and (8) apply—

(a) to an application not refused under subsection (5); and

(b) to the extent the application relates to development in a wild river area, other than for the following—

(i) an environmentally relevant activity mentioned in the *Environmental Protection Regulation 1998,* schedule 1, item 15 or 16, if the development is in a designated urban area;

(ii) development mentioned in subsection (3)(b); and

(c) despite the Integrated Planning Act, chapter 3, part 3, division 4 and sections 3.5.4, 3.5.5, 3.5.13 and 3.5.14.

(7) For the application, the assessment manager's and any concurrence agency's decision must comply with the applicable code mentioned in the wild river declaration for the area.

(8) For development mentioned in subsection (3)(a)(i) in a wild river high preservation area, the assessment manager and any concurrence agency must, in assessing and deciding the application, be satisfied there is no viable location for the development outside the wild river high preservation area.

(9) In this section—

allocation notice means an allocation notice given—

(a) under the *Water Act 2000*, section 283; or

(b) before the commencement of this section, under the *Coastal Protection and Management Act 1995*, section 76.

exempt environmentally relevant activity means—

(a) an environmentally relevant activity mentioned in the *Environmental Protection Regulation 1998*, schedule 1, item 14 (crematorium) or 28 (motor vehicle workshop); or

(b) a level 2 environmentally relevant activity mentioned in the *Environmental Protection Regulation 1998*, schedule 1, other than item 1(a) (aquaculture), 2(a) (cattle feedlotting), 3(a) (pig farming), 4(a) (poultry farming), 20 (extracting rock or other material), 22 (screening etc. materials) or 59 (asphalt manufacturing).

floodplain management area see the *Wild Rivers Act 2005*, schedule.

low impact activity means a borrow pit of not more than 10000m^3.

73B Conditions of development approval that may and must be imposed

(1) Subject to the Integrated Planning Act, section 3.5.30,[23] the administering authority may impose the conditions on the development approval it considers are necessary or desirable.

(2) The conditions must include any condition the authority is required to impose under a regulatory requirement.

(3) Without limiting subsections (1) and (2), the conditions may—

(a) require all or any of the following—

(i) stated plant or equipment to be installed and operated in a stated way within a stated period;

(ii) stated measures be taken to minimise the likelihood of environmental harm being caused;

(iii) carrying out and reporting on a stated monitoring program;

(iv) the preparation and carrying out of a transitional environmental program;

(v) the giving of relevant information reasonably required by the administering authority for the administration or enforcement of this Act;

(vi) the carrying out or reporting about stated rehabilitation or remediation work relating to the chapter 4 activity the subject of the development approval; or

(b) prohibit the changing, replacing or operating of any plant or equipment associated with the activity if the change, replacement or operation increases, or is likely

23 Integrated Planning Act, section 3.5.30 (Conditions must be relevant or reasonable)

to substantially increase, the risk of environmental harm; or

(c) include a condition under section 364[24] requiring the giving of financial assurance.

(4) A condition may be imposed even if it imposes an obligation that continues to apply after the activity stops.

Example for subsection (4)—

A condition may—

1 be about rehabilitation of the land to which the development approval relates after the activity has ended; or

2 require a site management plan for the land.

73C Adding, changing or cancelling a development condition

(1) The administering authority may add, change or cancel a development condition of a development approval if it considers the addition, change or cancellation is necessary or desirable because of—

(a) a contravention of this Act or an environmental offence committed by the registered operator; or

(b) the development approval or registration certificate was issued because of a materially false or misleading representation or declaration, made either orally or in writing; or

(c) the development approval was issued on the basis of a miscalculation of—

(i) the quantity or quality of contaminant authorised to be released into the environment; or

(ii) the effects of the release of a quantity or quality of contaminant authorised to be released into the environment; or

(d) a change in the way in which, or the place where, contaminants are, or are likely to be, released into the environment; or

24 Section 364 (When financial assurance may be required)

(e) the approval of an environmental protection policy or the approval of the amendment of an environmental protection policy; or

(f) an environmental report; or

(g) a report made by or for, or approved by, a recognised entity if the report—

(i) is relevant to the development approval or an activity carried out under it; and

(ii) if the administering authority is not the chief executive—has been accepted by the chief executive; or

(h) the approval by the administering authority of—

(i) a transitional environmental program; or

(ii) an amendment of the approval of a transitional environmental program; or

(i) another circumstance prescribed under a regulation.

(2) Also, the administering authority may add, change or cancel a development condition of a development approval about financial assurance, monitoring or reporting if it considers the addition, change or cancellation is necessary or desirable because a person has applied to be the registered operator for the development approval.

(3) Also, the administering authority may add, change or cancel a development condition of a development approval if the registered operator for the development approval has agreed in writing to the addition, change or cancellation.

(4) The process stated in the Integrated Planning Act, section 3.5.33A for changing or cancelling a condition applies for adding, changing or cancelling a condition under this section.

(5) If the administering authority adds, changes or cancels a condition, it must—

(a) within 10 business days, record the particulars of the addition, change or cancellation in the appropriate register; and

(b) if the condition relates to a mobile and temporary environmentally relevant activity—give notice of the

addition, change or cancellation to the registered operator for the development approval.

(6) A notice stating the administering authority has decided to add, change or cancel a condition is taken to be a notice to which the Integrated Planning Act, section 4.1.31(1)(b)[25] applies.

(7) Subsection (6) does not apply if the condition has been added, changed, or cancelled under subsection (3).

Part 2 Registration

73D Application for registration to carry out chapter 4 activity

(1) A person may apply to be a registered operator to carry out 1 or more chapter 4 activities.

(2) The application must—

(a) be made to the administering authority in the approved form; and

(b) be accompanied by the fee prescribed under a regulation.

(3) The applicant may withdraw the application at any time before the application is decided.

73E Grounds for refusing application for registration

The administering authority may refuse the application if the authority is satisfied—

(a) the applicant is not a suitable person to be a registered operator having regard to the applicant's environmental record; or

(b) for an applicant that is not a corporation, a disqualifying event has happened in relation to the applicant or

25 Integrated Planning Act, section 4.1.31 (Appeals for matters arising after approval given (no co-respondents))

another person of whom the applicant is a partner; or

(c) for an applicant that is a corporation, a disqualifying event has happened in relation to—

(i) any of the corporation's executive officers; or

(ii) another corporation of which any of the corporation's executive officers are, or have been, an executive officer.

73F Registration certificates

(1) If the administering authority decides to grant the application, the authority must give the applicant a certificate (a ***registration certificate***) for the activities applied for within—

(a) if the authority requests a suitability report about the applicant—20 business days after receiving the application; or

(b) if the authority does not request a suitability report about the applicant—10 business days after receiving the application.

(2) However, if the administering authority is satisfied the activities will not be carried out as a single integrated operation, 2 or more registration certificates may be granted instead of a single registration certificate.

(3) For this section, activities are carried out as a single integrated operation if—

(a) the activities are carried out under the day to day management of a single responsible person, for example, a site or operations manager; and

(b) the activities are operationally interrelated; and

(c) the integrated operation of the activities leads to a lower risk of environmental harm being caused by the activities; and

(d) the activities are, or will be, carried out at 2 or more places at or about the same time, and the places where they are carried out are separated by distances short enough to make feasible the integrated day to day management of the activities.

(4) If—

(a) under subsection (2), the administering authority grants 2 or more registration certificates; and

(b) the fee paid by the applicant under section 73D(2)(b) was for a single registration certificate;

the applicant must pay the fees for the additional registration certificates.

(5) If the authority decides to refuse the application, the authority must give the applicant an information notice about the decision within—

(a) if the authority requests a suitability report for the application—20 business days of receiving the application; or

(b) if the authority does not request a suitability report for the application—10 business days of receiving the application.

(6) A registration certificate authorises the registered operator to carry out the activities stated in the certificate at the place or places stated in the certificate.

(7) If the authority does not act under subsection (1), (2) or (5)—

(a) the applicant is taken to have been granted a registration certificate for the activities applied for; and

(b) the authority must issue the registration certificate as soon as practicable.

73G When registration certificate takes effect

(1) Subject to subsections (2) and (3), each registration certificate has effect from—

(a) if the certificate states a day or the happening of an event for it to take effect—the stated day or the happening of the event; or

(b) if no day or event is stated under paragraph (a)—the day the certificate is given; or

(c) if the certificate is taken to have been granted under section 73F(7)—21 business days after the

administering authority received the application.

(2) If section 73F(4) applies to an application, none of the registration certificates granted take effect until the fees for the additional registration certificates have been paid.

(3) If a chapter 4 activity the subject of a registration certificate is assessable development, the certificate does not take effect for the activity until a development permit for the activity takes effect.

73GA Registration certificate expires if new operator registered

(1) This section applies to a registration certificate (the ***existing registration certificate***) for a continuing chapter 4 activity if—

(a) the registered operator (the ***existing registered operator***) disposes of the operator's business to someone else; and

(b) another registration certificate for the activity (the ***new registration certificate***) is given to a person other than the existing registered operator.

(2) Unless it is sooner cancelled, suspended or surrendered, the existing registration certificate expires when the new registration certificate takes effect under section 73G.

(3) This section does not apply if section 73HD applies.

Part 3 Amending registration

Division 1 Grounds for amending registration certificates

73H Amendment to correct error

The administering authority may amend a registration certificate to correct a clerical or formal error if—

(a) the proposed amendment does not adversely affect the interests of the registered operator or anyone else; and

(b) written notice of the amendment has been given to the operator.

73HA Amendment by agreement

The administering authority may amend a registration certificate if the registered operator has agreed in writing to the amendment.

73HB Amendment to ensure consistency with code of environmental compliance

The administering authority may amend a registration certificate to ensure the detail on the certificate is consistent with a code of environmental compliance applying to a chapter 4 activity stated in the certificate.

73HC Amendment for registration of new activity

(1) This section applies if—

(a) a registered operator applies for a registration certificate for a new chapter 4 activity; and

(b) the administering authority is satisfied—

(i) registration should be granted for the new activity; and

(ii) the new activity will be carried out, with the activities under an existing registration certificate held by the operator, as a single integrated operation for section 73F.

(2) The administering authority may, instead of giving the operator a registration certificate for the new chapter 4 activity, amend the existing registration certificate to include the activity.

73HD Amendment for removing registration of continuing chapter 4 activity

(1) This section applies if—

(a) a continuing chapter 4 activity and another chapter 4 activity are stated in a registration certificate (an ***existing registration certificate***); and

(b) the registered operator (the ***existing registered operator***) disposes of the operator's business, or part of the business, to someone else; and

(c) another registration certificate for the continuing chapter 4 activity—

(i) is given to a person other than the existing registered operator; and

(ii) has taken effect under section 73G.

(2) The administering authority may amend the existing registration certificate to remove the continuing chapter 4 activity.

Division 2 Amendment of registration certificates

73HE How a registration certificate is to be amended

If the administering authority amends a registration certificate under this part, the authority must, within 10 business days—

(a) record particulars of the amendment in the appropriate register; and

(b) give the registered operator a copy of the amended registration certificate.

Part 4 Cancelling or suspending registration

73I Cancelling or suspending a registration certificate

The administering authority may cancel or suspend a registration certificate if—

(a) the certificate was issued because of a materially false or misleading representation or declaration, made either orally or in writing; or

(b) the registered operator is, after the issue of the registration certificate, convicted of an environmental offence; or

(c) the operator has been given an annual notice and the notice has not been complied with.

73J Notice of proposed action

(1) If the administering authority proposes to cancel or suspend a registration certificate, the administering authority must give the registered operator a written notice stating—

(a) the action (the ***proposed action***) the administering authority proposes taking under this part; and

(b) the grounds for the proposed action; and

(c) the facts and circumstances that are the basis for the grounds; and

(d) if the proposed action is to suspend the registration certificate—the proposed suspension period; and

(e) that the operator may make, within a stated period, written representations to show why the proposed action should not be taken.

(2) The stated period must end at least 20 business days after the operator is given the proposed action notice.

(3) For subsection (1)(d), the proposed suspension period may be fixed by reference to a stated event.

Example for subsection (3)—

If a ground on which the proposed action is to be taken is that financial assurance required under a condition of the development approval has not been given, the proposed suspension period may be stated as the period ending when the financial assurance is given.

73K Considering representations

The administering authority must consider any written representation made within the period stated in the notice given under section 73J.

73L Decision on proposed action

(1) If, after complying with section 73K, the administering authority still believes a ground exists to take the proposed action, it may—

(a) if the proposed action was to suspend the registration certificate for a stated period—suspend the registration certificate for no longer than the stated period; or

(b) if the proposed action was to cancel the registration certificate—

(i) cancel the registration certificate; or

(ii) suspend it for a fixed period.

(2) The decision under subsection (1) is called the ***proposed action decision***.

(3) If the administering authority at any time decides not to take the proposed action, it must promptly give the registered operator written notice of the decision.

73M Notice of proposed action decision

(1) The administering authority must, within 10 business days after the proposed action decision is made, give the registered operator an information notice about the decision.

(2) The decision takes effect on the later of the following—

(a) the day the notice is given to the registered operator;

(b) a later day of effect stated in the notice.

(3) However, if the decision was to cancel or suspend the registration certificate because of the conviction of the operator for an offence, the cancellation or suspension—

(a) does not take effect until—

(i) the period to appeal against the conviction ends; and

(ii) if the appeal is made against the conviction—the appeal is finally decided or is otherwise ended; and

(b) has no effect if the conviction is quashed on appeal.

73N Steps for cancelling or suspending a registration certificate

(1) This section applies if the proposed action decision is to take action and the decision has taken effect.

(2) The administering authority must, within 10 business days—

(a) take the action; and

(b) record particulars of the action in the appropriate register.

(3) If the action is suspension of the registration certificate—

(a) the particulars must state when the suspension period starts and ends; and

(b) the suspension ends when the suspension period is stated to end.

Part 5 Surrendering registration

73O Surrendering a registration certificate

(1) A registered operator may apply to surrender the operator's registration certificate.

(2) The application must be—

(a) made in the approved form; and

(b) given to the administering authority; and

(c) accompanied by—

(i) an audit statement advising the extent to which activities carried out under the development approval or the relevant code of environmental compliance have complied with the development conditions of the approval or the standard environmental conditions of the code; and

(ii) the fee prescribed under a regulation.

(3) The administering authority must consider the application and, within 20 business days after the application is received by the administering authority, either approve or refuse the surrender.

(4) The administering authority must approve the surrender if the administering authority is satisfied the operator has not started to carry out any activity for which the certificate was granted.

(5) The administering authority must not approve the surrender unless it is satisfied the land on which the activities have been carried out has been, or will be, satisfactorily rehabilitated or suitably managed.

(6) In making a decision under subsection (3), the administering authority must—

(a) comply with any relevant regulatory requirement; and

(b) subject to paragraph (a), consider the following—

(i) the standard criteria;

(ii) the audit statement mentioned in subsection (2)(c)(i);

(iii) whether the standard environmental conditions of the code of environmental compliance for the activity, or the development conditions of the development approval, have been complied with;

(iv) any transitional environmental program for the land;

(v) whether or not the land has been removed from the environmental management register or the land has a site management plan approved for it;

(vi) whether or not any financial assurance given for the activity should be returned, reduced or retained;

(vii) another matter prescribed under an environmental protection policy or a regulation.

(7) Also, the administering authority may refuse the surrender if the registered operator has been given an annual notice and the notice has not been complied with.

73P Steps for surrendering a registration certificate

(1) If the administering authority approves the surrender, the administering authority must, within 10 business days—

(a) record particulars of the surrender in the appropriate register; and

(b) give the registered operator notice of the approval.

(2) If the administering authority decides to refuse the surrender, the administering authority must, within 10 business days of deciding to refuse the surrender, give the operator an information notice about the decision to refuse.

Part 6 Miscellaneous

73Q Notice of disposal by registered operator

(1) This section applies if a registered operator proposes to dispose of the operator's business to someone else (the ***proposed buyer***).

(2) Before agreeing to dispose of the business, the operator must give the proposed buyer written notice that the proposed buyer must apply for a new registration certificate.

Maximum penalty for subsection (2)—50 penalty units.

73R Additional consequences of not giving notice

(1) This section applies if section 73Q applies and the registered operator does not comply with section 73Q(2).

(2) The proposed buyer may, by written notice, rescind the agreement before the completion of the agreement or possession under the agreement, whichever is the earlier.

(3) On the rescission of the agreement—

(a) a person who was paid amounts by the proposed buyer under the agreement must refund the amounts to the proposed buyer; and

(b) the proposed buyer must return to the registered operator any documents about the disposal, other than the proposed buyer's copy of the agreement.

(4) This section has effect despite any other Act or anything to the contrary in the agreement.

73S Effect of self-assessable development becoming assessable development

(1) This section applies if a chapter 4 activity that was self-assessable development becomes assessable development because of the repeal of a code of environmental compliance.

(2) From the day the code is repealed, the registration certificate for the activity is taken to also be a development approval for the activity subject to the conditions stated in the repealed code.[26]

73T Offences under s 427 do not apply in certain circumstances

(1) This section applies if, because of a change in the law an activity that is being carried out and is not a chapter 4 activity becomes a chapter 4 activity.

26 However, see section 73C (Adding, changing or cancelling a development condition).

(2) Section 427 does not apply to the person carrying out the activity until 4 months after the day the activity becomes a chapter 4 activity.

(3) Also, section 427 does not apply to the person carrying out the activity after the 4 months mentioned in subsection (2) end if, within the 4 months—

(a) if the activity is a chapter 4 activity that is subject to a code of environmental compliance—the person applied to be a registered operator for the activity; or

(b) if the activity is a chapter 4 activity that is not subject to a code of environmental compliance—

(i) the person applied to be a registered operator for the activity; and

(ii) a development application was made for carrying out the activity.

(4) Subsection (3) continues to have effect in relation to the person until—

(a) the application under subsection (3)(a) has been decided; or

(b) both applications under subsection (3)(b) have been decided; or

(c) the application lapses.

(5) If a development application mentioned in subsection (3) is made, despite the Integrated Planning Act, the applicant must respond to an information request about the application within 3 months after the day the request is made.

(6) If the applicant does not respond to an information request about the application within 3 months after the day the request is made, the application lapses.

Chapter 4A Environmental authorities for petroleum activities

Part 1 Preliminary

74 Purpose of ch 4A

(1) The purpose of this chapter is to provide for environmental authorities for petroleum activities.

(2) An environmental authority issued under this chapter is an ***environmental authority (petroleum activities)***.

75 Types of environmental authority (petroleum activities)

(1) The types of environmental authority (petroleum activities) are a code compliant authority and a non-code compliant authority.

(2) A ***code compliant authority*** is an environmental authority (petroleum activities) issued under part 2, division 3, subdivision 1.[27]

(3) However, a code compliant authority ceases to be a code compliant authority if, under part 3, 4 or 6,[28] its conditions are amended or new conditions are imposed on it.

(4) A ***non-code compliant authority*** is any environmental authority (petroleum activities) other than a code compliant authority.

76 What is a *petroleum authority* and the *Petroleum legislation*

(1) A ***petroleum authority*** is—

27 Part 2, division 3, subdivision 1 (Code compliant authorities)

28 Part 3 (Amending environmental authorities (petroleum activities) by application), 4 (Transfers) or 6 (Amendment, cancellation or suspension by administering authority)

(a) a 1923 Act petroleum tenure granted under the *Petroleum Act 1923*; or

(b) a petroleum authority granted under the *Petroleum and Gas (Production and Safety) Act 2004*; or

(c) a licence, permit, pipeline licence, primary licence, secondary licence or special prospecting authority granted under the *Petroleum (Submerged Lands) Act 1982*.

(2) The *Petroleum and Gas (Production and Safety) Act 2004* is referred to as the ***P&G Act***.

(3) The Acts mentioned in subsection (1) are collectively referred to as the ***petroleum legislation***.

77 What is a *petroleum activity*, a *level 1 petroleum activity* and a *level 2 petroleum activity*

(1) A ***petroleum activity*** is—

(a) an activity that, under the *Petroleum Act 1923* is an authorised activity for a 1923 Act petroleum tenure under that Act; or

(b) an activity that, under the P&G Act is an authorised activity for a petroleum authority under that Act; or

(c) exploring for, exploiting or conveying petroleum resources under a licence, permit, pipeline licence, primary licence, secondary licence or special prospecting authority granted under the *Petroleum (Submerged Lands) Act 1982*; or

(d) rehabilitating or remediating environmental harm because of an activity mentioned in paragraphs (a) to (c); or

(e) action taken to prevent environmental harm because of an activity mentioned in paragraphs (a) to (d); or

(f) an activity required under a condition of an environmental authority (petroleum activities); or

(g) an activity required under a condition of an environmental authority (petroleum activities) that has ended or ceased to have effect, if the condition—

(i) continues to apply after the authority has ended or ceased to have effect; and

(ii) has not been complied with.[29]

(2) A ***level 1 petroleum activity*** is a petroleum activity that, under section 20(1), is prescribed as a level 1 environmentally relevant activity.

(3) A ***level 2 petroleum activity*** is a petroleum activity that, under section 20(1), is prescribed as a level 2 environmentally relevant activity.

78 What is a *relevant petroleum authority*

A ***relevant petroleum authority*** for a petroleum activity, environmental authority (petroleum activities) or an application for, or about, an environmental authority (petroleum activities), is the petroleum authority, or proposed petroleum authority, to which the activity, environmental authority or application relates.

79 What is a *relevant petroleum activity*

(1) A ***relevant petroleum activity***, for an application for, or about, an environmental authority (petroleum activities) is a petroleum activity the subject of the application.

(2) A ***relevant petroleum activity*** for an environmental authority (petroleum activities) is a petroleum activity the subject of the authority.

80 What is a *petroleum project*

A ***petroleum project*** is all activities carried out, or proposed to be carried out, under 1 or more of the following, in any combination, as a single integrated operation—

(a) a 1923 Act petroleum tenure granted under the *Petroleum Act 1923*;

29 See sections 98 and 114 (Conditions that may and must be imposed) and schedule 3, definition *conditions*.

(b) a petroleum authority granted under the P&G Act;

(c) a licence, permit, pipeline licence, primary licence, secondary licence or special prospecting authority granted under the *Petroleum (Submerged Lands) Act 1982*.

Part 2 Applying for and obtaining environmental authority (petroleum activities)

Division 1 Preliminary

81 Definitions for pt 2

In this part—

person includes a body of persons, whether incorporated or unincorporated.

relevant place, for an environmental authority (petroleum activities), means a place, or a part of a place, to which the authority relates, but does not include premises, or a part of premises, used only for residential purposes.

submission period, for an application for an environmental authority (petroleum activities), means—

(a) the submission period for the application under section 107(1)(b) and (2);[30] or

(b) if section 109 applies—any new submission period fixed under section 109(3)(b).[31]

30 Section 107 (Required contents of application notice)

31 Section 109 (Substantial compliance may be accepted)

Division 2 General provisions for applications

Subdivision 1 Restriction on who may apply

82 Restriction

A person may apply for an environmental authority (petroleum activities) only if the person is the holder of, or the applicant for, a relevant petroleum authority for the application.

Subdivision 2 Petroleum projects

83 Single application required for petroleum project

(1) This section applies to a person who may apply for an environmental authority (petroleum activities) for petroleum activities proposed to be carried out as a petroleum project.

(2) The person may only make a single application for a single environmental authority (petroleum activities) for all petroleum activities that form the project.

(3) If any relevant petroleum activity for the application is a level 1 petroleum activity—

(a) division 4,[32] must be complied with for the whole application; but

(b) a submission under section 110[33] can not be made about any relevant petroleum activity that is a level 2 petroleum activity.

(4) If the administering authority grants the application, it may issue—

(a) 1 environmental authority (petroleum activities) for all the activities; or

32 Division 4 (Level 1 petroleum activities)

33 Section 110 (Right to make submission)

(b) 2 or more environmental authorities (petroleum activities) for the activities.

84 Single environmental authority (petroleum activities) required for petroleum project

(1) This section applies if an environmental authority (petroleum activities) has been granted for a petroleum project.

(2) The holder of the authority can not apply for a separate environmental authority (petroleum activities) for an additional petroleum activity proposed to be carried out as part of the petroleum project.

(3) Subsection (2) applies whether or not the additional activity is proposed to be carried out under another petroleum authority as part of the petroleum project.

(4) This section does not prevent the holder from applying to amend or replace the environmental authority.

Subdivision 3 Joint applications

85 Application of sdiv 3

This subdivision applies if 2 or more persons (***joint applicants***) jointly apply for 1 or more environmental authorities (petroleum activities).

86 Joint application may be made

(1) The administering authority may accept an application (a ***joint application***) made for all the joint applicants by 1 of the joint applicants if it is satisfied the person is authorised to make the application for all the joint applicants.

(2) More than 1 joint application may be made by the person for the same joint applicants only if the applications relate to different petroleum projects.

87 Appointment of principal applicant

(1) The joint applicants may appoint 1 of them as the principal applicant for a joint application made by them.

(2) However, the appointment may be made only—

(a) in the joint application; or

(b) by a signed notice from all the joint applicants to the administering authority.

(3) The joint applicants may, by a signed notice from all of them to the authority, cancel the appointment.

88 Effect of appointment

If a person holds an appointment as the principal applicant for a joint application—

(a) the principal applicant may, for all applicants for the application, give the administering authority a notice or other document relating to the application; and

(b) the authority may—

(i) give a notice or other document relating to the application to all the applicants, by giving it to the principal applicant; or

(ii) make a requirement under this chapter relating to the application of all the applicants, by making it of the principal applicant.[34]

Division 3 Level 2 petroleum activities

Subdivision 1 Code compliant authorities

89 Operation of sdiv 1

(1) This subdivision provides the process to obtain, by application, an environmental authority (petroleum activities)

34 See also part 8 (Principal holders).

for a level 2 petroleum activity if—

(a) there are relevant codes of environmental compliance for relevant petroleum activities for the authority; and

(b) the applicant elects to comply with the codes in carrying out relevant petroleum activities for the authority.[35]

(2) The election is taken to have been made on the making of an application under this subdivision.

90 Requirements for application

The application must—

(a) be made to the administering authority in the approved form; and

(b) describe—

(i) each relevant petroleum authority for the application; and

(ii) all relevant petroleum activities for the application; and

(c) certify that the applicant can, in carrying out the relevant petroleum activities for the environmental authority (petroleum activities), comply with the code compliance condition;[36] and

(d) be accompanied by the fee prescribed under a regulation.

Note—

A subsequent failure to comply with the code compliance condition may result in the commission of an offence or an action to amend, suspend or cancel the authority. See sections 93, 145E(2)(b), 145F(2)(a) and 480(4).[37]

35 See also section 145V (Restrictions on authority or transfer taking effect).

36 See sections 93 (Code compliance condition) and 480(4) (False, misleading or incomplete documents).

37 Sections 93 (Code compliance condition), 145E (Other amendments), 145F (Conditions for cancellation or suspension) and 480 (False, misleading or incomplete documents)

91 Deciding application

(1) If the application complies with section 90, the administering authority must decide to grant the application.

(2) Otherwise, the administering authority must refuse the application.

92 Steps after granting application and the giving of financial assurance

(1) If the administering authority decides to grant the application, it must, within 8 business days after the decision is made, take the steps mentioned in subsection (3).

(2) However, if, under section 145O,[38] financial assurance has been required for the proposed environmental authority (petroleum activities), subsection (1) does not apply until the requirement has been complied with.

(3) For subsection (1), the steps are—

(a) issue the environmental authority in the approved form; and

(b) insert it in the appropriate register; and

(c) give the applicant a copy of the authority.[39]

93 Code compliance condition

(1) The code compliant authority is taken to include a condition (the ***code compliance condition***) that the applicable codes of environmental compliance for relevant petroleum activities for the authority must be complied with.

(2) For subsection (1), the applicable codes are—

(a) generally—the relevant codes of environmental compliance for relevant petroleum activities for the authority, as they were in force when the application was made; or

38 Section 145O (Financial assurance may be required before authority is issued or transferred)

39 See however section 145V (Restrictions on authority or transfer taking effect).

(b) if any code mentioned in paragraph (a) is changed or replaced—the changed or replaced code, from 1 year after the change or replacement.

(2A) However, for petroleum activities carried out in a wild river area, the applicable codes are—

(a) the codes mentioned in subsection (2); and

(b) the conditions stated, for relevant petroleum activities for the authority, in the wild river declaration for the area.

(3) While the authority continues to be a code compliant authority, the code compliance condition is the only condition of the authority.[40]

Subdivision 2 Non-code compliant authorities

94 Operation of sdiv 2

(1) This subdivision provides the process to obtain, by application, an environmental authority (petroleum activities) for a level 2 petroleum activity if—

(a) there are no relevant codes of environmental compliance for relevant petroleum activities for the authority; or

(b) there are relevant codes, but the applicant elects not to comply with the codes in carrying out relevant petroleum activities for the authority.[41]

(2) The election is taken to have been made on the making of an application under this subdivision.

95 Requirements for application

The application must—

(a) be made to the administering authority in the approved form; and

40 For when a code compliant authority becomes a non-code compliant authority, see section 75 (Types of environmental authority (petroleum activities)).

41 See also section 145V (Restrictions on authority or transfer taking effect).

(b) describe—

(i) each relevant petroleum authority for the application; and

(ii) all relevant petroleum activities for the application; and

(c) be supported by enough information to allow the authority to decide the application, including, for example—

(i) relevant information about the likely risks to the environment; and

(ii) details of wastes to be generated; and

(iii) any waste minimisation strategy; and

(d) be accompanied by the fee prescribed under a regulation.

95A Conditions may be requested

(1) The applicant may ask the administering authority to impose a particular condition on the environmental authority (petroleum activities) applied for if the condition—

(a) may be imposed under section 98; and

(b) is not inconsistent with a condition that must be imposed under section 98.

(2) The request must be—

(a) made in the application or, if the request is made after the application is made, in the approved form for the request; and

(b) supported by enough information to allow the authority to decide whether to impose the condition; and

(c) accompanied by the fee prescribed under a regulation.

(3) The fee under subsection (2)(c) is in addition to the application fee.

96 Deciding application

The administering authority must, within 20 business days after the application date, decide to grant or refuse the application.

97 Criteria for decision

In deciding whether to grant or refuse the application or to impose a condition under section 98, the administering authority—

(a) must comply with any relevant regulatory requirement; and

(b) subject to paragraph (a), must consider each of the following—

(i) the standard criteria;

(ii) if any part of the application relates to a wild river area—the wild river declaration for the area;

(iii) additional information given in relation to the application;

(iv) any suitability report obtained for the application;

(v) the views expressed at a conference held in relation to the application;

(vi) the status of the application under the petroleum legislation for each relevant petroleum authority for the application.

98 Conditions that may and must be imposed

(1) The administering authority may impose the conditions on the environmental authority (petroleum activities) it considers are necessary or desirable.

(2) The conditions must include—

(a) any condition the administering authority is required to impose under a regulatory requirement; and

(b) for petroleum activities carried out in a wild river area—the conditions stated, for relevant petroleum

activities for the authority, in the wild river declaration for the area.

(3) Without limiting subsections (1) and (2), the conditions may—

(a) require the environmental authority holder to do all or any of the following—

(i) install and operate stated plant or equipment in a stated way within a stated period;

(ii) take stated measures to minimise the likelihood of environmental harm being caused;

(iii) carry out and report on a stated monitoring program;

(iv) prepare, and comply with, a transitional environmental program;

(v) give relevant information reasonably required by the administering authority for the administration or enforcement of this Act;

(vi) carry out or report about stated rehabilitation or remediation work relating to a relevant petroleum activity; or

(b) prohibit the holder from changing, replacing or operating any plant or equipment installed at the relevant place for the environmental authority if the change, replacement or operation increases, or is likely to substantially increase, the risk of environmental harm; or

(c) provide that the environmental authority ceases, or ceases to have effect—

(i) on a stated day; or

(ii) when a stated period ends; or

(iii) on the happening of a stated event; or

(iv) if a stated event has not happened on or before a stated day.

Example of a stated event—

the granting of a relevant petroleum authority for the environmental authority

(4) To remove any doubt, it is declared that a condition may be imposed even if it imposes an obligation on the environmental authority holder that continues to apply after it has ended or ceased to have effect.

Example for subsection (4)—

A condition may—

1 be about rehabilitation of the land to which the environmental authority relates after the authority has ended; or

2 require a site management plan for the land.

(5) Despite subsections (1) to (4), if a relevant petroleum authority for the environmental authority is, or is included in, a significant project—

(a) any conditions for the environmental authority stated in the Coordinator-General's report for the project (the ***Coordinator-General's conditions***) must be imposed on the environmental authority; and

(b) any other condition imposed on the environmental authority must not be inconsistent with the Coordinator-General's conditions.

(6) A condition may be imposed even if the applicant did not ask for it under section 95A.

99 Steps after granting application and the giving of financial assurance

(1) If the administering authority decides to grant the application, it must, within 8 business days after the decision is made, take the steps mentioned in subsection (3).

(2) However, if, under section 145O,[42] financial assurance has been required for the proposed environmental authority (petroleum activities), the steps need not be taken until the requirement has been complied with.

42 Section 145O (Financial assurance may be required before authority is issued or transferred)

(3) For subsection (1), the steps are—

(a) issue the environmental authority in the approved form; and

(b) insert it in the appropriate register; and

(c) give the applicant a copy of the authority.[43]

100 Information notice about particular decisions

The administering authority must, within 8 business days after making a decision to do any of the following, give the applicant an information notice about the decision—

(a) refuse the application;

(b) impose a condition on the environmental authority (petroleum activities), other than a condition that is the same, or is to the same effect, as a condition agreed to or requested by the applicant.

Division 4 Level 1 petroleum activities

101 Operation of div 4

This division provides the process to obtain, by application, an environmental authority (petroleum activities) for a level 1 petroleum activity.[44]

102 Requirements for application

The application must—

(a) be made to the administering authority in the approved form; and

(b) describe—

(i) each relevant petroleum authority for the application; and

43 See, however, section 145V (Restrictions on authority or transfer taking effect).

44 See also section 145V (Restrictions on authority or transfer taking effect).

(ii) all relevant petroleum activities for the application; and

(c) be supported by enough information to allow the authority to decide the application, including, for example—

(i) relevant information about the likely risks to the environment; and

(ii) details of wastes to be generated; and

(iii) any waste minimisation strategy; and

(d) be accompanied by—

(i) an environmental management plan that complies with section 103(2); and

(ii) the fee prescribed under a regulation.

103 Environmental management plan

(1) The purpose of an environmental management plan is to propose environmental protection commitments to help the administering authority decide the conditions of the environmental authority (petroleum activities).

(2) An environmental management plan must—

(a) be in the approved form; and

(b) describe each of the following—

(i) each relevant petroleum authority for the environmental authority;

(ii) all relevant petroleum activities the subject of the application;

(iii) the land on which the activities are to be carried out;

(iv) the environmental values likely to be affected by the activities;

(v) the potential adverse and beneficial impacts of the activities on the environmental values; and

(c) state the environmental protection commitments the applicant proposes for the activities to protect or

enhance the environmental values under best practice environmental management; and

(d) contain enough other information to allow the administering authority to decide the application and conditions to be imposed on the environmental authority (petroleum activities); and

(e) address any other matter prescribed under an environmental protection policy or regulation.

(3) The environmental protection commitments must include a rehabilitation program for land proposed to be disturbed under each relevant petroleum authority for the application.

(4) The rehabilitation program must state a proposed amount of financial assurance for the environmental authority.

104 EIS may be required

(1) The administering authority may, within the latest of the following periods to end, decide whether an EIS is required for the application—

(a) 10 business days after it receives the application;

(b) if the administering authority, within the 10 business days, gives the applicant written notice that it has fixed a longer period—the longer period.

(2) However, despite any decision by the administering authority, the Minister may, at any time before the application is decided, decide—

(a) whether there is to be an EIS requirement for the application; and

(b) at what stage, or step within a stage, under this division, the processing of the application must start or resume.

(3) The administering authority and the Minister must, in making a decision under this section, consider the standard criteria.

(4) The administering authority must, within 10 business days after a decision is made under this section, give the applicant written notice of the decision.

(5) Despite subsections (1) and (2), an EIS must not be required for the application if a relevant petroleum authority for the application is, or is included in, a significant project.[45]

(6) Also, a decision under subsection (1) or (2) ceases to have effect if a relevant petroleum authority for the application is, or is included in, a significant project.

105 Public access to application

The administering authority must, from the application date to the review date—

(a) keep the application open for inspection by members of the public at the authority's head office and the other places the chief executive considers appropriate; and

(b) permit a person to take extracts from the application or, on payment of the appropriate fee to the authority, give the person a copy of the application, or part of the application.

106 Public notice of application

(1) The applicant must, within 2 business days after the application date publish a notice about the application (the ***application notice***) in a newspaper circulating generally in the area where the relevant petroleum activities are proposed to be carried out.

(2) Subsection (1) is subject to section 109.

107 Required contents of application notice

(1) The application notice must be in the approved form and state each of the following—

(a) that anyone may make a submission to the administering authority about the application;

45 For EISs for significant projects, see the State Development Act, section 28 (Application of divs 3–6) and part 4, division 3 (EIS process).

(b) the period (the ***submission period***) during which the submission may be made;

(c) how to make a properly made submission;

(d) another matter prescribed under a regulation.

(2) The submission period must not end before the later of the following—

(a) a day or time fixed by the authority before the notice is published;

(b) 8 business days after the application notice is published under section 106.

(3) This section is subject to section 109.

108 Declaration of compliance

(1) The applicant must, within 5 business days after the application date, give the administering authority a statutory declaration declaring whether or not the applicant has complied with the notice requirements under sections 106 and 107.

(2) A copy of the application notice must be attached to the declaration.

(3) The proponent is taken to have complied with the requirements if—

(a) a declaration is given under this section; and

(b) the declaration states the proponent has complied with the requirements.

109 Substantial compliance may be accepted

(1) If the applicant has not complied with the notice requirements under section 106 or 107, the administering authority must decide whether to allow the application to proceed under this part as if the noncompliance had not happened.

(2) The authority may decide to allow the application to proceed only if it is satisfied there has been substantial compliance with the requirements.

(3) If the authority decides not to allow the application to proceed—

(a) any steps purportedly taken to comply with sections 106 and 107 are of no effect; and

(b) the authority must, within 8 business days after the decision is made, give the applicant—

(i) a written notice fixing a new period for giving the application notice (the ***new notice period***); and

(ii) if the submission period under section 107 has or will start before the new notice period—a new submission period for the application; and

(iii) an information notice about the decision not to allow the application to proceed and the decision to fix the new notice period.

(4) The new notice period applies despite section 107(2).

110 Right to make submission

A person may, within the submission period, make a submission to the administering authority about the application.

111 Acceptance of submission

(1) The administering authority must accept the submission if it—

(a) is written; and

(b) is signed by or for each person (a ***signatory***) who made the submission; and

(c) states the name and address of each signatory; and

(d) is made to the authority; and

(e) is received on or before the last day of the submission period.

(2) A submission that complies with subsection (1) is a ***properly made submission***.

(3) The authority may accept a written submission even if it is not a properly made submission.

112 Deciding application

The administering authority must, within the latest of the following periods to end, decide to grant or refuse the application—

(a) 20 business days after the application date;

(b) 20 business days after the authority receives the declaration of compliance under section 108;

(c) 8 business days after the submission period ends;

(d) if an EIS requirement has been made for the application or a relevant petroleum activity is, or is included in, a significant project—20 business days after the EIS process is completed.[46]

113 Criteria for decision

In deciding whether to grant or refuse the application, the administering authority—

(a) must comply with any relevant regulatory requirement; and

(b) subject to paragraph (a), must consider each of the following—

(i) the standard criteria;

(ii) if any part of the application relates to a wild river area—the wild river declaration for the area;

(iii) additional information given in relation to the application;

(iv) any suitability report obtained for the application;

(v) any properly made submission for the application;

(vi) the views expressed at a conference held in relation to the application;

46 For the completion of the EIS process, see section 60 (When process is completed).

(vii) the environmental management plan accompanying the application;

(viii) the status of the application under the petroleum legislation for each relevant petroleum authority for the application;

(ix) if an EIS requirement has been made for the application—the EIS.[47]

114 Conditions that may and must be imposed

(1) The administering authority may impose the conditions on the environmental authority (petroleum activities) it considers are necessary or desirable.

(2) The conditions must include—

(a) any condition the administering authority is required to impose under a regulatory requirement; and

(b) for petroleum activities carried out in a wild river area—the conditions stated, for relevant petroleum activities for the authority, in the wild river declaration for the area.

(3) Without limiting subsections (1) and (2), the conditions may—

(a) require the environmental authority holder to do all or any of the following—

(i) install and operate stated plant or equipment in a stated way within a stated period;

(ii) take stated measures to minimise the likelihood of environmental harm being caused;

(iii) carry out and report on a stated monitoring program;

(iv) prepare, and comply with, a transitional environmental program;

47 See also section 145U (Grounds for refusing application for or to transfer non-code compliant authority).

(v) give relevant information reasonably required by the administering authority for the administration or enforcement of this Act;

(vi) carry out or report about stated rehabilitation or remediation work relating to a relevant petroleum activity; or

(b) prohibit the holder from changing, replacing or operating any plant or equipment installed at the relevant place for the environmental authority if the change, replacement or operation increases, or is likely to substantially increase, the risk of environmental harm; or

(c) provide that the environmental authority ceases, or ceases to have effect—

(i) on a stated day; or

(ii) when a stated period ends; or

(iii) on the happening of a stated event; or

(iv) if a stated event has not happened on or before a stated day.

Example of a stated event—

the granting of a relevant petroleum authority for the environmental authority

(4) To remove any doubt, it is declared that a condition may be imposed even if it imposes an obligation on the environmental authority holder that continues to apply after it has ended or ceased to have effect.

Example for subsection (4)—

A condition may—

1 be about rehabilitation of the land to which the environmental authority relates after the authority has ended; or

2 require a site management plan for the land.

(5) Despite subsections (1) to (4), if a relevant petroleum authority for the environmental authority is, or is included in, a significant project—

(a) any conditions for the environmental authority stated in the Coordinator-General's report for the project (the

Coordinator-General's conditions) must be imposed on the environmental authority; and

(b) any other condition imposed on the environmental authority must not be inconsistent with the Coordinator-General's conditions.

115 Steps after granting application and the giving of financial assurance

(1) If the administering authority decides to grant the application, it must, within 8 business days after the decision is made, take the steps mentioned in subsection (3).

(2) However, if, under section 145O,[48] financial assurance has been required for the proposed environmental authority (petroleum activities), the steps need not be taken until the requirement has been complied with.

(3) For subsection (1), the steps are—

(a) issue the environmental authority in the approved form; and

(b) insert it in the appropriate register; and

(c) give the applicant a copy of the authority.[49]

116 Information notice about particular decisions

(1) The administering authority must, within 8 business days after making a decision to do any of the following, give the applicant and any submitter for the application an information notice about the decision—

(a) refuse the application;

(b) impose a condition on the environmental authority (petroleum activities), other than a condition that is the same, or is to the same effect, as a condition agreed to or requested by the applicant.

48 Section 145O (Financial assurance may be required before authority is issued or transferred)

49 See however section 145V (Restrictions on authority or transfer taking effect).

(2) If the administering authority decides to grant the environmental authority (petroleum activities) it must, within 8 business days after the decision is made, give any submitter for the application an information notice about the decision.

Division 5 Term of environmental authority (petroleum activities)

117 Term

An environmental authority (petroleum activities) continues in force unless it is cancelled, surrendered or suspended under this chapter.

Part 3 Amending environmental authorities (petroleum activities) by application

Division 1 Making amendment application

118 Who may apply for amendment

The holder of an environmental authority (petroleum activities) may, at any time, apply to the administering authority to amend the environmental authority (an ***amendment application***).

Examples of when the holder may wish to make an amendment application—

- to change a relevant petroleum activity for the environmental authority from a level 1 petroleum activity to a level 2 petroleum activity
- to complement an application under the P&G Act, chapter 4, part 6,[50] to amend a relevant pipeline licence

50 P&G Act, chapter 4, part 6 (Amending licence by application)

- if a relevant petroleum authority is an authority to prospect and the holder has, under the P&G Act, chapter 2, part 2, division 2,[51] made an ATP-related application for a petroleum lease

119 Code compliance condition may be amended

An amendment application for a code compliant authority may seek to amend the code compliance condition or to impose new conditions on the authority.

Note—

If the amendment is made, the authority will become a non-code compliant authority. See section 75.[52]

120 Requirements for amendment application

An amendment application must be—

(a) in the approved form; and

(b) supported by enough information to allow the administering authority to decide the application; and

(c) accompanied by the fee prescribed under a regulation.

Division 2 Processing amendment application

121 EIS may be required

(1) The administering authority may, within the latest of the following periods to end, decide whether an EIS is required for an amendment application—

(a) 10 business days after it receives the application;

(b) if the administering authority, within the 10 business days, gives the applicant written notice that it has fixed a longer period—the longer period.

51 P&G Act, chapter 2, part 2, division 2 (Transition from authority to prospect to petroleum lease)

52 Section 75 (Types of environmental authority (petroleum activities))

(2) However, despite any decision by the administering authority, the Minister may, at any time before the application is decided, decide—

(a) whether there is to be an EIS requirement for the application; and

(b) at what stage, or step within a stage, under this part the processing of the application must start or resume.

(3) The administering authority and the Minister must, in making a decision under this section, consider the standard criteria.

(4) The administering authority must, within 10 business days after a decision is made under this section, give the applicant written notice of the decision.

(5) Despite subsections (1) and (2), an EIS must not be required for the application if a relevant petroleum authority for the application is, or is included in, a significant project.[53]

(6) Also, a decision under subsection (1) or (2) ceases to have effect if a relevant petroleum authority for the application is, or is included in, a significant project.

122 Public notice may be required if application is for level 1 petroleum activity

(1) This section applies for an amendment application only if it is for an environmental authority (petroleum activities) for a level 1 petroleum activity.

(2) The administering authority may, within 5 business days after the application date for the application, by written notice to the applicant, decide that sections 105 to 111[54] apply for the application (a ***public notice requirement***).

(3) However, a public notice requirement must not be made unless the administering authority is satisfied there is likely to be a substantial increase in the risk of environmental harm under the amended environmental authority (petroleum activities) because of a substantial change in—

53 For EISs for significant projects, see the State Development Act, section 28 (Application of divs 3–6) and part 4, division 3 (EIS process).

54 Sections 105 (Public access to application) to 111 (Acceptance of submission)

(a) the quantity or quality of contaminant authorised to be released into the environment; or

(b) the results of the release of a quantity or quality of contaminant authorised to be released into the environment.

(4) Without limiting subsection (3)(a), each of the following is taken to be a substantial change—

(a) an increase of 10% or more in the quantity of a contaminant to be released into the environment;

(b) if the amendment application is for an environmental authority (petroleum activities) for a petroleum project and the amendment is to add a level 1 petroleum activity to the authority.

(5) The notice must be accompanied by, or include, an information notice about the decision.

123 Public notice process

(1) If a public notice requirement is made for an amendment application, sections 105 to 111[55] apply for the application, with necessary changes, as if the application were an application for an environmental authority (petroleum activities) for a level 1 petroleum activity.

(2) However, for applying a section, the reference in the section to a number of business days after the application date is taken to be—

(a) for section 106[56]—15 business days; or

(b) for section 108[57]—19 business days.

(3) To remove any doubt, it is declared that a submission made under section 110,[58] as applied under subsection (1)—

55 Sections 105 (Public access to application) to 111 (Acceptance of submission)

56 Section 106 (Public notice of application)

57 Section 108 (Declaration of compliance)

58 Section 110 (Right to make submission)

(a) may be made about an existing provision of the environmental authority only to the extent the provision is proposed to be amended under the application; and

(b) can not be made about petroleum activities carried out under the authority before the deciding of the application.

124 Deciding application

(1) The administering authority must decide to grant or refuse an amendment application the latest of the following periods to end—

(a) 20 business days after the application date for the application;

(b) if a public notice requirement has been made for the application, the later of the following periods to end—

(i) 20 business days after the authority receives the declaration of compliance under section 108;

(ii) 8 business days after the submission period ends;

(c) if an EIS requirement has been made for the application or a relevant petroleum activity is, or is included in, a significant project—20 business days after the EIS process is completed.[59]

(2) The administering authority may decide to grant the application subject to the applicant's written agreement to the administering authority amending the environmental authority (petroleum activities) in a stated way that it considers is necessary or desirable.

125 Criteria for decision

(1) The administering authority may grant an amendment application if it is satisfied the amendment is necessary or desirable.

(2) However, in deciding the application, the administering authority must consider any criteria that apply for deciding an

59 For the completion of the EIS process, see section 60 (When process is completed).

application to obtain the environmental authority (petroleum activities).

(3) In considering whether the amendment is necessary or desirable, the administering authority may have regard to—

(a) an existing provision of the environmental authority whether or not the provision is proposed to be amended under the application; and

(b) all or any of the petroleum activities carried out under the environmental authority before the deciding of the application.

Division 3 Miscellaneous provisions

126 Steps after making decision

If the administering authority decides to grant an amendment application, it must do each of the following within 8 business days after the decision is made—

(a) amend the environmental authority (petroleum activities) to give effect to the amendment;

(b) record particulars of the amendment in the appropriate register;

(c) give the applicant a copy of the amended environmental authority.

127 When amendment takes effect

(1) An amendment made under section 126(a) takes effect on the latest of the following days—

(a) the day of the amendment;

(b) a later day of effect stated in the amended environmental authority (petroleum activities);

(c) another day agreed to by the holder of the environmental authority;

(d) if a public notice requirement has been made for the application and a properly made submission was made about the application—the day after the review date.

(2) For subsection (1)(b) the day may be stated by reference to the day a particular event happens, including, for example, a stated amendment of a relevant petroleum authority for the environmental authority.

128 Information notice about particular decisions

(1) The administering authority must, within 8 business days after making 1 of the following decisions, give the applicant an information notice about the decision—

(a) a decision to refuse an amendment application;

(b) a decision under section 124(2)[60] to grant an amendment application subject to the applicant's written agreement to the administering authority amending the environmental authority (petroleum activities) in a stated way.

(2) However, the information notice need not be given if the applicant has given the written agreement.

(3) If the administering authority has made a public notice requirement for an amendment application, it must, within 8 business days after deciding to grant the application, give any submitter for the application an information notice about the decision.

Part 4 Transfers

129 Transfer only by approval

(1) Subsections (2) to (5) apply to the following transfers—

60 Section 124 (Deciding application)

(a) a transfer of an environmental authority (petroleum activities);

(b) a transfer of an application for an environmental authority (petroleum activities).

(2) The transfer may be made only if—

(a) an application for the transfer has been made under this division (a ***transfer application***); and

(b) the administering authority has approved the transfer.

(3) To remove any doubt, it is declared that a transfer application may be made, and a transfer may be approved, for a transfer from joint holders of an environmental authority (petroleum activities) under which 1 or more of the joint holders will continue to hold the environmental authority.

(4) A transfer application may be made under which—

(a) the proposed transferor seeks to divide an environmental authority (petroleum activities) held by the proposed transferor into 2 or more environmental authorities (petroleum activities); and

(b) the proposed transferor will remain the holder of one or more of the environmental authorities or an interest in them and transfer the rest to the proposed transferee.

(5) Sections 130 to 136 apply for a transfer application for an application for an environmental authority (petroleum activities)—

(a) as if a reference otherwise to a holder of the environmental authority were a reference to the applicant for the authority; and

(b) as if a reference to the environmental authority were a reference to the environmental authority applied for.

(6) In this section—

transfer, of an application for an environmental authority (petroleum activities), includes amending the application so that someone other than the current applicant becomes an applicant.

130 General requirements for transfer application

A transfer application must be—

(a) made to the administering authority in the approved form; and

(b) made by each of the following (the ***applicants***)—

(i) the holder of the environmental authority (petroleum activities);

(ii) the proposed transferee; and

(c) supported by enough information to allow the administering authority to decide the application; and

(d) accompanied by the fee prescribed under a regulation.

131 Amendment application may accompany transfer application

(1) The applicants may, together with the transfer application, make an amendment application for the environmental authority (petroleum activities).

Note—

If the amendment is made and the conditions of a code compliant authority are amended or new conditions are imposed on it, the authority will become a non-code compliant authority. See section 75.[61]

(2) Part 3 applies, with necessary changes, to the amendment application as if a reference to the environmental authority holder included a reference to the proposed transferee.

(3) However, the amendment application must not be granted before the transfer application is granted or if the transfer application is refused.

132 Additional requirement for transfer application for code compliant authority if no amendment application made

(1) This section applies if—

(a) the environmental authority (petroleum activities) is a code compliant authority; and

61 Section 75 (Types of environmental authority (petroleum activities))

(b) the transfer application is not accompanied by an amendment application.

(2) The transfer application must also include a certification by the proposed transferee that the proposed transferee can, in carrying out the relevant petroleum activities for the environmental authority, comply with the code compliance condition.

Note—

A subsequent failure to comply with the code compliance condition may result in the commission of an offence or in action to amend, suspend or cancel the authority. See sections 93, 145E(2)(b), 145F(2)(a) and 480(4).[62]

133 Audit statement may be required

(1) The administering authority may, within 20 business days after a transfer application is made, require the applicants to give it an audit statement for the environmental authority (petroleum activities).

(2) The audit statement must—

(a) be made by or for the environmental authority holder; and

(b) state the extent to which activities carried out under each relevant petroleum authority for the environmental authority have complied with the conditions of the environmental authority; and

(c) state whether or not the amount of financial assurance currently given, or proposed to be given for the transferred environmental authority, has been worked out in a way acceptable to the administering authority.

(3) For subsection (2)(c), an amount of financial assurance is taken to have been worked out in a way acceptable to the administering authority if it is worked out in the way provided for in a relevant guideline, policy or rule published by the administering authority.

62 Sections 93 (Code compliance condition), 145E (Other amendments), 145F (Conditions for cancellation or suspension) and 480 (False, misleading or incomplete documents)

134 Deciding application

(1) The administering authority must, within 20 business days after the application date, consider each transfer application and decide to approve or refuse the transfer.

(2) The administering authority must, in making the decision, consider—

(a) the status of any application under the petroleum legislation for the transfer to the proposed transferee of any relevant petroleum authority for the environmental authority; and

(b) any suitability report obtained for the application.

135 Additional ground for refusal

(1) The administering authority may refuse a transfer application if—

(a) the applicants did not, under section 131(1),[63] also apply to amend the relevant environmental authority (petroleum activities); and

(b) the administering authority is satisfied that, if the application were to be granted, a ground for amending the environmental authority under section 145E[64] would exist.

(2) Subsection (1) does not limit the grounds on which the application may be refused.

136 Steps after making decision

(1) If the administering authority decides to approve a transfer, other than of a type mentioned in section 129(4), it must, within 8 business days after the decision is made—

(a) amend the environmental authority (petroleum activities) to give effect to the transfer; and

63 Section 131 (Amendment application may accompany transfer application)

64 Section 145E (Other amendments)

(b) record particulars of the transfer in the appropriate register; and

(c) give the transferee a copy of the transferred environmental authority.

(2) If the administering authority decides to approve a transfer of a type mentioned in section 129(4), it must, within 8 business days after the decision is made—

(a) divide the environmental authority as provided for in the approval; and

(b) record particulars of the division in the appropriate register; and

(c) give the transferee a copy of each environmental authority of which, under the approval, the transferee is to become the holder.

(3) However, if 1 of the following requirements has been made, subsections (1) and (2) do not apply until the requirement has been complied with—

(a) a requirement under section 145O,[65] to give financial assurance for the transferred environmental authority;

(b) a requirement under section 145P[66] to change the financial assurance for the environmental authority.

(4) If the authority decides to refuse a transfer, it must, within 8 business days after the decision is made, give the applicants for the transfer an information notice about the decision.[67]

65 Section 145O (Financial assurance may be required before authority is issued or transferred)

66 Section 145P (Power to require financial assurance if not previously required or to require a change to financial assurance)

67 For when the transfer takes effect, see section 145V (Restrictions on authority or transfer taking effect).

Part 5 Surrenders

Division 1 General provisions for surrenders

137 Surrender only by approval

(1) An environmental authority (petroleum activities) may be surrendered only if—

(a) an application for the surrender has been made under division 2 (a ***surrender application***); and

(b) the administering authority has approved the surrender.

(2) The holder of an environmental authority (petroleum activities) must make a surrender application if required under section 139.[68]

(3) The holder may make a surrender application at any other time.

138 Surrender may be partial

(1) The administering authority may approve a surrender application for a part of an environmental authority (petroleum activities).

(2) However, the administering authority may refuse the application if—

(a) the applicant has not made an amendment application for the part of the environmental authority not sought to be surrendered and the administering authority considers that it is appropriate to amend the environmental authority to reflect the proposed partial surrender; or

(b) the environmental authority is for a petroleum project and, after the proposed partial surrender, the

68 Section 139 (When surrender application required)

environmental authority would not apply to all remaining areas that form the project.

(3) Subsection (2) does not limit sections 145A and 145B.[69]

139 When surrender application required

(1) The holder of an environmental authority (petroleum activities) must make a surrender application for the environmental authority—

(a) within 30 days after—

(i) the cancellation of a relevant petroleum authority for the environmental authority; or

(ii) a reduction in the area of a relevant petroleum authority for the environmental authority under a requirement of noncompliance action taken under the petroleum legislation; or

(b) within 90 days before any of the following is to happen—

(i) a relevant petroleum authority for the environmental authority is, according to its provisions, to end other than by cancellation;

(ii) a relinquishment of part of the area of a relevant petroleum authority for the environmental authority other than under a requirement of noncompliance action taken under the *Petroleum Act 1923* or the P&G Act;

(iii) a surrender of part of the area of a relevant petroleum authority for the environmental authority.

(2) However, subsection (1)(b) does not apply if, within the 90 days—

(a) the petroleum authority is, under the petroleum legislation renewed or continued in force; or

69 Sections 145A (Deciding application) and 145B (Criteria for decision)

(b) a replacement environmental authority (petroleum activities) for the environmental authority is issued to the holder.

(3) A surrender application under subsection (1) must be for the environmental authority to the extent it relates to the relevant petroleum authority cancelled, expired or affected by a relinquishment, reduction in area or partial surrender.

140 Notice by administering authority to make surrender application

(1) This section applies if the holder of an environmental authority (petroleum activities) has not made a surrender application as required under section 139.

(2) The administering authority may, by written notice (a ***surrender notice***), require the holder to make a surrender application for the environmental authority within a stated period of at least 10 business days.

(3) The surrender notice must be accompanied by, or include, an information notice about the administering authority's decisions to make the requirement and to fix the stated period.

141 Failure to comply with surrender notice

A person to whom a surrender notice has been given must comply with the notice unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

Division 2 Making surrender application

142 Requirements for surrender application

(1) A surrender application must be—

(a) in the approved form; and

(b) supported by enough information to allow the administering authority to decide the application; and

(c) accompanied by—

(i) a final rehabilitation report for the environmental authority (petroleum activities), that complies with section 143; and

(ii) an audit statement for the environmental authority; and

(iii) the fee prescribed under a regulation.

(2) The audit statement must—

(a) be made by or for the environmental authority holder; and

(b) state the extent to which—

(i) activities carried out under the environmental authority have complied with its conditions; and

(ii) the final rehabilitation report is accurate.

Division 3 Final rehabilitation reports

143 Content requirements for final rehabilitation report

A final rehabilitation report must—

(a) be in the approved form; and

(b) state the extent to which activities carried out under each relevant petroleum authority for the environmental authority to which the surrender application relates have been consistent with the environmental protection commitments under any relevant environmental management plan; and

(c) include enough information to allow the administering authority to decide whether—

(i) the conditions of the environmental authority (petroleum activities) have been complied with; and

(ii) the land on which each relevant petroleum activity has been carried out has been satisfactorily rehabilitated; and

(d) describe any ongoing environmental management needs for the land; and

(e) include another matter prescribed under a regulation.

144 Amending report

(1) This section applies if a person has submitted a final rehabilitation report (the ***original report***).

(2) The person may amend the original report at any time before the administering authority decides the surrender application.

(3) However, an amendment may be made only by giving the authority written notice stating the amendment (an ***FRR amendment notice***).

(4) An FRR amendment notice must be accompanied by the fee prescribed under a regulation.

(5) The submitted final rehabilitation report is taken to be the original report, as amended from time to time by any FRR amendment notice given for the original report.

145 FRR assessment report may be given

The administering authority may give the person who submitted a final rehabilitation report an assessment report (an ***FRR assessment report***) about the final rehabilitation report.

Division 4 Processing surrender applications

145A Deciding application

The administering authority must consider each surrender application and, within 20 business days after the application is received by the authority, approve or refuse the surrender.

145B Criteria for decision

(1) In deciding a surrender application, the administering authority must—

(a) comply with any relevant regulatory requirement; and

(b) subject to paragraph (a), consider each of the following—

(i) the standard criteria;

(ii) the audit statement and final rehabilitation report that accompanied the application;

(iii) any relevant FRR assessment report;

(iv) another matter prescribed under an environmental protection policy or regulation.

(2) The administering authority may grant the application only if—

(a) it is satisfied the conditions of the environmental authority (petroleum activities) have been complied with; or

(b) it is satisfied the land to which the surrender application relates has been satisfactorily rehabilitated; or

(c) it has approved a transitional environmental program and it is satisfied the land will be satisfactorily rehabilitated under the program; or

(d) a suitability statement has been given for the land and—

(i) the land has been removed from the environmental management register; or

(ii) a site management plan has been approved for the land.

145C Steps after making decision

The administering authority must, within 10 business days after deciding a surrender application—

(a) if the decision is to approve the surrender—

(i) record particulars of the surrender in the appropriate register; and

(ii) give the applicant written notice of the decision; or

(b) if the decision is to refuse the surrender—give the applicant an information notice about the decision.

Part 6 Amendment, cancellation or suspension by administering authority

Division 1 Conditions for amendment, cancellation or suspension

Subdivision 1 Amendments

145D Corrections

The administering authority may amend an environmental authority (petroleum activities) to correct a clerical or formal error (a ***correction***) if—

(a) the amendment does not adversely affect the interests of the environmental authority holder or anyone else; and

(b) the holder has been given written notice of the amendment.

145E Other amendments

(1) The administering authority may amend an environmental authority (petroleum activities) at any time if—

(a) it considers the amendment is necessary or desirable because of a matter mentioned in subsection (2); and

(b) the procedure under division 2 has been followed or the holder has agreed in writing to the amendment.

(2) For subsection (1)(a), the matter is any of the following—

(a) a contravention of this Act by the holder;

(b) the environmental authority was issued because of a materially false or misleading certificate, declaration or representation, made either orally or in writing;

(c) the administering authority has, under part 7, directed or required the holder to change or replenish financial

assurance for the environmental authority and the holder has not complied with the direction or requirement;

(d) the environmental authority was issued on the basis of a miscalculation of—

(i) the environmental values affected or likely to be affected, by a relevant petroleum activity for the environmental authority; or

(ii) the quantity or quality of contaminant authorised to be released into the environment; or

(iii) the effects of the release of a quantity or quality of contaminant authorised to be released into the environment;

(e) a change in the way in which, or the place where, contaminants are, or are likely to be, released into the environment;

(f) the approval of an environmental protection policy or the approval of the amendment of an environmental protection policy;

(g) an environmental audit or report, or an audit statement given under this chapter;

(h) an environmental audit or report given under chapter 7;[70]

(i) a final rehabilitation report;

(j) an annual return required under this Act;

(k) a significant change in the way in which, or the extent to which, a relevant petroleum activity is being carried out;

(l) the amendment is necessary to prevent environmental harm not already authorised under the environmental authority;

(m) an amendment is proposed under an amendment application;

(n) a report made by or for, or approved by, a recognised entity if the report is relevant to the environmental authority or an activity carried out under it;

70 Chapter 7 (Environmental management)

(o) another circumstance prescribed under a regulation.

(3) Subsection (2)(k) applies even if an environmental management plan mentions or provides for the change.

Subdivision 2 Cancellation or suspension

145F Conditions for cancellation or suspension

(1) The administering authority may cancel or suspend an environmental authority (petroleum activities) if—

(a) it issues a replacement environmental authority for the environmental authority; or

(b) an event mentioned in subsection (2) has happened and the procedure under division 2 has been followed.

(2) For subsection (1)(b), the event is any of the following—

(a) the environmental authority was issued or has been transferred because of a materially false or misleading certificate, declaration or representation, made either orally or in writing;

(b) the administering authority has, under part 7, directed or required the holder to give, change or replenish financial assurance for the environmental authority and the holder has not complied with the direction or requirement;

(c) the environmental authority holder is, after the issue of the environmental authority, convicted of an environmental offence;

(d) after the environmental authority has taken effect[71]—

(i) the environmental authority holder no longer holds any relevant petroleum authority for the environmental authority; or

(ii) a person, other than the environmental authority holder, becomes a holder of a relevant petroleum authority for the environmental authority;

71 For when the environmental authority takes effect, see section 145V (Restrictions on authority or transfer taking effect).

(e) the holder has been given an annual notice, audit notice or surrender notice and the notice has not been complied with.

Division 2 Procedure for amendment without agreement or for cancellation or suspension

145G Application of div 2

This division applies if the administering authority proposes to—

(a) amend an environmental authority (petroleum activities), other than—

(i) to make a correction; or

(ii) with the written agreement of the environmental authority holder; or

(b) cancel or suspend an environmental authority (petroleum activities).

145H Notice of proposed action

(1) The administering authority must give the environmental authority holder a written notice stating each of the following—

(a) the action (the ***proposed action***) the administering authority proposes taking under this division;

(b) the grounds for the proposed action;

(c) the facts and circumstances that are the basis for the grounds;

(d) if the proposed action is to amend the environmental authority—the proposed amendment;

(e) if the proposed action is to suspend the environmental authority—the proposed suspension period;

(f) that the holder may make, within a stated period, written representations to show why the proposed action should not be taken.

(2) The stated period must end at least 20 business days after the holder is given the proposed action notice.

(3) For subsection (1)(e), the proposed suspension period may be fixed by reference to a stated event.

Example for subsection (3)—

If a ground on which the proposed action is to be taken is that financial assurance has not been changed or replenished as directed or required under part 7, the proposed suspension period may be stated as the period ending when the financial assurance is changed or replenished as required.

145I Considering representations

The administering authority must consider any written representation made within the period stated in the notice under section 145H by the environmental authority holder.

145J Decision on proposed action

(1) If, after complying with section 145I, the administering authority still believes a ground exists to take the proposed action, it may—

(a) if the proposed action was to amend the environmental authority in a stated way—make the amendment; or

(b) if the proposed action was to suspend the environmental authority for a stated period—suspend the environmental authority for no longer than the proposed suspension period; or

(c) if the proposed action was to cancel the environmental authority—either cancel the environmental authority or suspend it for a fixed period.

(2) The decision under subsection (1) is the ***proposed action decision***.

(3) If the administering authority at any time decides not to take the proposed action, it must, as soon as practicable, give the holder written notice of the decision.

145K Notice of proposed action decision

(1) The administering authority must, within 10 business days after the proposed action decision is made—

(a) for a decision to amend a code compliant authority—give its holder a written notice stating the decision and the reasons for it; or

(b) for a decision to amend a non-code compliant authority—give its holder an information notice about the decision.[72]

(2) The decision takes effect on the later of the following—

(a) the day the holder is given the notice;

(b) a later day of effect stated in the notice.

(3) However, if the decision was to cancel or suspend because of the conviction of the holder for an offence, the cancellation or suspension—

(a) does not take effect until—

(i) the period to appeal against the conviction ends; and

(ii) if the appeal is made against the conviction—the appeal is finally decided or is otherwise ended; and

(b) has no effect if the conviction is quashed on appeal.

Division 3 Steps after making decision

145L Steps for corrections

If the administering authority decides to amend an environmental authority (petroleum activities) to make a correction, it must, within 10 business days after giving notice of the correction under section 145D(b)[73]—

72 See part 2, division 3 (Level 2 petroleum activities), subdivisions 1 (Code compliant authorities) and 2 (Non-code compliant authorities) and part 2, division 4 (Level 1 petroleum activities).

73 Section 145D (Corrections)

(a) amend the environmental authority to give effect to the amendment; and

(b) record particulars of the amendment in the appropriate register.

145M Steps for amendment by agreement

If, under division 1, subdivision 1, the administering authority decides to amend an environmental authority (petroleum activities) with its holder's agreement, it must, within 10 business days—

(a) amend the environmental authority to give effect to the amendment; and

(b) record particulars of the amendment in the appropriate register; and

(c) give the holder a copy of the amended environmental authority.

145N Steps for amendment without agreement or for cancellation or suspension

(1) This section applies if the proposed action decision is to take action and the decision has taken effect.

(2) The administering authority must, as soon as practicable—

(a) take the action; and

(b) record particulars of the action in the appropriate register.

(3) If the action is suspension of the environmental authority (petroleum activities)—

(a) the particulars must state when the suspension period starts and ends; and

(b) the suspension ends when the suspension period is stated to end.

(4) If the action is to amend the environmental authority, the administering authority must also give its holder a copy of the amended environmental authority as soon as practicable.

Part 7 Financial assurance

145O Financial assurance may be required before authority is issued or transferred

(1) This section applies if, under this chapter, the administering authority decides to grant an application for, or to transfer, an environmental authority (petroleum activities).

(2) The administering authority may, within 8 business days after the day the decision was made, require the giving of financial assurance in a stated form or amount as security for—

(a) compliance with the environmental authority or the transferred environmental authority; and

(b) costs or expenses, or likely costs or expenses, mentioned in section 367(1).[74]

(3) However, the requirement may be made only if the administering authority is satisfied the assurance is justified having regard to—

(a) the degree of risk of environmental harm being caused, or that might reasonably be expected to be caused, by relevant petroleum activities for the environmental authority; and

(b) the likelihood of action being required to rehabilitate or restore and protect the environment because of environmental harm being caused by the activities; and

(c) the applicant's environmental record.

(4) The requirement must be included in, or be accompanied by, an information notice about the decision to make the requirement.

(5) The requirement may require the financial assurance to remain in force until the administering authority is satisfied no claim is likely to be made on the assurance.

(6) The administering authority may refuse to issue or transfer the environmental authority (petroleum activities) until the requirement is complied with.

74 Section 367 (Claims on financial assurances)

(7) In this section—

applicant, for an application to transfer an environmental authority (petroleum activities), means the proposed transferee under the application.

145P Power to require financial assurance if not previously required or to require a change to financial assurance

(1) The administering authority may, by complying with subsections (4) to (6), require the holder of an environmental authority (petroleum activities) to—

(a) if financial assurance has not been given for the environmental authority—give financial assurance in a stated form or amount as security for the matters mentioned in section 145O(2); or

(b) if financial assurance has been given for the environmental authority—change the financial assurance.

(2) The requirement may be made at any time.

(3) However, the requirement may be made only if the administering authority is satisfied it is justified having regard to the matters mentioned in section 145O(3).

(4) The administering authority must give the holder a notice—

(a) stating the proposed financial assurance or change to financial assurance; and

(b) inviting the holder to make, within a stated period, submissions about the proposal.

(5) The stated period must end at least 20 business days after the holder is given the notice.

(6) The administering authority must, before deciding to make the requirement, consider any written submissions by the holder given within the stated period.

(7) The requirement does not take effect until the holder is given an information notice about the decision or, if the notice states a later day of effect, on that later day.

(8) In this section—

change, financial assurance, includes to decrease or increase its amount or replace it.

financial assurance, given, includes financial assurance changed because of a requirement previously made under subsection (1)(b).

145Q Replenishment of financial assurance

(1) This section applies, if—

(a) under section 367,[75] all or part of the financial assurance for an environmental authority (petroleum activities) has been realised; and

(b) the environmental authority is still in force.

(2) The administering authority must give the permit holder a notice—

(a) stating how much of the financial assurance has been used; and

(b) directing the holder to, within 20 business days after the giving of the notice, replenish the financial assurance so that its amount and form complies with the financial assurance as it was required under section 145O, as changed from time to time under section 145P.

(3) It is a condition of the environmental authority that the holder must comply with the direction.

Part 8 Principal holders

145R Application of pt 8

This part applies if 2 or more persons jointly hold an environmental authority (petroleum activities).

75 Section 367 (Claims on financial assurances)

145S Appointment of principal holder

(1) A person is taken to have been appointed as the principal holder of the environmental authority if—

(a) immediately before the issue of the environmental authority, the person held appointment under section 87(1)[76] as the principal applicant for the application for the environmental authority; and

(b) the person's appointment has not been cancelled under that section.

(2) The holders of the environmental authority may, by a signed notice from all of them to the administering authority—

(a) appoint 1 of them as the principal holder of the environmental authority; or

(b) cancel the appointment of a principal holder.

145T Effect of appointment

If a holder of the environmental authority holds appointment as its principal holder—

(a) the principal holder may, for all holders of the environmental authority, give the administering authority a notice or other document relating to the environmental authority; and

(b) the administering authority may—

(i) give a notice or other document relating to the environmental authority to all the holders by giving it to the principal holder; or

(ii) make a requirement under this Act relating to the environmental authority of all the holders by making the requirement of the principal holder.

76 Section 87 (Appointment of principal applicant)

Part 9 Miscellaneous provisions

145U Grounds for refusing application for or to transfer non-code compliant authority

(1) The administering authority may refuse an application for, or to transfer, a non-code compliant authority if—

(a) the administering authority is satisfied the proposed holder is not a suitable person to hold an environmental authority (petroleum activities); or

(b) a disqualifying event has happened in relation to the proposed holder or another person of whom the proposed holder is a partner and the partnership is relevant to the non-code compliant authority; or

(c) if the proposed holder is a corporation, a disqualifying event has happened in relation to—

(i) any of its executive officers; or

(ii) another corporation of which any of its executive officers is, or has been, an executive officer.

(2) In deciding whether a proposed holder is suitable person to hold an environmental authority (petroleum activities), the administering authority must consider all relevant matters, including, for example—

(a) the proposed holder's environmental record; and

(b) the proposed holder's ability to comply with any conditions or proposed conditions of the environmental authority or proposed environmental authority.

145V Restrictions on authority or transfer taking effect

(1) This section applies if an environmental authority (petroleum activities) is, or must be—

(a) issued under this chapter; or

(b) issued or amended to give effect to a transfer under this chapter.

(2) If the environmental authority states a day or an event for the authority or transfer to take effect, the authority or transfer takes effect on the stated day or when the stated event happens.

(3) If no day or event is stated, the environmental authority or transfer takes effect when the later of the following happens—

(a) the granting, under the petroleum legislation, of each relevant petroleum authority;

(b) each environmental authority holder has become a holder of a relevant petroleum authority for the environmental authority;

(c) if a person, other than an environmental authority holder, is a holder of any relevant petroleum authority for the environmental authority—the person ceases to be a holder of the petroleum authority;

(d) if the authority was issued under part 2, division 4,[77] and a properly made submission was made the application for the authority—the review date.

77 Part 2, division 4 (Level 1 petroleum activities)

Chapter 5 Environmental authorities for mining activities

Part 1 Preliminary

Division 1 Introduction

146 Purpose of ch 5

(1) The purpose of this chapter is to provide for environmental authorities for mining activities.[78]

(2) An authority issued under this chapter for a mining activity is called an ***environmental authority (mining activities)***.

Division 2 Key definitions for ch 5

147 What is a *mining activity*

(1) A ***mining activity*** means an activity mentioned in subsection (2) that, under the Mineral Resources Act, is authorised to take place on—

(a) land to which a mining tenement relates; or

(b) land authorised under that Act for access to land mentioned in paragraph (a).

(2) For subsection (1), the activities are as follows—

(a) prospecting, exploring or mining under the Mineral Resources Act or another Act relating to mining;

(b) processing a mineral won or extracted by an activity under paragraph (a);

(c) an activity that—

78 See also chapter 6 (General provisions about environmental authorities and registration certificates).

(i) is directly associated with, or facilitates or supports, an activity mentioned in paragraph (a) or (b); and

(ii) may cause environmental harm;

(d) rehabilitating or remediating environmental harm because of a mining activity under paragraphs (a) to (c);

(e) action taken to prevent environmental harm because of an activity mentioned in paragraphs (a) to (d);

(f) any other activity prescribed for this subsection under a regulation.

148 Types of *environmental authority (mining activities)*

(1) An environmental authority (mining activities) may be for mining activities authorised under—

(a) a prospecting permit (an ***environmental authority (prospecting)***); or

(b) a mining claim (an ***environmental authority (mining claim)***); or

(c) an exploration permit (an ***environmental authority (exploration)***); or

(d) a mineral development licence (an ***environmental authority (mineral development)***); or

(e) a mining lease (an ***environmental authority (mining lease)***).[79]

(2) Each environmental authority (mining activities) is either a code compliant authority or a non-code compliant authority.

(3) A ***code compliant authority*** is an environmental authority (mining activities) that, under section 164 or 168, is taken to have been issued.[80]

79 See also section 155 (Single application required for mining project).

80 Section 164 (Automatic issuing of code compliant authority if no relevant mining claim or mining lease) or 168 (Automatic issuing of code compliant authority in particular circumstances)

See also section 603B(2) (Automatic conversion for particular applications).

(4) However, a code compliant authority ceases to be a code compliant authority if, under part 8, 9 or 12,[81] its conditions are amended or new conditions are imposed on it.

(5) A ***non-code compliant authority*** is any environmental authority (mining activities) other than a code compliant authority.

149 What is a *mining project*

A ***mining project*** means all mining activities carried out, or proposed to be carried out, under 1 or more mining tenements, in any combination, as a single integrated operation.

150 What are *application documents*

The ***application documents*** for an environmental authority (mining activities) application are all of the following—

(a) the application;

(b) any draft environmental authority for the application;

(c) any submitted EM plan for the application;

(d) any EM plan assessment report for the application;

(e) any EIS submitted under chapter 3, part 1[82] for a project that is, or includes, a relevant mining activity for the application;

(f) if an EIS mentioned in paragraph (e) has been submitted—

(i) any response under section 56(2)(b) to submissions; and

(ii) the EIS assessment report;

(g) if a relevant mining tenement is, or includes, a significant project—

81 Part 8 (Amendment of authorities by application), 9 (Transfer of authorities) or 12 (Amendment, cancellation or suspension by administering authority)

See also section 165 (Conditions of code compliant authority).

82 Chapter 3, part 1 (EIS process)

(i) the EIS prepared under that part for the project; and

(ii) the Coordinator-General's report evaluating the EIS for the project;

(ga) if a relevant mining tenement relates to any part of a wild river area—the wild river declaration for the area;

(h) any assessment report under the Commonwealth Environment Act that is for, or includes, a relevant mining activity;

(i) any other document relating to the application prescribed under a regulation.

151 What is a *level 1 mining project* and a *level 2 mining project*

(1) A ***level 1 mining project*** is a mining project authorised under an environmental authority (mining activities) if—

(a) any of the mining activities that form the project do not comply with the criteria prescribed under a regulation for mining activities under that type of authority; or

(b) any relevant mining tenement for the environmental authority is, or is included in, a significant project; or

(c) any of the mining activities that form the project are in a wild river area, other than the following—

(i) mining activities authorised under an environmental authority (prospecting) or an environmental authority (mining claim) in a wild river area;

(ii) mining activities authorised under an environmental authority (exploration permit) in a wild river preservation area.

(2) A ***level 2 mining project*** is—

(a) any mining activity authorised under an environmental authority (prospecting); or

(b) a mining project authorised under an environmental authority (mining activities) if—

(i) all mining activities that form the project comply with the criteria prescribed under a regulation for mining activities under that type of authority; and

(ii) no relevant mining tenement for the environmental authority is, or is included in, a significant project.

Part 2 General provisions for obtaining environmental authority (mining activities)

Division 1 Applications

Subdivision 1 General provisions about applications

153 Who may apply

(1) A person may apply for an environmental authority (mining activities) only if the person is the holder of, or the applicant for, a relevant mining tenement.[83]

(2) This section is subject to section 156.

154 General requirements for application

(1) An environmental authority (mining activities) application must—

(a) be made to the mining registrar in the approved form; and

Note—

83 See also section 303 (Restrictions on environmental authority or transfer taking effect).

Because of different assessment processes, there may be different approved forms for applying for level 1 mining projects and level 2 mining projects.

(b) state whether the application is for a code compliant or non-code compliant authority; and

(c) if the application is for a code compliant authority—

(i) state the type of the proposed environmental authority (mining activities); and

(ii) certify that—

(A) all mining activities proposed to be carried out under the environmental authority comply with the criteria prescribed under section 151[84] for mining activities under that type of authority; and

(B) the applicant can, in carrying out the mining activities, comply with the relevant standard environmental conditions for the code compliant authority.

Note—

A subsequent failure to comply with any of the standard environmental conditions may result in the commission of an offence or in action to amend, suspend or cancel the environmental authority. See sections 165, 292(2)(a), 293(2)(a) and 480(4).[85]

(d) be accompanied by the fee prescribed under a regulation.

(2) If the application is for a non-code compliant authority, the application must be supported by enough information to allow the administering authority to decide the application.[86]

(3) The requirements under this section are, to the extent to they are relevant, the ***application requirements*** for the application.

84 Section 151 (What is a *level 1 mining project* and a *level 2 mining project*)

85 Sections 165 (Conditions of code compliant authority), 292 (Other amendments), 293 (Conditions for cancellation or suspension) and 480 (False, misleading or incomplete documents)

86 For when the other information must be given, see sections 187 and 201 (Environmental management plan required).

(4) If the application is for a code compliant authority and the application complies with subsection (1), it is a ***code compliant application***.

(5) A ***non-code compliant application*** is any application for an environmental authority (mining activities) that is not a code compliant application.

Subdivision 2 Applications for mining projects

155 Single application required for mining project

(1) This section applies to a person who may apply for an environmental authority (mining activities) for mining activities proposed to be carried out as a mining project.

(2) The person may only make a single application for 1 environmental authority (mining activities) for all mining activities that form the project.

(3) The application must—

(a) comply with subdivision 1; and

(b) state—

(i) each type of environmental authority (mining activities) applied for; and

(ii) whether each stated type is proposed to be a code compliant or non-code compliant authority.

(4) If the administering authority grants the application, it may issue—

(a) 1 environmental authority (mining activities) for all the activities (a ***project authority***); or

(b) 2 or more environmental authorities (mining activities) for the activities.

(5) A project authority must—

(a) state each type of environmental authority (mining activities) that forms the project authority; and

(b) identify the conditions applying to each type.

(6) For applying parts 7 to 13 to a project authority, each type of environmental authority (mining activities) that forms the project authority is taken to be an environmental authority (mining activities) of that type.

156 Single environmental authority required for mining project

(1) This section applies if an environmental authority (mining activities) has been granted for a mining project.

(2) The holder of the authority can not apply for a separate environmental authority (mining activities) for an additional mining activity proposed to be carried out as part of the mining project.

(3) Subsection (2) applies whether or not the additional activity is proposed to be carried out under another mining tenement as part of the mining project.

(4) This section does not prevent the holder from applying to amend or replace the authority.

Subdivision 3 Joint applications

157 Application of sdiv 3

This subdivision applies if 2 or more persons (***joint applicants***) jointly apply for 1 or more environmental authorities (mining activities).

158 Joint application may be made

(1) The administering authority may accept an application (a ***joint application***) made for all the joint applicants by a person who is a joint applicant if it is satisfied the person is authorised to make the application for each of the joint applicants.

(2) More than 1 joint application may be made by the person for the same joint applicants.

159 Appointment of principal applicant

(1) The joint applicants may appoint 1 of them as the principal applicant for a joint application made by them.

(2) However, the appointment may be made only—

(a) in the joint application; or

(b) by a signed notice from all the joint applicants to the administering authority.

(3) The joint applicants may, by a signed notice from all of them to the authority, cancel the appointment.

160 Effect of appointment

If a person holds an appointment as the principal applicant for a joint application—

(a) the principal applicant may, for all applicants for the application, give or submit to the administering authority a notice or other document relating to the application; and

(b) the authority may—

(i) give a notice or other document relating to the application to all the applicants, by giving it to the principal applicant; or

(ii) make a requirement under this chapter relating to the application of all the applicants, by making it of the principal applicant.[87]

Division 2 EIS decision for particular non-code compliant applications

161 Application of div 2

This division applies for a non-code compliant application if—

87 See also part 13, division 4 (Principal holder of authority).

(a) it is for an environmental authority (mining activities) for a level 1 mining project; and

(b) no relevant mining tenement for the application is, or is included in, a significant project.

162 Decision about EIS requirement

(1) The administering authority must, within the required period, decide whether an EIS is required for the application.

(2) The authority must, in making the decision, consider—

(a) the standard criteria; and

(b) if any part of the application relates to a wild river area—the wild river declaration for the area.

(3) However, an EIS must not be required for the application if—

(a) it is for an environmental authority (mining lease); and

(b) a relevant mining lease is, or is included in, a significant project.[88]

(3A) Also, an EIS is required for the application if any part of the application relates to mining activities—

(a) below the surface of a wild river high preservation area; or

(b) under a nominated waterway in a wild river preservation area.

(4) If the authority does not make the decision within the required period, it is taken, at the end of the period, to have decided that no EIS is required for the application.

(5) In this section—

required period means the later of the following periods to end—

(a) 10 business days after the administering authority receives the application;

88 For EISs for significant projects, see the State Development Act, section 28 (Application of divs 3–6) and part 4, division 3 (EIS process).

(b) if the administering authority, within the 10 business days, gives the applicant a written notice that the administering authority has fixed a longer period—the longer period.

163 Minister's power to overturn decision about EIS requirement

(1) This section does not apply for an application if—

(a) it is for an environmental authority (mining lease) and a relevant mining lease is, or is included in, a significant project; or

(b) any part of the application relates to mining activities—

(i) below the surface of a wild river high preservation area; or

(ii) under a nominated waterway in a wild river preservation area.

(2) This section applies despite any decision by the administering authority under section 162.

(3) The EPA Minister may, at any time before an environmental authority (mining activities) is issued for the application, decide whether an EIS is required for the application.

(4) The Minister must, in making the decision, consider—

(a) the standard criteria; and

(b) if any part of the application relates to a wild river area—the wild river declaration for the area.

Division 3 EM plan decision for particular non-code compliant applications

163A Application of div 3

This division applies for a non-code compliant application if—

(a) it is for an environmental authority (prospecting) or an environmental authority (mining claim) and relates to mining activities in a wild river area; and

(b) no relevant mining tenement for the application is, or is included in, a significant project.

163B Decision about EM plan requirement

(1) The administering authority must, within the required period, decide whether an EM plan is required for the application.

(2) The authority must, in making the decision, consider—

(a) the standard criteria; and

(b) the wild river declaration for the area.

(3) If the authority does not make the decision within the required period, it is taken, at the end of the period, to have decided that no EM plan is required for the application.

(4) In this section—

required period means the later of the following periods to end—

(a) 10 business days after the administering authority receives the application;

(b) if the administering authority, within the 10 business days, gives the applicant a written notice that the EPA Minister has fixed a longer period—the longer period.

Part 3 Processing of applications for level 2 mining projects

Division 1 Code compliant applications

Subdivision 1 No relevant mining claim or mining lease

164 Automatic issuing of code compliant authority if no relevant mining claim or mining lease

If—

(a) no relevant mining tenement for a code compliant application is a mining claim or mining lease; and

(b) section 155[89] does not apply to the applicant, or if it does apply to the applicant, section 155(2) and (3) have been complied with;

the code compliant authority applied for is taken to have been issued immediately after the application is made.[90]

165 Conditions of code compliant authority

(1) The relevant standard environmental conditions for the code compliant authority are taken to be conditions of the authority.[91]

(2) While the authority continues to be a code compliant authority, the relevant standard environmental conditions are the only conditions of the authority.[92]

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89 Section 155 (Single application required for mining project)

90 See however section 303 (Restrictions on environmental authority or transfer taking effect).

91 See however section 550 (Effect of changes to standard environmental conditions).

92 For when a code compliant authority becomes a non-code compliant authority, see section 148 (Types of *environmental authority (mining activities)*).

Subdivision 2 Process if there is a relevant mining claim or mining lease

166 Application of sdiv 2

This subdivision applies to a code compliant application if any relevant mining tenement is a mining claim or mining lease.

167 Modified application of pt 6, divs 6 to 8

(1) Part 6, divisions 6 to 8, other than sections 226 to 228, apply—

(a) as if the application were an application for a level 1 mining project; and

(b) subject to sections 168 to 168B; and

(c) with other necessary changes.

(2) For applying the divisions, the draft environmental authority for the application is taken to be all relevant standard environmental conditions for the proposed environmental authority (mining activities).

(3) For applying section 216[93]—

(a) the applicant can not object to the draft environmental authority; and

(b) another entity may object to the draft only to the extent it relates to a relevant mining tenement that is a mining claim or mining lease.

168 Automatic issuing of code compliant authority in particular circumstances

(1) If, under part 6, division 7, subdivision 1 (as applied under section 167), the Minister's decision is to grant the application on the basis of the draft environmental authority for the application, the code compliant authority applied for is taken to have been issued when the decision was made.

93 Section 216 (Right to make objection)

(2) If, at the end of the objections period for the application there is no current objection relating to the application, the code compliant authority applied for is taken to have been issued when that period ended.

(3) If the applicant gives the administering authority a written notice stating there are no longer any current objections relating to the application, the code compliant authority applied for is taken to have been issued when the administering authority received the notice.

168A Conditions of code compliant authority

(1) This section applies if, under section 168, a code compliant authority is taken to have been issued.

(2) The relevant standard environmental conditions for the authority are taken to be conditions of the authority.[94]

(3) While the authority continues to be a code compliant authority, the relevant standard environmental conditions are the only conditions of the authority.[95]

168B Provisions for grant of application if Minister's decision is to grant on different conditions

(1) This section applies for the application if under part 6, division 7, subdivision 1 (as applied under section 167), the Minister's decision is to grant the application on conditions that are different to the conditions in the draft environmental authority for the application.

(2) The administering authority must, within 10 business days after the last of the following to happen, issue the environmental authority in the approved form—

(a) the making of the decision;

(b) payment by the applicant of the amount of the application fee for a non-code compliant application.

94 See however section 550 (Effect of changes to standard environmental conditions).

95 For when a code compliant authority becomes a non-code compliant authority, see section 148 (Types of *environmental authority (mining activities)*).

(3) The environmental authority must state its conditions in a way that reflects the Minister's decision.

(4) The administering authority must insert the environmental authority in the appropriate register and give the applicant a copy of the environmental authority within 10 business days after the last of the following events to happen—

(a) the making of the decision;

(b) the granting of each relevant mining tenement for the application.

(5) The administering authority must also record in the register that the conditions of the environmental authority were decided by the Minister.

Division 2 Non-code compliant applications

Subdivision 1 Process if no relevant mining claim or mining lease

169 Application of sdiv 1

This subdivision applies to a non-code compliant application for a level 2 mining project if no relevant mining tenement is a mining claim or mining lease.

169A EM plan required

(1) If the administering authority requires an EM plan under section 163B—

(a) the administering authority must not decide the application until the EM plan process is complete; and

(b) the required period for deciding the application under section 171 does not commence until the EM plan process is complete.

(2) In this section—

EM plan process means, with necessary changes, the process stated in sections 187 to 192 for submitting and assessing an EM plan.

170 Additional conditions may be imposed

(1) The administering authority may, in granting the application, impose a condition (an ***additional condition***) on the environmental authority that is not a relevant standard environmental condition for the environmental authority.

(2) The applicant may ask the authority to impose an additional condition.

(3) The request must be—

(a) made in the application or in the approved form for the request; and

(b) supported by enough information to allow the authority to decide whether to impose the additional condition; and

(c) accompanied by the fee prescribed under a regulation.

(4) In deciding whether to impose an additional condition the authority must—

(a) comply with any relevant regulatory requirement; and

(b) subject to paragraph (a), consider—

(i) the standard criteria; and

(ii) to the extent the application relates to mining activities in a wild river area—the wild river declaration for the area.

(5) However, an additional condition may be imposed only if the authority considers that—

(a) the condition is necessary or desirable; and

(b) if the condition is imposed, the mining project would still be a level 2 mining project.

(6) An additional condition may be imposed even if the applicant did not ask for it.

171 Deciding application

(1) The administering authority must, within the required period, consider the application and decide whether—

(a) to grant or refuse it; and

(b) to impose any additional conditions.

(2) In making the decisions, the authority must consider each of the following—

(a) the application documents for the application;

(b) the standard criteria;

(c) to the extent the application relates to mining activities in a wild river area—the wild river declaration for the area;

(d) the applicant's ability to comply with the relevant standard environmental conditions;

(e) any suitability report obtained for the application;

(f) the status of any application under the Mineral Resources Act for each relevant mining tenement.

(3) In this section—

required period means—

(a) if no additional condition has been requested within 5 business days after the administering authority receives the application—within the 5 business days; or

(b) if additional conditions have been requested within 5 business days after the administering authority receives the application—within the 10 business days after the making of the last request for an additional condition.

171A Consequence of failure to decide

(1) The administering authority is taken to have decided to grant the application at the end of the required period under section 171 if—

(a) the application requirements have been complied with for the application; and

(b) the authority has not decided to refuse the application.

(2) Also, if the applicant asked for an additional condition, the administering authority is taken to have decided to impose the condition on the environmental authority if the administering authority has not decided to refuse the request.

171B Grant of application

(1) If the administering authority decides to grant the application, it must, within 10 business days after the decision is made, issue the environmental authority in the approved form.

(2) The environmental authority must—

(a) either—

(i) contain the standard environmental conditions for each relevant mining activity; or

(ii) identify the conditions by reference to their gazettal or to a code of environmental compliance in which they are contained; and

(b) contain any additional condition imposed.

(3) The administering authority must insert the environmental authority in the appropriate register and give the applicant a copy of the environmental authority within 10 business days after the making of the decision.

171C Notice about refusal or condition decision

(1) This section applies if the administering authority decides—

(a) to refuse the application; or

(b) to impose an additional condition on the environmental authority that is not the same, or to the same effect, as an additional condition agreed to or requested by the applicant; or

(c) to refuse to impose an additional condition requested by the applicant.

(2) The administering authority must, within 10 business days after the decision is made, give the applicant a written notice stating—

(a) the decision, and the reasons for it; and

(b) if the decision is to refuse the application—that the decision does not stop the applicant from applying for another environmental authority (mining activities) for the activities the subject of the application.

Subdivision 2 Process if there is a relevant mining claim or mining lease

171D Modified application of pt 6, divs 4 to 8

(1) This section applies to a non-code compliant application for a level 2 mining project if any relevant mining tenement is a mining claim or mining lease.

(2) Subject to section 171DA, part 6, divisions 4 to 8 apply—

(a) as if the application were an application for a level 1 mining project; and

(b) with other necessary changes.

(3) For applying section 216[96] an entity may object to the draft environmental authority for the application only to the extent it relates to a relevant mining tenement that is a mining claim or mining lease.

(4) If the administering authority requires an EM plan under section 163B, the EM plan process must be completed before part 6, divisions 5 to 8 apply.

(5) In this section—

EM plan process means, with necessary changes, the process stated in part 6, division 3 for submitting and assessing an EM plan.

171DA Inclusion of additional conditions in draft environmental authority

(1) This section applies for the inclusion of proposed conditions in a draft environmental authority for an application mentioned in section 171D.

96 Section 216 (Right to make objection)

(2) To remove any doubt, it is declared that a condition (an ***additional condition***) may be included even if it is not a relevant standard environmental condition for the environmental authority.

(3) The applicant may, within 5 business days after the administering authority receives the application, ask it to include an additional condition.

(4) The request must be—

(a) made in the application or, if the request is made after the application is made, in the approved form for the request; and

(b) supported by enough information to allow the administering authority to decide whether to include the additional condition; and

(c) accompanied by the fee prescribed under a regulation.

(5) The fee under subsection (4)(c) is in addition to the application fee.

(6) An additional condition may be included even if the applicant did not ask for it.

Part 4 Processing non-code compliant applications for environmental authority (mining claim) for level 1 mining project

Division 1 Preliminary

172 Operation of pt 4

This part provides for the process to assess an environmental authority (mining claim) application if the application is a non-code compliant application for a level 1 mining project.

Division 2 Decision to refuse or to allow to proceed

173 Administering authority may refuse application

(1) The administering authority must, within the period prescribed under a regulation (the ***refusal period***), consider the application and decide either to refuse it or allow it to proceed under divisions 3 and 4.

(2) The authority must, in making the decision, consider the following—

(a) the standard criteria;

(b) to the extent the application relates to mining activities in a wild river area—the wild river declaration for the area;

(c) the applicant's ability to comply with the relevant standard environmental conditions;

(d) any suitability report obtained for the application;

(e) the status of any application under the Mineral Resources Act for each relevant mining tenement.

174 Notice of refusal

If the administering authority decides to refuse the application, it must, within 10 business days after the decision is made, give the applicant a written notice stating—

(a) the decision, and the reasons for it; and

(b) that the refusal does not stop the applicant from applying for another type of environmental authority (mining activities) for the activities the subject of the application.

Division 3 Draft environmental authority stage

175 Obligation to prepare draft environmental authority

(1) This section applies if the administering authority does not, within the refusal period, decide to refuse the application.

(2) The authority must give the applicant and the mining registrar a draft environmental authority within the period prescribed under a regulation.

(3) The draft must—

(a) be in the approved form; and

(b) contain the relevant standard environmental conditions or identify them by reference to their gazettal or to a code of environmental compliance in which they are contained; and

(c) comply with this division.

(4) If the administering authority requires an EM plan under section 163B—

(a) the administering authority must not give the draft environmental authority until the EM plan process is complete; and

(b) the required period for giving the draft environmental authority does not commence until the EM plan process is complete.

(5) In this section—

EM plan process means, with necessary changes, the process stated in part 6, division 3 for submitting and assessing an EM plan.

176 Additional conditions may be imposed

(1) The administering authority may, in preparing the draft environmental authority, impose a condition (an ***additional condition***) on the environmental authority that is not a relevant standard environmental condition for the environmental authority.

(2) In deciding whether to impose an additional condition, the authority must—

(a) comply with any relevant regulatory requirement; and

(b) subject to paragraph (a), consider—

(i) the standard criteria; and

(ii) to the extent the environmental authority relates to mining activities in a wild river area—the wild river declaration for the area.

(3) However, an additional condition may be imposed only if the authority considers that the condition is necessary or desirable.

Division 4 Public notice, objection and decision stage

177 Mining lease process under pt 6, divs 6–8 applies

(1) The process to assess an environmental authority (mining lease) application under part 6, divisions 6 to 8 applies to the application, as if—

(a) the application were an environmental authority (mining lease) application; and

(b) a reference to an environmental authority (mining lease) were a reference to an environmental authority (mining claim); and

(c) a reference to the relevant mining lease application were a reference to the relevant mining claim application; and

(d) the reference in section 211(2)(a) to the giving and publication of a certificate of public notice were a

reference to the actions under the Mineral Resources Act, section 64B(2)(a) and (c).[97]

(2) The process applies with any other necessary changes.

Part 5 Processing non-code compliant applications for environmental authority (exploration) or environmental authority (mineral development) for level 1 mining project

178 Operation of pt 5

This part provides for the process to assess a non-code compliant application for an environmental authority (exploration) or environmental authority (mineral development) for a level 1 mining project.

186 EIS process applies

(1) If an EIS requirement has been made for the application, the EIS process must be completed.[98]

(2) The process may proceed whether or not the applicant has submitted an environmental management plan under this part.

97 Part 6, divisions 6 (Public notice and objections stage), 7 (Decision stage) and 8 (Miscellaneous provisions)

Section 211 (Public notice of application)

Mineral Resources Act, section 64B (Applicant's obligations for certificate of public notice)

98 For completion of the EIS process, see section 60 (When process is completed).

187 Environmental management plan required

(1) The applicant must submit to the administering authority an environmental management plan for all relevant mining activities.

(2) The plan must comply with section 189.

(3) If an EIS requirement has been made for the application, the plan may be submitted whether or not the EIS process has been completed.

188 Purpose of submitted EM plan

The purpose of the submitted EM plan is to propose environmental protection commitments to help the administering authority decide the conditions of the environmental authority.

189 Content requirements for submitted EM plan

(1) A submitted EM plan must—

(a) be in the approved form; and

(b) describe the following—

(i) each relevant mining tenement;

(ii) all relevant mining activities;

(iii) the land on which the mining activities are to be carried out;

(iv) the environmental values likely to be affected by the mining activities;

(v) the potential adverse and beneficial impacts of the mining activities on the environmental values; and

(c) state any code of environmental compliance and standard environmental conditions that are to apply to the relevant mining activities; and

(d) state, to the extent a code of environmental compliance does not apply to the relevant mining activities, the environmental protection commitments the applicant proposes for the mining activities to protect or enhance

the environmental values under best practice environmental management; and

(da) to the extent the plan relates to mining activities in a wild river area—state the way in which the applicant proposes to minimise any adverse effect of the mining activities on the wild river area, having regard to the wild river declaration for the area; and

(e) contain enough other information to allow the administering authority to decide the application and conditions to be imposed on the environmental authority; and

(f) another matter prescribed under an environmental protection policy or a regulation.

(2) The environmental protection commitments must—

(a) be stated in a way that allows them to be measured and to be audited under part 11; and

(b) state the environmental protection objectives and the standards and measurable indicators, including, for example, objectives for progressive and final rehabilitation and management of contaminated land; and

(c) include—

(i) an action program to ensure the commitments are achieved or implemented, including, for example, programs for the following in relation to the mining activities—

- continuous improvement
- environmental auditing
- monitoring
- reporting
- staff training; and

(ii) a rehabilitation program for land proposed to be disturbed under each relevant mining tenement.

(3) The rehabilitation program must state a proposed amount of financial assurance.

190 Submitted EM plan may be amended

(1) The applicant may amend or replace the submitted EM plan before the assessment period under section 191(2) ends.

(2) However, an amendment may be made only by giving the administering authority a written notice stating the amendment (an ***EM plan amendment notice***).

(3) An EM plan amendment notice must be accompanied by the fee prescribed under a regulation.

191 EM plan assessment report may be prepared

(1) The administering authority may give the applicant an assessment report (an ***EM plan assessment report***) about the submitted EM plan.

(2) However, an EM plan assessment report may be given only within the period prescribed under a regulation (the ***assessment period***).

(3) An EM plan assessment report may be included in an EIS assessment report for a project that includes a relevant mining activity.

192 Requirements for EM plan assessment report

In making an EM plan assessment report, the administering authority must—

(a) comply with any relevant regulatory requirement; and

(b) subject to paragraph (a), consider—

(i) the submitted EM plan; and

(ii) whether the plan complies with the content requirements under section 189; and

(iii) the standard criteria.

193 Deciding application

(1) The administering authority must, within the period prescribed under a regulation, consider the application and decide either to grant or refuse it.

(2) The authority may, in granting the application, impose the conditions on the environmental authority it considers necessary or desirable.

(3) In deciding whether to grant or refuse the application or to impose a condition the authority must—

(a) comply with any relevant regulatory requirement; and

(b) subject to paragraph (a), consider the following—

(i) the application documents for the application;

(ii) the standard criteria;

(iii) to the extent the application relates to mining activities in a wild river area—the wild river declaration for the area;

(iv) any suitability report obtained for the application;

(v) the status of any application under the Mineral Resources Act for each relevant mining tenement.

194 Grant of application

(1) If the administering authority decides to grant the application, it must, within 10 business days after the decision is made, issue the environmental authority.

(2) The environmental authority must—

(a) be in the approved form; and

(b) contain all conditions imposed on the environmental authority.

(3) The administering authority must insert the environmental authority in the appropriate register and give the applicant a copy of the environmental authority within 10 business days after the later of the following events happens—

(a) the making of the decision;

(b) the granting of each relevant mining tenement for the application.

195 Information notice about refusal or condition decision

(1) This section applies if the administering authority decides—

(a) to refuse the application; or

(b) to impose a condition and it is not the same, or to the same effect, as any condition agreed to by the applicant.

(2) The authority must, within 10 business days after the decision is made, give the applicant an information notice about the decision.

Part 6 Processing non-code compliant applications for environmental authority (mining lease) for level 1 mining project

Division 1 Preliminary

196 Operation of pt 6

This part provides the process to assess an environmental authority (mining lease) application if the application is a non-code compliant application for a level 1 mining project.

197 Summary of pt 6 process

The stages for deciding the application and the main steps within each stage are as follows—

stage 1 EIS—divs 2 and 3 and ch 3, pt 1

If an EIS requirement has been made for the application, the EIS process must be completed.

stage 2 **Decision to refuse or to allow to proceed—div 4**

1 The administering authority must, within the refusal period, decide either to refuse the application or to allow it to proceed under stages 3 to 5.

2 If no refusal decision is made within the refusal period, stages 3 to 5 apply.

stage 3 **Draft environmental authority—div 5**

The administering authority gives the applicant a draft environmental authority that includes proposed conditions.

stage 4 **Public notice and objections—div 6**

1 The applicant gives public notice of the application documents for the application.

2 The administering authority receives, within the objection period, any objections to the application documents.

stage 5 **Decision stage—div 7**

(a) If there are objections—division 7, subdivision 1

If there are any current objections when the objection period ends—

1 The objections are referred to the Land Court.

2 The Land Court makes a recommendation about the application to the MRA Minister.

3 The EPA Minister decides the application.

(b) If no objections or objections are withdrawn—division 7, subdivision 2

The environmental authority must be issued on the basis of the draft environmental authority if—

1 There are no current objections when the objection period ends; or

2 All objections are withdrawn before the Land Court makes its recommendation.

Division 2 EIS stage

198 Application of div 2

This division applies only if an EIS requirement has been made for the application.

199 EIS process applies

(1) The EIS process must be completed.[99]

(2) The process may proceed whether or not the applicant has submitted an environmental management plan under division 3.

Division 3 Environmental management plan stage

201 Environmental management plan required

(1) The applicant must submit to the administering authority an environmental management plan for all relevant mining activities.

(2) The plan must comply with section 203.

(3) If an EIS requirement has been made for the application, the plan may be submitted whether or not the EIS process has been completed.

202 Purpose of submitted EM plan

The purpose of the submitted EM plan is to propose environmental protection commitments to help the administering authority prepare the draft environmental authority for the application.

99 For completion of the EIS process, see section 60 (When process is completed).

203 Content requirements for submitted EM plan

(1) A submitted EM plan must—

(a) be in the approved form; and

(b) describe the following—

(i) each relevant mining lease;

(ii) all relevant mining activities;

(iii) the land on which the mining activities are to be carried out;

(iv) the environmental values likely to be affected by the mining activities;

(v) the potential adverse and beneficial impacts of the mining activities on the environmental values; and

(c) state any code of environmental compliance and standard environmental conditions that are to apply to the relevant mining activities; and

(d) state, to the extent a code of environmental compliance does not apply to the relevant mining activities, the environmental protection commitments the applicant proposes for the mining activities to protect or enhance the environmental values under best practice environmental management; and

(da) to the extent the plan relates to mining activities in a wild river area—state the way in which the applicant proposes to minimise any adverse effect of the mining activities on the wild river area, having regard to the wild river declaration for the area; and

(e) if a relevant mining lease is, or is included in, a significant project—state whether an EIS under the State Development Act, part 4, has been prepared for the project; and

(f) contain enough other information to allow the administering authority to decide the application and conditions to be imposed on the environmental authority; and

(g) another matter prescribed under an environmental protection policy or a regulation.

(2) The environmental protection commitments must—

(a) be stated in a way that allows them to be measured and to be audited under part 11; and

(b) state the environmental protection objectives and the standards and measurable indicators, including, for example, objectives for progressive and final rehabilitation and management of contaminated land; and

(c) include control strategies to ensure the objectives are achieved, including for example, strategies for the following in relation to the mining activities—

- continuous improvement

  Example—

  revision, as a result of ongoing assessment of monitoring and research trials, of the indicators and completion criteria for rehabilitation stated in the environmental authority

- environmental auditing
- monitoring
- reporting
- staff training.

(3) The environmental protection objectives mentioned in subsection (2)(b) must—

(a) include specific rehabilitation objectives; and

(b) identify the indicators that will be measured to establish when rehabilitation is, by reference to specific completion criteria, complete.

(4) The indicators mentioned in subsection (3)(b) may be different for different parts of the land that have different types of disturbance.

204 Submitted EM plan may be amended

(1) The applicant may amend or replace the submitted EM plan at any time before the refusal period ends.

(2) However, an amendment may be made only by giving the administering authority a written notice stating the amendment (an ***EM plan amendment notice***).

(3) An EM plan amendment notice must be accompanied by the fee prescribed under a regulation.

205 EM plan assessment report may be prepared

(1) This section does not apply for the application if—

(a) a relevant mining lease is, or is included in, a significant project; and

(b) an environmental management plan is included in the EIS for the project prepared under the State Development Act, part 4; and

(c) the Coordinator-General's report for the project states the environmental management plan complies, or substantially complies, with the content requirements under section 203.

(2) The administering authority may give the applicant an assessment report (an ***EM plan assessment report***) about the submitted EM plan.

(3) However, an EM plan assessment report may be given only within the period prescribed under a regulation (the ***assessment period***).

(4) An EM plan assessment report may be included in an EIS assessment report for a project that includes a relevant mining activity.

206 Requirements for EM plan assessment report

In making an EM plan assessment report, the administering authority must—

(a) comply with any relevant regulatory requirement; and

(b) subject to paragraph (a), consider—

(i) the submitted EM plan; and

(ii) whether the submitted EM plan complies with the content requirements under section 203;[100] and

(iia) if a relevant mining lease is, or is included in, a significant project—

(A) the EIS prepared under the State Development Act, part 4, for the project; and

(B) the Coordinator-General's report for the project; and

(iii) the standard criteria.

Division 4 Decision to refuse or to allow to proceed

207 Administering authority may refuse application

(1) The administering authority must, within the period prescribed under a regulation (the ***refusal period***), consider the application and decide either to refuse it or allow it to proceed under divisions 5 to 7.

(2) The authority must, in making the decision, consider the following—

(a) the application documents for the application;

(b) the standard criteria; and

(c) to the extent the application relates to mining activities in a wild river area—the wild river declaration for the area;

(d) any suitability report obtained for the application;

(e) the status of any application under the Mineral Resources Act for each relevant mining tenement.

(3) If the decision is to refuse the application, the authority must, within 10 business days after the decision is made, give the applicant an information notice about the decision.

100 Section 203 (Content requirements for submitted EM plan)

Division 5 Draft environmental authority stage

208 Obligation to prepare draft environmental authority

(1) This section applies if the administering authority does not, within the refusal period, decide to refuse the application.

(2) The authority must give the applicant and the mining registrar a draft environmental authority within the later of the following periods to end—

(a) 5 business days after the refusal period ends;

(b) if the applicant and the authority have, within the later of the periods under paragraph (a) or (b) to end, agreed to a longer period for the preparation of the draft—the longer period.

(3) The draft must—

(a) be in the approved form; and

(b) include proposed conditions for the environmental authority; and

(c) comply with this division.

210 Conditions that may and must be included in draft environmental authority

(1) The administering authority may include conditions in the draft environmental authority it considers necessary or desirable.

(2) However, if a relevant mining lease is, or is included in, a significant project—

(a) the administering authority must include in the draft any conditions for the draft stated in the Coordinator-General's report for the project (***Coordinator-General's conditions***); and

(b) any other condition included in the draft must not be inconsistent with a Coordinator-General's condition.

(3) In fixing proposed conditions for the draft, the administering authority must—

(a) comply with any relevant regulatory requirement; and

(b) subject to paragraph (a), consider—

(i) the application documents for the application; and

(ii) the standard criteria; and

(iii) to the extent the application relates to mining activities in a wild river area—the wild river declaration for the area.

(4) Subject to subsection (3), the proposed conditions must include conditions about rehabilitation objectives, indicators and completion criteria.

Division 6 Public notice and objections stage

211 Public notice of application

(1) The applicant must give and publish a notice about the application (the ***application notice***).

(2) The application notice must be given and published—

(a) simultaneously or together with, and in the same way as, the certificate of public notice for the relevant mining lease application under the Mineral Resources Act, section 252B;[101] and

(b) in another way prescribed under a regulation.

(3) Also, the administering authority may decide an additional or substituted way to give or publish the application notice if it gives the applicant an information notice about the decision before the application notice is given.

(4) This section is subject to section 215.

212 Required content of application notice

(1) The application notice must be in the approved form and state the following—

101 Mineral Resources Act, section 252B (Applicant's obligations for certificate of public notice)

(a) a description of each relevant mining activity;

(b) the land on which the mining activities are to be carried out;

(c) what are the application documents for the application;

(d) where the application documents may be inspected;

(e) where copies of, or extracts from, the application documents may be obtained;

(f) who has the right to make an objection under section 216;

(g) the period (the ***objection period***) during which objections may be given;

(h) how to make a properly made objection;

(i) another matter prescribed under a regulation.

(2) The objection period must end on—

(a) if there is only 1 relevant mining tenement application—the last objection day under the Mineral Resources Act for the application; or

(b) if there is more than 1 relevant mining tenement application—the later of the last objection days under the Mineral Resources Act for the applications.[102]

(3) This section is subject to section 215.

213 Public access to application documents

The administering authority must, within the objection period—

(a) keep the application documents for the application open for public inspection during office hours on business days at—

(i) the authority's head office; or

(ii) another appropriate office of the authority; and

102 For the last objection day under the Mineral Resources Act, see section 252A (Issue of certificate of public notice) of that Act.

(b) permit a person to take extracts from the application documents for the application or, on payment of the appropriate fee to the authority, give the person a copy of the documents, or a part of the documents.

214 Declaration of compliance

(1) The applicant must, within 5 business days after the objection period starts, give the administering authority a statutory declaration declaring whether or not the applicant has complied with the notice requirements under section 211 and 212 (the ***public notice requirements***).

(2) A copy of the application notice must be attached to the declaration.

(3) The applicant is taken to have complied with the public notice requirements if—

(a) a declaration is given under this section; and

(b) the declaration states the applicant has complied with the requirements.

215 Substantial compliance may be accepted

(1) If the applicant has not complied with the public notice requirements, the administering authority must, before the objection period ends, decide whether to allow the application to proceed under this part as if the noncompliance had not happened.

(2) The authority may decide to allow the application to proceed only if it is satisfied there has been substantial compliance with the public notice requirements.

(3) If the authority decides not to allow the application to proceed—

(a) any steps purportedly taken to comply with the public notice requirements are of no effect; and

(b) the authority must, within 10 business days after the decision is made—

(i) fix a substituted way to give or publish the application notice and give the applicant a written

notice of the substituted way; and

(ii) if the objection period under section 212 has or will start before the giving or publication of the substituted notice—fix a new objection period for the application and give the applicant written notice of the period; and

(iii) give the applicant an information notice about the decision.

(4) The stated substituted way to give or publish the application notice applies instead of the requirements for giving or publishing the notice under section 211.

216 Right to make objection

(1) An entity may make an objection about—

(a) the application; or

(b) the draft environmental authority for the application; or

(c) a condition included in the draft.

(2) Also, a Coordinator-General's condition included in the draft under section 210 can not be objected to by anyone.[103]

(3) An objection may be made only by giving it to the administering authority.

(4) To remove any doubt, it is declared that the reference to the application in subsection (1) does not include a reference to any other application document.

217 Acceptance of objections

(1) The administering authority must accept an objection if it—

(a) is written; and

(b) is signed by or for each entity (***signatory***) who made the objection; and

(c) states the name and address of each signatory; and

103 Section 210 (Conditions that may and must be included in draft environmental authority)

(d) is made to the administering authority; and

(e) is received on or before the last day of the objection period; and

(f) states the grounds of the objection and the facts and circumstances relied on in support of the grounds.

(2) An objection that complies with subsection (1) is called a ***properly made objection***.

(3) The authority may accept a written objection even if it is not a properly made objection.

218 Amendment or withdrawal of objection

(1) If the administering authority has accepted an objection, the entity who made the objection may, by written notice in the approved form—

(a) within the objection period, amend or replace the objection; or

(b) at any time before the objections decision is made, withdraw the objection.

(2) However, a notice may be given only as follows—

(a) before the objection period ends—by giving it to the authority;

(b) after the objection period ends—by filing it with the Land Court and giving the authority a copy.

Division 7 Decision stage

Subdivision 1 Referral to Land Court if current objection

219 Referral to Land Court

(1) If there is a current objection relating to the application when the objection period for the application ends, the administering authority must, within 10 business days, refer

the application to the Land Court for a decision under this subdivision (the ***objections decision***).

(2) The referral must be made by filing with the registrar of the Land Court—

(a) a notice, in the approved form, referring the application to the Land Court; and

(b) a copy of the application documents for the application and each current objection.

(3) The referral starts a proceeding before the Land Court for it to make the objections decision.

(4) The parties to the proceeding are as follows—

(a) the authority;

(b) the applicant;

(c) each objector for the application;

(d) anyone else decided by the Land Court.

(5) The authority must, within 10 business days after making the referral—

(a) give the applicant a copy of the notice and each current objection; and

(b) give each objector a copy of the notice.

220 Objections decision hearing

(1) The Land Court may, of its own initiative, make orders or directions it considers appropriate for a hearing for the objections decision (the ***objections decision hearing***).

(2) The orders or directions must, as much as practicable, ensure the objections decision hearing happens as closely as possible to hearings under the Mineral Resources Act for each relevant mining tenement.

221 Land Court mediation of objections

(1) At any time before the objections decision is made, any party to the proceeding may ask the Land Court to conduct or provide mediation for the objector's objection.

(2) The mediation must be conducted by the Land Court or a mediator chosen by the tribunal.

222 Nature of objections decision

(1) The objections decision for the application must be a recommendation to the MRA Minister that—

(a) the application be granted on the basis of the draft environmental authority for the application; or

(b) the application be granted, but on stated conditions that are different to the conditions in the draft; or

(c) the application be refused.

(2) However, if a relevant mining lease is, or is included in, a significant project and, under section 210,[104] Coordinator-General's conditions were included in the draft, any stated conditions under subsection (1)(b)—

(a) must include the Coordinator-General's conditions; and

(b) must not be inconsistent with a Coordinator-General's condition.

(3) The Land Court must give a copy of the decision to the EPA Minister as soon as practicable after the decision is made.

223 Matters to be considered for objections decision

In making the objections decision for the application, the Land Court must consider the following—

(a) the application documents for the application;

(b) any relevant regulatory requirement;

(c) the standard criteria;

(d) to the extent the application relates to mining activities in a wild river area—the wild river declaration for the area;

(e) each current objection;

104 Section 210 (Conditions that may and must be included in draft environmental authority)

(f) any suitability report obtained for the application;

(g) the status of any application under the Mineral Resources Act for each relevant mining tenement.

224 Advice from MRA and State Development Ministers about objections decision

(1) After the objections decision for the application has been made, the EPA Minister must seek advice about the decision from—

(a) the MRA Minister; and

(b) if a relevant mining lease is, or is included in, a significant project—the Minister for the time being administering the State Development Act (the ***State Development Minister***).

(2) The advice may be sought at the time and in the way the EPA Minister considers appropriate.

(3) The MRA Minister or State Development Minister may give the advice sought only within the later of the following periods to end—

(a) 10 business days after the EPA Minister seeks the advice;

(b) if the MRA Minister and the EPA Minister have, within the 10 business days, agreed to a longer period—the longer period.

(4) In giving the advice sought, the MRA Minister or State Development Minister may seek advice from any entity.

(5) A contravention of this section does not invalidate a decision under section 225 or an environmental authority granted under section 226 to which the decision relates.

225 EPA Minister's decision on application

(1) The EPA Minister must make 1 of the following decisions (the ***Minister's decision***)—

(a) that the application be granted on the basis of the draft environmental authority for the application;

(b) that the application be granted, but on conditions stated in the Minister's decision that are different to the conditions in the draft;

(c) that the application be refused.

(2) The Minister's decision must be made within a reasonable period after the end of the later period under section 224(3).

(3) The Minister must, before making the decision consider—

(a) the objections decision; and

(b) any Coordinator-General's conditions included in the draft environmental authority under section 210;[105] and

(c) to the extent the application relates to mining activities in a wild river area—the wild river declaration for the area.

(4) To remove any doubt, it is declared that the Minister is not bound to impose on the environmental authority a condition recommended under the objections decision or a condition mentioned in subsection (3)(b).

(5) The administering authority must, within 10 business days after the decision is made, give the applicant a written notice stating the decision, and the reasons for it.

226 Grant of application

(1) This section applies if the Minister's decision is to grant the application.

(2) The administering authority must, within 10 business days after the decision is made, issue the environmental authority in the approved form.

(3) The environmental authority must state its conditions in a way that reflects the Minister's decision.

(4) The administering authority must insert the environmental authority in the appropriate register and give the applicant a copy of the environmental authority within 10 business days

105 Section 210 (Conditions that may and must be included in draft environmental authority)

after the later of the following events happens—

(a) the making of the decision;

(b) the granting of each relevant mining tenement for the application.

(5) The administering authority must also record in the register that the conditions of the environmental authority were decided by the Minister.

226A Submitted EM plan may be amended if conditions of environmental authority are different to draft

(1) This section applies if the conditions of an environmental authority granted under section 226 are different to the conditions in the draft environmental authority for the application.

(2) The environmental authority holder may submit an amended version of the submitted EM plan for the application.

(3) However, the amendments in the amended version—

(a) can only be amendments that are necessary to ensure the submitted EM plan for the environmental authority is consistent with the conditions of the authority; and

(b) must comply with the requirements that apply under section 203 for a submitted EM plan.

Subdivision 2 Grant if no current objection at end of objection period or before objections decision

227 Application of sdiv 2

This subdivision applies if—

(a) at the end of the objections period for the application there is no current objection relating to the application; or

(b) after the objection period, but before the objections decision is made, there are no longer any current objections.

228 Grant of application on basis of draft environmental authority

(1) The administering authority must issue the environmental authority in the approved form within 10 days after—

(a) if at the end of the objection period for the application there is no current objection relating to the application—the end of the objection period; or

(b) if paragraph (a) does not apply—the applicant gives the administering authority a written notice stating there are no longer any current objections relating to the application.

(2) The conditions of the environmental authority must be the same, or substantially the same, as the draft environmental authority for the application.

(3) The administering authority must insert the environmental authority in the appropriate register and give the applicant a copy of the environmental authority within 10 business days after the granting of each relevant mining tenement for the application.

Division 8 Miscellaneous provisions

229 Withdrawing an application

(1) An application may, by written notice given to the administering authority, be withdrawn by the applicant at any time before the environmental authority is issued.

(2) If the applicant withdraws the application the applicant must give each entity who has made a current objection notice of the withdrawal.

230 Certain objections apply for later applications

(1) This section applies if—

(a) an environmental authority (mining activities) application is withdrawn; and

(b) within 1 year after the withdrawal, the applicant makes a later application; and

(c) each relevant mining activity for the later application is the same, or substantially the same, as the withdrawn application.

(2) Any properly made objection about the withdrawn application is taken to be a properly made objection about the later application.

231 Effects of noncompliance with application process

(1) This section applies to an application for an environmental authority (mining activities) if the applicant—

(a) does not comply with—

(i) the application requirements; or

(ii) a requirement under a relevant process under this part for assessing the application; or

(b) becomes entitled to take the next step under the process and has not taken the step.

(2) The following are suspended until the requirement is complied with or the step is taken—

(a) the application;

(b) any obligation under this part in relation to the application imposed on the administering authority, the Land Court or a Minister.

(3) The application lapses on the later of the following days if the requirement has not been complied with or the step has not been taken—

(a) the first anniversary of the suspension;

(b) if the applicant and the authority have, before the first anniversary, agreed to a later day—the later day.

(4) This section is subject to section 215.

Part 7 Plan of operations for environmental authority (mining lease)

232 Application of pt 7

This part applies to an environmental authority (mining lease).

233 Plan of operations required before acting under relevant mining lease

(1) The environmental authority holder must not carry out, or allow the carrying out, of an activity under a relevant mining lease unless—

(a) a plan of operations for all relevant mining activities has been submitted to the administering authority; and

(b) at least 28 days, or a shorter period agreed in writing by the administering authority, have passed since the plan was submitted; and

(c) the plan complies with section 234; and

(d) the carrying out of the activity is—

(i) consistent with the plan; and

(ii) done in a period to which the plan applies.

Maximum penalty—100 penalty units.

(2) In this section—

plan of operations, for a mining lease, includes any plan of operations submitted to the administering authority for a proposed mining lease substantially the same as the mining lease.

234 Content requirements

(1) A plan of operations must—

(a) be in the approved form; and

(b) describe the following—

(i) each relevant mining lease for the environmental authority;

(ii) the land to which each relevant mining lease applies;

(iii) the land to which the plan applies; and

(c) state the period to which the plan applies (the ***plan period***); and

(d) include the following—

(i) a plan showing where all activities are to be carried out on the land;

(ii) an action program for—

(A) if there is a submitted EM plan for the environmental authority—achieving or implementing the environmental protection commitments and control strategies under the plan; and

(B) complying with the conditions of the environmental authority;

(iii) a rehabilitation program for land disturbed or proposed to be disturbed under each relevant mining lease;

(iv) another matter prescribed under an environmental protection policy or a regulation; and

(e) be accompanied by—

(i) an audit statement for the plan; and

(ii) the fee prescribed under a regulation.

(2) The rehabilitation program must state a proposed amount of financial assurance for the plan period.

(3) The audit statement must—

(a) be made by or for the environmental authority holder; and

(b) state the extent to which the plan complies with the conditions of the environmental authority; and

(c) state whether or not the amount of the financial assurance for the environmental authority has been calculated in the way decided by the administering authority under section 364(3).[106]

(4) The plan period must not be more than 5 years.

(5) A plan of operations may relate to 1 or more relevant mining leases.

235 Amending or replacing plan

(1) This section applies if the environmental authority holder has submitted a plan of operations (the ***original plan***) and the plan period for the plan under section 234 has not ended.

(2) The holder may amend or replace the original plan at any time before the plan period ends only by giving the administering authority a written notice that—

(a) states—

(i) the amendment of the original plan; or

(ii) that the original plan is replaced; and

(b) is accompanied by—

(i) for a replacement—the replacement plan; and

(ii) an audit statement for the original plan, as amended, or for the replacement plan; and

(iii) the fee prescribed under a regulation.

(3) The audit statement must comply with section 234(3).

(4) The holder's submitted plan of operations is taken to be the original plan, as amended from time to time by any amendment under this section.

106 Section 364 (When financial assurance may be required)

(5) However, an amendment must not extend the plan period.

(6) The original plan ceases to apply if it is replaced.

(7) A replacement plan may apply for any period of no more than 5 years from when notice of it is given under this section.

236 Environmental authority overrides plan

(1) This section applies if there is any inconsistency between the environmental authority and a plan of operations.

(2) The authority prevails to the extent of the inconsistency.

(3) The environmental authority holder must, within 28 days after the holder becomes aware of the inconsistency, cause the plan to be amended in a way so that the plan is no longer inconsistent with the authority.

Maximum penalty for subsection (3)—100 penalty units.

Part 8 Amendment of authorities by application

Division 1 Preliminary

237 Exclusions from amendment under pt 8

(1) An environmental authority (prospecting) can not be amended under this part.

(2) A condition of an environmental authority (mining activities) about requiring a financial assurance can not be amended or discharged under this part.[107]

(3) The requirements of this part do not apply for a partial surrender of an environmental authority (mining activities) allowed by section 269.[108]

107 See section 366 (Application for amendment or discharge of financial assurance).

108 Section 269 (Partial surrenders)

Division 2 General provisions for amendment applications

238 Who may apply

(1) The holder of an environmental authority (mining activities) may, at any time, apply to the administering authority to amend the environmental authority (an ***amendment application***).

(2) An amendment application may be made under which the holder of 2 or more environmental authorities (mining activities) seeks a new project authority for all mining activities for the authorities.

(3) Subject to subsection (6), the new project authority sought under subsection (2) must contain all conditions (the ***existing conditions***) of the environmental authorities.

(4) Also, an amendment application may be made under which the holder of an existing project authority seeks—

(a) removal of a particular relevant mining tenement from the project authority; and

(b) a new environmental authority (mining activities) for the tenement.

(5) Subject to subsection (6), the new environmental authority sought under subsection (4) must contain all conditions (also the ***existing conditions***) of the project authority.

(6) An application under subsection (2) or (4) may seek, for the issue of the new authority, amendments to the existing conditions that—

(a) remove inconsistencies; or

(b) address changes in activities that will be authorised under the authority.

(7) Subsections (2) to (6) do not limit subsection (1).

239 Conditions of code compliant authority may be amended

An amendment application for a code compliant authority may seek to amend the relevant standard environmental

conditions for the authority or to impose new conditions on the authority.

Note—

If the amendment is made, the authority will become a non-code compliant authority. See section 148.[109]

240 Requirements for application

An amendment application must be—

(a) made in the approved form; and

(b) supported by enough information to allow the administering authority to decide the application; and

(c) accompanied by each of the following—

(i) if the annual fee for the amended environmental authority would be more than the annual fee currently payable for the authority—the amount of the next annual fee for the amended authority;[110]

(ii) the fee prescribed under a regulation.

Division 3 Processing application

Subdivision 1 Assessment level decision

246 Assessment level and EIS decisions for application

(1) The administering authority must, within the period prescribed under a regulation, decide—

(a) whether, were the amendment to be made, the level of environmental harm caused by any relevant mining activity is likely to be significantly increased; and

109 Section 148 (Types of *environmental authority (mining activities)*)

110 See also section 45A (Refund of annual fee if replacement environmental authority issued) of the *Environmental Protection Regulation 1998*.

(b) if the decision under paragraph (a) is that the level is likely to be significantly increased—whether an EIS is required for the proposed amendment.

(2) The authority must, in making a decision under subsection (1) consider the standard criteria and whether section 247A applies.

(3) The decision under subsection (1)(a) is called the ***assessment level decision*** for the amendment application.

(4) The decision under subsection (1)(b) is called the ***EIS decision*** for the amendment application.

247 Ministerial decision about assessment level and EIS decisions

(1) This section applies despite an assessment level decision by the administering authority.

(2) The EPA Minister may, at any time before the application is decided under this division, make the assessment level decision.

(3) If the Minister's decision is that the level of environmental harm is likely to be significantly increased, the Minister must also decide whether an EIS is required for the proposed amendment.

(4) If the Minister decides an EIS is not required, the Minister must decide at what stage, or step within a stage, under the provisions applied under section 251, the processing of the application must start or resume.

(5) However, the stage or step must not be after the giving of the draft environmental authority for the amendment application.

(6) The deciding of the application must start or resume at the stage or step decided by the Minister.

(7) The Minister must, in making a decision under this section, consider the standard criteria and whether section 247A applies.

247A Significant increase must be decided in particular cases

(1) This section applies if—

(a) the application relates to a new relevant mining lease or mining claim for the environmental authority; or

(b) the application relates to an addition to the surface area of a relevant mining lease for the environmental authority; or

(c) the application relates to a change to the rehabilitation objectives that is likely to result in significantly different impacts on environmental values than the impacts previously authorised under the environmental authority.

(2) The administering authority or EPA Minister must, despite sections 246 and 247, decide that the level of environmental harm caused by any relevant mining activity is likely to be significantly increased.

248 Notice of EIS requirement

If the EIS decision is that an EIS is required for the proposed amendment, the administering authority must give the applicant a written notice stating—

(a) the decision, and the reasons for it; and

(b) that, under section 41,[111] the applicant must submit to the chief executive draft terms of reference for the EIS; and

(c) for an amendment application for an environmental authority (exploration) or environmental authority (mineral development)—that part 5 applies, with necessary changes, to the application, as if it were an application for that type of environmental authority; and

(d) for an amendment application for an environmental authority (mining lease)—that part 6 applies, with necessary changes, to the application, as if it were an application for that type of environmental authority.

111 Section 41 (Submission)

249 Notice of assessment level decision

(1) This section applies if the administering authority or the Minister has made the assessment level decision and the EIS decision is that an EIS is not required for the proposed amendment.

(2) The authority must, within 10 business days, give the applicant a written notice stating—

(a) the assessment level decision, and the reasons for it; and

(b) if the Minister made the decision—the stage or step within a stage decided by the Minister under the provisions applied under section 251 for the processing of the application to start or resume.

Subdivision 2 Process if decision is significant increase in environmental harm likely and EIS not required

250 Application of sdiv 2

This subdivision applies—

(a) if the assessment level decision for the amendment application is that the level of environmental harm is likely to be significantly increased; and

(b) the EIS decision is that an EIS is not required for the proposed amendment.

251 Relevant application process applies

(1) If the environmental authority is an environmental authority (exploration) or an environmental authority (mineral development), part 5 applies as if the application were an application for that type of environmental authority.

(2) If the environmental authority is an environmental authority (mining claim) or environmental authority (mining lease) the following provisions apply, with necessary changes, as if the application were an application for the authority—

(a) for a code compliant authority or a non-code compliant authority for a level 2 mining project—part 3, division 2, subdivision 2;[112]

(b) for a non-code compliant authority for a level 1 mining project—part 6, divisions 3 to 8.

(3) The provisions applied under this section apply—

(a) with any other necessary changes; and

(b) subject to subsections (4) and (5) and sections 252 to 255.

(4) To remove any doubt, it is declared that an objection made under section 216,[113] as applied under subsection (2)—

(a) may be made about an existing provision of the environmental authority only to the extent the provision is proposed to be amended under the application; and

(b) can not be made about mining activities carried out under the environmental authority before the deciding of the application.

(5) For part 6, division 7, as applied under subsection (2), the Land Court, in making the objections decision, or the EPA Minister, in making a decision under section 225,[114] may have regard to—

(a) an existing provision of the environmental authority, whether or not the provision is proposed to be amended under the application; and

(b) all or any mining activities carried out under the environmental authority before the deciding of the application.

112 Part 3, division 2 (Non-code compliant applications), subdivision 2 (Process if there is a relevant mining claim or mining lease)

113 Section 216 (Right to make objection)

114 Part 6, division 7 (Decision stage)
Section 225 (EPA Minister's decision on application)

252 Refusal on ground that replacement environmental authority needed

(1) For applying section 193 or 207,[115] the administering authority may refuse the application on the ground that it would be more appropriate for the applicant to seek the amendment by replacement of the environmental authority.

(2) Subsection (1) does not limit the grounds on which the application may be refused.

253 Submitted EM plan may be amended

(1) The applicant may comply with the provisions about submitted EM plans applied under section 251 by submitting an amended version of the current submitted EM plan for the environmental authority.

(2) However, the amendments must comply with the provisions about submitted EM plans, as applied under section 251.

254 Public notice of application

(1) This section, and not section 211,[116] applies for publication of the application notice for an amendment application for an environmental authority (mining lease) if there is no certificate of public notice under the Mineral Resources Act, section 64B or 252B,[117] for a relevant mining lease or mining claim for the amendment application.

(2) Within 10 business days after the applicant is given the draft environmental authority, the applicant must—

(a) give the application notice to—

(i) each owner of land to which the amendment relates (the ***relevant land***) and any other land necessary for access to the relevant land; and

115 Sections 193 (Deciding application) and 207 (Administering authority may refuse application)

116 Section 211 (Public notice of application)

117 Mineral Resources Act, section 64B and 252B (Applicant's obligations for certificate of public notice)

(ii) each holder, or applicant for, an exploration permit or mineral development licence over the relevant land for a mineral other than a mineral to which the proposed amendment relates; and

(iii) the relevant local government.

(b) publish the notice—

(i) at least once in a newspaper circulating in the locality of the land to which the mining lease is subject; and

(ii) in any other way decided by the administering authority or prescribed under a regulation.

(3) The administering authority may decide another way of publishing the notice for subsection (2)(b)(ii) only if it gives the applicant an information notice about the decision before the notice is published.

255 Objection period

(1) This section applies only if there is no certificate of public notice under the Mineral Resources Act, section 64B or 252B, for a relevant mining lease or mining claim for the amendment application.

(2) Despite section 212(2),[118] the objection period for the application is the period fixed by the administering authority by written notice to the applicant.

(3) However, the period must be at least 20 business days and must end at least 20 business days after the publication of the application notice under section 254.

118 Section 212 (Required content of application notice)

Subdivision 3 Process if decision is significant environmental harm increase unlikely

256 Application of sdiv 3

This subdivision applies if the assessment level decision for the amendment application is that the level of environmental harm is unlikely to be significantly increased.

257 Deciding application

(1) The administering authority must, within the period prescribed under a regulation, decide either to grant or refuse the application.

(2) In making the decision, the authority must—

(a) comply with any relevant regulatory requirement; and

(b) subject to paragraph (a)—consider the standard criteria.

258 Steps after making decision

(1) If the administering authority decides to grant the application, it must, within 10 business days after the decision is made—

(a) amend the environmental authority to give effect to the amendment; and

(b) record particulars of the amendment in the appropriate register; and

(c) give the applicant a copy of the amended environmental authority.

(2) The amendment takes effect on the day of the amendment or a later day stated in the amended environmental authority.

(3) If the administering authority decides to refuse the application, it must, within 10 business days after the decision is made, give the applicant an information notice about the decision.

258A Submitted EM plan may be amended

(1) If the amendment is made, the applicant may submit an amended version of the current submitted EM plan for the environmental authority.

(2) However, the amendments in the amended version—

(a) can only be amendments that are necessary to reflect the amendment to the environmental authority; and

(b) must comply with the requirements that apply under section 189 or 203 for a submitted EM plan.

Part 9 Transfer of authorities

Division 1 Transfer applications

259 Transfer only by approval

(1) This section applies to the following transfers—

(a) the transfer of an environmental authority (mining activities) to a person who does not already hold the environmental authority;

(b) a transfer of an application for an environmental authority (mining lease).

(2) The transfer may be made only if—

(a) an application for the transfer has been made under this division (a ***transfer application***); and

(b) the administering authority has approved the transfer.

(3) To remove any doubt, it is declared that a transfer application may be made, and a transfer may be approved, for a transfer from joint holders of an environmental authority (mining activities) under which 1 or more of the joint holders will continue to hold the environmental authority.

(4) A transfer application may be made under which—

(a) the proposed transferor seeks to divide an environmental authority (mining activities) held by the proposed transferor into 2 or more environmental authorities (mining activities); and

(b) the proposed transferor will remain the holder of one or more of the environmental authorities or an interest in them and transfer the rest to the proposed transferee.

(5) Despite subsections (1) to (4)—

(a) an environmental authority (prospecting) can not be transferred; and

(b) a transfer application of a type mentioned in subsection (4) can not be made for an environmental authority (prospecting).

(6) A transfer application can not be made for an application for an environmental authority (mining activities) other than an an environmental authority (mining lease).

(7) Sections 260 to 266 apply for a transfer application for an application for an environmental authority (mining lease)—

(a) as if a reference otherwise to a holder of the environmental authority were a reference to the applicant for the authority; and

(b) as if a reference otherwise to the environmental authority were a reference to the environmental authority applied for.

(8) In this section—

transfer, of an application for an environmental authority (mining lease), includes amending the application so that someone other than the current applicant becomes an applicant.

260 General requirements for transfer application

(1) A transfer application must be—

(a) made to the administering authority in the approved form; and

(b) made by the following (the ***applicants***)—

(i) the holder of the environmental authority;

(ii) the proposed transferee; and

(c) supported by enough information to enable the administering authority to decide the application; and

(d) accompanied by the fee prescribed under a regulation.

(2) The applicants may, together with the transfer application, also make an amendment application for the environmental authority.

Note—

If the amendment is made and the conditions of the authority are amended or new conditions are imposed on it, the environmental authority will become a non-code compliant authority. See section 148.[119]

(3) Part 8[120] applies, with necessary changes, to the amendment application as if a reference to the environmental authority holder were a reference to the applicants.

(4) However, the amendment application must not be granted before the transfer application is approved or if the transfer application is refused.

260A Additional requirement for transfer application for code compliant authority if no amendment application made

(1) This section applies if—

(a) the environmental authority (mining activities) is a code compliant authority; and

(b) the transfer application is not accompanied by an amendment application.

(2) The transfer application must also include a certification by the proposed transferee that—

(a) all mining activities to be carried out by the proposed transferee under the environmental authority comply

119 Section 148 (Types of *environmental authority (mining activities)*)

120 Part 8 (Amendment of authorities by application)

with the criteria prescribed under section 151[121] for mining activities under that type of authority; and

(b) the proposed transferee can, in carrying out the mining activities, comply with the relevant standard environmental conditions for the environmental authority.

Note—

A subsequent failure to comply with any of the standard environmental conditions may result in the commission of an offence or in action to amend, suspend or cancel the environmental authority. See sections 165, 292(2)(a), 293(2)(a) and 480(4).[122]

261 Audit statement may be required

(1) The administering authority may, within 20 business days after the transfer application is made, require the applicants to give it an audit statement for the relevant environmental authority.

(2) The audit statement must—

(a) be made by or for the environmental authority holder; and

(b) state the extent to which activities carried out under each relevant mining tenement have complied with the conditions of the environmental authority; and

(c) state whether or not the amount of financial assurance currently given, or proposed to be given for the transferred environmental authority, has been worked out in a way acceptable to the administering authority.

(3) For subsection (2)(c), an amount of financial assurance is taken to have been worked out in a way acceptable to the administering authority if it is worked out in the way provided for in a relevant guideline, policy or rule published by the administering authority.

121 Section 151 (What is a *level 1 mining project* and a *level 2 mining project*)

122 Sections 165 (Conditions of code compliant authority), 292 (Other amendments), 293 (Conditions for cancellation or suspension) and 480 (False, misleading or incomplete documents)

Division 2 Processing transfer applications

262 Deciding application

(1) The administering authority must, within the later of the following periods to end, consider each transfer application and decide to approve or refuse the transfer—

(a) if the applicants have been required to give an audit statement for the relevant environmental authority—20 business days after the giving of the audit statement;

(b) otherwise—3 months after the application is received by the administering authority.

(2) The authority must, in making the decision, consider the following—

(a) the standard criteria;

(b) the proposed transferee's ability to comply with the conditions of the environmental authority;

(c) any suitability report obtained for the application;

(d) whether the proposed transferee has, under the Mineral Resources Act, applied to become the holder of each relevant mining tenement;

(e) the status of any application under the Mineral Resources Act for, or relating to, each relevant mining tenement;

(f) another matter prescribed under a regulation.

263 Refusal on ground that amendment required

Without limiting section 262, the administering authority may refuse the application if—

(a) the applicants did not, under 260(2), apply to amend the environmental authority; and

(b) the administering authority is satisfied that, if the application were to be granted, a ground for amending

the environmental authority under section 292(2) would exist.[123]

264 Steps after making decision

(1) If the administering authority decides to approve a transfer other than of a type mentioned in section 259(4), it must—

(a) amend the relevant environmental authority to give effect to the transfer within 10 business days after the decision is made; and

(b) record particulars of the transfer in the appropriate register and give the transferee a copy of the amended environmental authority within 10 business days after the later of the following events happens—

(i) the making of the decision;

(ii) the transferee becomes the holder of each relevant mining tenement for the environmental authority;

(iii) if a person, other than the transferee, holds a relevant mining tenement—the person ceases to be a holder of the tenement.

(2) If the administering authority decides to approve a transfer of a type mentioned in section 259(4), it must—

(a) divide the relevant environmental authority as provided for in the approval within 10 business days after the decision is made; and

(b) record particulars of the division in the appropriate register within 10 business days after the last of the following events to happen—

(i) the making of the decision;

(ii) the transferee becomes the holder of each relevant mining tenement for each environmental authority (a ***transferred authority***) of which, under the approval, the transferee is to become the holder;

123 Sections 260 (General requirements for transfer application) and 292 (Other amendments)

(iii) if a person, other than the transferee, holds a relevant mining tenement for a transferred authority—the person ceases to be a holder of the tenement; and

(c) give the transferee a copy of each transferred authority of which they are a holder.

(3) If the administering authority decides to refuse a transfer, it must, within 10 business days after the decision is made, give the applicants an information notice about the decision.

265 Effect of plan of operations and environmental management documents after transfer

Any submitted EM plan or plan of operations for an environmental authority (mining activities) apply to the holder of a transferred authority to the extent they apply to the relevant mining activities under the transferred authority.

266 Notice to owners of transfer

(1) This section applies if a transferee is given a copy of the amended environmental authority under section 264.

(2) The transferee must within 10 business days give each owner of the land to which the environmental authority relates written notice that the authority has been transferred to the transferee.

Maximum penalty for subsection (2)—10 penalty units.

Part 9A Progressive rehabilitation

Division 1 Certification of progressive rehabilitation for level 1 mining projects

Subdivision 1 Progressive certification and its effects

266A What is *progressive certification*

(1) The administering authority may, under this division, certify that a particular area within a relevant mining tenement for a level 1 mining project has been rehabilitated under all relevant requirements of—

(a) this Act; and

(b) the environmental authority (mining activities) under which the mining project is authorised; and

(c) any relevant guideline or other document made under this Act.

(2) The certification is a ***progressive certification*** for the mining tenement.

(3) The area the subject of the progressive certification is a ***certified rehabilitated area*** for the mining tenement.

266B Effect of progressive certification

(1) If progressive certification has been given for a mining tenement, the requirements mentioned in section 266A(1) are taken to have been complied with for the certified rehabilitated area for the mining tenement.

(2) Subsection (1) applies despite another provision of this Act or any change in the requirements.

(3) However, this section is subject to section 266C.

266C Continuing responsibility of environmental authority holder relating to certified rehabilitated area

(1) This section applies if progressive certification has been given for a mining tenement.

(2) The holder of the environmental authority to which the mining tenement relates must maintain the certified rehabilitated area for the mining tenement under the conditions of the authority in force when the certification was given (the ***existing conditions***).

(3) Any change to the conditions of the environmental authority is of no effect to the extent it purports to impose a more stringent obligation for the certified rehabilitated area than any obligation applying under the existing conditions.

Example of a change to impose a more stringent requirement—

A change to an existing condition to require rehabilitation to alter a gradient to a lower slope is more stringent because of the necessarily increased costs of recontouring the gradient.

(4) The obligation under subsection (2) ends on the last of the following to happen—

(a) the surrender under the Mineral Resources Act of the mining tenement, or part of the mining tenement;

(b) the environmental authority ends or ceases to have effect;

(c) if the existing conditions include a condition requiring compliance with an obligation after the authority ends or ceases to have effect—compliance with the condition.

Subdivision 2 Applying for progressive certification

266D Who may apply for progressive certification

The holder of an environmental authority (mining activities) under which a level 1 mining project is authorised may apply for progressive certification for a relevant mining tenement for the environmental authority.

266E Requirements for application

(1) The application must be—

(a) in the approved form; and

(b) supported by enough information to enable the administering authority to decide the application; and

(c) accompanied by—

(i) a progressive rehabilitation report for the environmental authority (mining activities); and

(ii) an audit statement for the report; and

(iii) the fee prescribed under a regulation.

(2) The progressive rehabilitation report must comply with section 266G.

(3) The audit statement must—

(a) be made for the environmental authority holder; and

(b) state—

(i) the extent to which activities carried out under the environmental authority relating to the proposed certified rehabilitated area for the relevant mining tenement have complied with the conditions of the environmental authority; and

(ii) the extent to which the progressive rehabilitation report is accurate.

266F Amending application

(1) The applicant may, at any time before the administering authority decides the application, amend the application.

(2) However, the amendment may be made only by giving the administering authority a written notice stating the amendment.

(3) The notice must be accompanied by the fee prescribed under a regulation.

(4) If the progressive rehabilitation report or audit statement require changes to accommodate the amended application, the changes or amended documents must accompany the notice.

Subdivision 3 Progressive rehabilitation report

266G Requirements for progressive rehabilitation report

(1) The progressive rehabilitation report must—

(a) contain the information required under section 274 for a final rehabilitation report, as if a reference in that section to the land were a reference to the proposed certified rehabilitated area; and

(b) include—

(i) a map of an appropriate scale that shows the proposed certified rehabilitated area; and

(ii) relevant information to locate the proposed certified rehabilitated area, including, for example, GPS information or a survey; and

(iii) an environmental risk assessment for the proposed certified rehabilitated area; and

(c) if progressive certification has previously been given for a relevant mining tenement for the environmental authority—

(i) state when the certification was given; and

(ii) identify the certified rehabilitated area the subject of the certification.

(2) The environmental risk assessment must—

(a) comply with a methodology published by the administering authority; and

(b) identify all credible risks for the proposed certified rehabilitated area; and

(c) evaluate the likelihood and consequences of events that reach a threshold of significance published by the administering authority.

266H Amending report

(1) The applicant may, at any time before the administering authority decides the application, amend the progressive

rehabilitation report that accompanied the application (the ***original report***).

(2) However, the amendment may be made only by giving the administering authority a written notice stating the amendment.

(3) The notice must be accompanied by the fee prescribed under a regulation.

(4) For this part, the original report is taken to be the progressive rehabilitation report as amended from time to time by any notice given under this section.

266I Assessment report may be given

(1) The administering authority may give the applicant an assessment report about the progressive rehabilitation report.

(2) However, the report must be given—

(a) within 30 business days after the application is made; or

(b) if the applicant has amended the application or progressive rehabilitation report within the 30 business days—within 30 business days after notice of the amendment is given under section 266H

Subdivision 4 Processing application

266J Deciding application

The administering authority must decide give or refuse the progressive certification—

(a) within 40 business days after the application is made; or

(b) if the applicant has amended the application or progressive rehabilitation report—within 40 business days after notice of the amendment is given under section 266H.

266K Criteria for decision

(1) In deciding the application, the administering authority

must—

(a) comply with any relevant regulatory requirement; and

(b) subject to paragraph (a), consider the following—

(i) the standard criteria;

(ii) the progressive rehabilitation report;

(iii) the audit statement for the report;

(iv) any relevant assessment report given under section 266I;

(v) another matter prescribed under an environmental protection policy or a regulation.

(2) The administering authority must not give the progressive certification unless it is satisfied with the environmental risk assessment included in the progressive rehabilitation report, and—

(a) it is satisfied the conditions of the environmental authority (mining activities) have been complied with in relation to the proposed certified rehabilitated area; or

(b) it is satisfied the land on which each relevant mining activity has been carried out in relation to the proposed certified rehabilitated area has been satisfactorily rehabilitated; or

(c) if a regulation has prescribed another circumstance for this section—the administering authority is satisfied with the circumstance.

266L Steps after making decision

(1) If the administering authority decides the application, it must, within 10 business days after the decision is made—

(a) if the decision was to give the progressive certification—

(i) record particulars of the certification in the appropriate register; and

(ii) give the applicant written notice of the decision; or

(b) if the decision was to refuse the progressive certification—give the applicant an information notice about the decision.

(2) However, if, under section 266N, a residual risk payment has been required for the proposed certified rehabilitated area, the administering authority need not act under subsection (1)(a) until the requirement has been complied with.

Division 2 Payment for residual risks of rehabilitation

266M Application of div 2

This division applies if progressive certification has been applied for for a relevant mining tenement for an environmental authority (mining activities).

266N Payment may be required for residual risks

(1) Subject to sections 266O and 266P, the administering authority may require the applicant to pay it a stated amount for the residual risks of the proposed certified rehabilitated area for the mining tenement.

(2) The requirement must be included in, or be accompanied by, an information notice about the decision to make the requirement.

(3) The amount may be included in the financial assurance for the environmental authority until surrender, under the Mineral Resources Act, of the relevant mining tenement.

266O Criteria for decision to make requirement

The administering authority may require the payment only if it is satisfied it is justified having regard to—

(a) the degree of risk of environment harm that is likely to happen if the proposed certified rehabilitated area is managed under the relevant requirements of this Act and instruments made under it; and

(b) the likelihood of action being needed to—

(i) reinstate rehabilitation that fails to establish a safe, stable and self-sustaining ecosystem; or

(ii) restore the environment because of environmental harm resulting from mining activities, despite the rehabilitation; or

Example of environmental harm—

surface accumulation of contaminants

(iii) maintain environmental management processes needed to protect the environment; and

Examples of things that may be used for an environmental management process—

fences, pumps and water polishing wetlands

(c) the cost of likely action in comparison with the cost of best practice environmental management of the similar use of land that has not previously been affected by mining activities.

266P Amount and form of payment

(1) The administering authority must decide the amount and form of the payment.

(2) The administering authority may decide the amount by reference to a guideline or other publicly available document.

(3) Despite subsections (1) and (2), the administering authority must not require a payment of an amount more than the amount that, in the authority's opinion, represents the likely rehabilitation costs.

(4) In this section—

likely rehabilitation costs means all likely costs and expenses that may be incurred in taking action to rehabilitate or restore and protect the environment because of environmental harm that may be caused by the residual risks of the proposed certified rehabilitated area.

Part 10 Surrender of authorities

Division 1 General provisions for surrender

267 Prospecting permit can not be surrendered

This part does not apply for an environmental authority (prospecting).

268 Surrender only by approval

(1) Subject to section 269A, an environmental authority (mining activities) may be surrendered only if—

(a) an application for the surrender has been made under division 2 (a ***surrender application***); and

(b) the administering authority has approved the surrender.

(2) A holder of an environmental authority (mining activities) must make a surrender application if required under section 270.

(3) The holder may make a surrender application at any other time.

269 Partial surrenders

(1) A surrender application may be made for, and the administering authority may approve a surrender of, part of an environmental authority (mining activities).

(2) Without limiting subsection (1), if—

(a) under the Mineral Resources Act, the holder of an environmental authority (mining activities) seeks to surrender (the ***tenement surrender***) all or part of a relevant mining tenement for the environmental authority; and

(b) were the tenement surrender to be made under that Act, some mining tenements, or parts of mining tenements, would remain as relevant mining tenements for the environmental authority;

a surrender application may be made for, and the administering authority may approve a surrender of, the parts of the environmental authority that relate to the tenement surrender.

(3) However, a surrender application mentioned in subsection (2) can not be made if the tenement surrender is a conditional surrender.

(4) Without limiting sections 277 and 278, the administering authority may refuse a surrender application under this section if—

(a) the administering authority considers that it is appropriate to amend the environmental authority to reflect the partial surrender; and

(b) the applicant has not made an amendment application for the part of the environmental authority not sought to be surrendered.

269A Conditional surrender of environmental authority (mining activities)

(1) This section applies if, under the Mineral Resources Act, the holder of an environmental authority (mining activities) (the ***old authority***) seeks a conditional surrender (the ***tenement surrender***) of all or part of a relevant mining tenement for the environmental authority.

(2) The holder may apply for—

(a) approval to surrender the part of the old authority that relates to the tenement surrender; and

(b) the issuing of a another environmental authority (mining activities) (the ***new authority***) that relates to land the subject of the tenement surrender; and

(c) any amendment of the old authority needed to reflect the partial surrender and the issuing of the new authority.

(3) The application must—

(a) state the extent of mining activities carried out on the land the subject of the tenement surrender; and

(b) propose—

(i) the amount of financial assurance for the new authority, verified by an audit statement; and

(ii) any amendment of the old authority sought under subsection (2)(c); and

(iii) the conditions of the new authority.

(4) If the administering authority grants the application it may take the steps mentioned in subsection (2) without the applicant having made a surrender application for the old authority or an environmental authority application for the new authority.

(5) For applying section 303(3)(a)[124] in relation to the new authority, the new mining tenement is a relevant mining tenement.

(6) The audit statement must—

(a) be made by or for the applicant; and

(b) state whether or not the proposed amount of financial assurance for the environmental authority has been worked out in the way decided by the administering authority, under section 364(3).

270 When surrender application required

(1) This section applies to the holder of an environmental authority (mining activities).

(2) If a relevant mining tenement is cancelled, the holder must, within 30 days, make a surrender application for each part of the authority relating to the tenement.

(3) The holder must make a surrender application for each part of the authority relating to a relevant mining tenement within the period prescribed under a regulation before the tenement is, according to its conditions, to end other than by cancellation.

(4) However, subsection (3) does not apply if, before the prescribed period ends—

124 Section 303 (Restrictions on environmental authority or transfer taking effect)

(a) the mining tenement is, under the Mineral Resources Act—

(i) renewed or continued in force;[125] or

(ii) consolidated with another mining tenement; or

(b) a replacement environmental authority is issued to the holder, and the replacement environmental authority has taken effect.[126]

271 Notice by administering authority to make surrender application

(1) This section applies if—

(a) section 270(2) or (3) applies to the holder of an environmental authority (mining activities); and

(b) the holder has not complied with the subsection.

(2) The administering authority may, by written notice (a ***surrender notice***), require the holder to make a surrender application for the environmental authority within a stated period of at least 10 business days.

(3) The surrender notice must be accompanied by, or include, an information notice about the authority's decisions to make the requirement and to fix the stated period.

272 Failure to comply with surrender notice

A person to whom a surrender notice has been given must comply with the notice unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

125 See the Mineral Resources Act, sections 93 (Renewal of mining claim), 147(2) (Application for renewal of exploration permit), 197 (Application for renewal of mineral development licence), 286 (Application for renewal of mining lease) and parts 14, division 5 (Renewals of mining claims), 15, division 5 (Renewals of exploration permits), 16, division 5 (Renewals of mineral development licences) and 17, division 5 (Renewals of mining leases).

126 For when an environmental authority (mining activities) takes effect, see section 303 (Restrictions on environmental authority or transfer taking effect).

Division 2 Surrender applications

Subdivision 1 Requirements for surrender applications

273 Requirements

(1) A surrender application must be—

(a) in the approved form; and

(b) supported by enough information to allow the administering authority to decide the application; and

(c) accompanied by—

(i) a final rehabilitation report for the environmental authority; and

(ii) an audit statement for the environmental authority; and

(iii) the fee prescribed under a regulation.

(2) The audit statement must—

(a) be made by or for the environmental authority holder; and

(b) state—

(i) the extent to which activities carried out under the environmental authority have complied with the conditions of the authority; and

(ii) the extent to which the final rehabilitation report is accurate.

Subdivision 2 Final rehabilitation reports

274 Content requirements for report

(1) A final rehabilitation report must—

(a) be in the approved form; and

(b) state the extent to which activities carried out under each relevant mining tenement to which the surrender application relates have been consistent with the environmental protection commitments under any submitted EM plan for the environmental authority (mining activities); and

(c) include enough information to allow the administering authority to decide whether—

(i) the conditions of the environmental authority (mining activities) have been complied with; and

(ii) the land on which each relevant mining activity has been carried out has been satisfactorily rehabilitated; and

(d) describe any ongoing environmental management needs for the land; and

(e) state details of—

(i) the monitoring program and the results of monitoring rehabilitation indicators required under any condition of the environmental authority; and

(ii) any consultation with members of the public, community groups, government agencies, and other bodies in relation to the completion criteria for rehabilitation, as stated in the environmental authority; and

(f) state an environmental risk assessment of the land; and

(g) propose the residual risks associated with the rehabilitation of the land, worked out under a guideline or other document publicly available from the administering authority.

Examples of proposed residual risks—

- the present value of the future costs of likely repairs
- necessary monitoring and maintenance costs
- ongoing management costs

(h) include another matter prescribed under a regulation.

(2) The environmental risk assessment must—

(a) use a methodology agreed to by the administering authority; and

(b) show any part of the land that is likely to change or fail to the extent that monitoring, maintenance, reconstruction or other remedial action may be necessary.

275 Amending report

(1) This section applies if a person has submitted a final rehabilitation report (the ***original report***).

(2) The person may amend the original report at any time before the administering authority decides the application.

(3) However, an amendment may be made only by giving the authority written notice stating the amendment (an ***FRR amendment notice***).

(4) A FRR amendment notice must be accompanied by the fee prescribed under a regulation.

(5) The submitted final rehabilitation report is taken to be the original report, as amended from time to time by any FRR amendment notice given for the original report.

276 FRR assessment report may be given

(1) The administering authority may give the person who submitted a final rehabilitation report an assessment report (an ***FRR assessment report***) about the final rehabilitation report.

(2) However, the FRR assessment report must be given within the period prescribed under a regulation.

Subdivision 3 Processing surrender applications

277 Deciding application

The administering authority must consider each surrender application and decide, within the period prescribed under a regulation, to either approve or refuse the surrender.

278 Criteria for decisions

(1) In deciding a surrender application, the administering authority must—

(a) comply with any relevant regulatory requirement; and

(b) subject to paragraph (a), consider the following—

(i) the standard criteria;

(ii) any monitoring results relating to the rehabilitated area the subject of the application;

(iii) the final rehabilitation report for the environmental authority;

(iv) the audit statement for the environmental authority, or part of the environmental authority, the subject of the application;

(v) any relevant FRR assessment report;

(vi) another matter prescribed under an environmental protection policy or a regulation.

(c) if a progressive certification has been given for a relevant mining tenement for the environmental authority—

(i) confirm that the certified rehabilitated area for the mining tenement still meets the criteria under section 266K against which it was certified; and

(ii) if the confirmation is made—give full effect to the certification.

(2) The authority must not grant the application unless—

(a) it is satisfied the conditions of the environmental authority (mining activities) have been complied with; or

(b) it is satisfied the land on which each relevant mining activity has been carried out has been satisfactorily rehabilitated; or

(c) it has approved a transitional environmental program and it is satisfied the land will be satisfactorily rehabilitated under the program; or

(d) a suitability statement has been given for the land and—

(i) the land has been removed from the environmental management register; or

(ii) a site management plan has been approved for the land; or

(e) if a regulation has prescribed another circumstance for this section—the administering authority is satisfied of the circumstance.

278A Directions to carry out rehabilitation may be given if surrender refused

If the administering authority decides to refuse a surrender application, it may, with the notice of the refusal required under section 279, give the applicant a written direction to carry out further stated rehabilitation within a stated reasonable period.

278B Payment may be required for residual risks of rehabilitation

(1) This section applies only for a surrender application for an environmental authority (mining activities).

(2) To remove any doubt, it is declared that this section does not apply for an application under section 269A.[127]

(3) The administering authority may require the applicant to pay it a stated amount for the residual risks of the area the subject of the application.

(4) If a progressive certification has previously been given for a relevant mining tenement for the environmental authority, the administering authority must, in deciding to require the payment—

(a) confirm that the area still meets the criteria under section 266K against which it was certified; and

127 Section 269A (Conditional surrender of environmental authority (mining activities))

(b) take into account any previous payment for the progressive certification.[128]

279 Steps after making decision

If the administering authority decides a surrender application, it must, within 10 business days after the decision is made—

(a) if the decision was to approve the surrender—

(i) record particulars of the surrender in the appropriate register; and

(ii) give the applicant—

(A) written notice of the decision; and

(B) an information notice about any decision under section 278B for the application; or

(b) if the decision was to refuse the surrender—give the applicant an information notice about the decision and any rehabilitation direction decided to be given with the notice of the refusal.

279A Restriction on surrender taking effect if payment required for residual risks

(1) This section applies if the applicant has, under section 278B, been required to pay an amount for residual risks of the area the subject of a surrender application.

(2) Despite section 279, until the requirement has been complied with—

(a) a decision to approve the surrender does not take effect; and

(b) particulars of the surrender must not be recorded under section 279(a)(i).

128 See part 9A, division 2 (Payment for residual risks of rehabilitation).

Part 11 Environmental audits for mining activities

Division 1 Audit requirements

280 Administering authority may require environmental audit

(1) The administering authority may, by written notice (an ***audit notice***) require the holder of an environmental authority (mining activities) to—

(a) conduct or commission an environmental audit about a stated matter concerning a relevant mining activity; and

Example of matters for paragraph (a)—

1 whether the conditions of the environmental authority have been complied with

2 the environmental harm a mining project is causing compared with the environmental harm authorised under the environmental authority or anticipated under any submitted EM plan for the environmental authority

3 whether a plan of operations for an environmental authority (mining lease) complies with the conditions of the environmental authority

4 the accuracy of a final rehabilitation report given to the administering authority by the holder

(b) give the authority an environmental audit report about the audit.

(2) However, the audit notice must not be given unless the authority is reasonably satisfied the audit is necessary or desirable.

(3) The audit notice must state the following—

(a) the holder's name;

(b) the environmental authority (mining activities);

(c) the matter for which the environmental audit is required;

(d) that the holder must, within a stated reasonable period—

(i) conduct or commission the environmental audit; and

(ii) give the administering authority an environmental audit report about the audit.

(4) Also, the audit notice must be accompanied by or include an information notice about the decision to give the notice and to fix the stated period.

281 Failure to comply with audit notice

A person to whom an audit notice has been given must comply with the notice unless the person has a reasonable excuse.

Maximum penalty—300 penalty units.

282 Costs of complying with audit notice

A person to whom an audit notice has been given must pay any costs incurred by the person in relation to complying with the notice.

Division 2 Audits by administering authority

283 Administering authority may conduct environmental audit

(1) The administering authority may decide to—

(a) conduct or commission an environmental audit about a stated matter concerning an environmental authority (mining activities); or

(b) prepare an environmental audit report about the audit.

(2) However, the authority may make a decision under subsection (1) only if it is reasonably satisfied the audit is necessary or desirable.

(3) If the authority makes a decision under subsection (1), it must give the environmental authority holder an information notice about the decision.

(4) The authority must, within 10 business days after preparing an environmental audit report, give the environmental authority holder a copy of it.

284 Administering authority's costs of environmental audit or report

(1) This section applies if the administering authority has under section 283, incurred costs in conducting or commissioning an environmental audit or preparing an environmental audit report.

(2) The holder of the relevant environmental authority (mining activities) must pay the amount of the costs if—

(a) the costs were properly and reasonably incurred; and

(b) the administering authority has asked the holder to pay the amount.

(3) The administering authority may recover the amount as a debt.

Division 3 Auditors and conduct of environmental audits

285 Appointment of auditors

(1) The administering authority may appoint an individual as an auditor if it is satisfied the individual has the qualifications prescribed under a regulation.

(2) Subsection (1) does not limit the issues the authority may consider when deciding whether to appoint someone as an auditor.

286 Appointment conditions and term

(1) The appointment of an auditor is subject to the conditions stated in the auditor's instrument of appointment.

(2) The conditions may, for example, limit the environmental audits the auditor may conduct to a stated type of environmental audit.

(3) The auditor must comply with the conditions, unless the auditor has a reasonable excuse for not complying with them.

Maximum penalty—100 penalty units.

(4) If the instrument provides for a term of appointment, the auditor ceases to hold office at the end of the term.

287 Who may conduct environmental audit

(1) An environmental audit may be conducted only by—

(a) the administering authority; or

(b) an auditor whose instrument of appointment allows the auditor to conduct the audit.

(2) Despite subsection (1)(b), a person must not conduct an environmental audit—

(a) if a regulation disqualifies or prohibits the person from conducting the audit; or

(b) in a circumstance prescribed under a regulation.

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

288 Impersonation of auditor

A person must not pretend to be an auditor.

Maximum penalty—100 penalty units.

Division 4 Miscellaneous provisions

289 False or misleading information about environmental audits

(1) A person must not state anything, or give a document, to an auditor who is conducting an environmental audit that the person knows is false or misleading in a material particular.

Maximum penalty—1665 penalty units or 2 years imprisonment.

(2) An auditor must not make an environmental audit report that the auditor knows is false or misleading in a material particular.

Maximum penalty—1665 penalty units or 2 years imprisonment.

(3) It is enough for a complaint for an offence against this section to state the statement or document was 'false or misleading' to the auditor's or person's knowledge, without specifying which.

Part 12 Amendment, cancellation or suspension by administering authority

Division 1 Conditions for amendment, cancellation or suspension

Subdivision 1 Amendments

290 Corrections

The administering authority may amend an environmental authority (mining activities) to correct a clerical or formal error (a ***correction***) if—

(a) the amendment does not adversely affect the interests of the environmental authority holder or anyone else; and

(b) written notice of the amendment has been given to the holder.

290A Amendments to reflect NNTT conditions

The administering authority may amend an environmental authority (mining activities) to ensure compliance with conditions included in a determination made by the NNTT

under the Commonwealth Native Title Act, section 38(1)(c) if the administering authority has given written notice of the amendment to the environmental authority holder.

292 Other amendments

(1) The administering authority may amend an environmental authority (mining activities) at any time if—

(a) it considers the amendment necessary or desirable because of a ground mentioned in subsection (2); and

(b) the procedure under division 2 is followed or the holder has agreed in writing to the amendment.

(2) For subsection (1)(a), the grounds are that the administering authority considers the amendment necessary or desirable because of any of the following—

(a) a contravention of this Act by the holder;

(b) the environmental authority was issued because of a materially false or misleading certificate, declaration or representation, made either orally or in writing;

(c) financial assurance required under a condition of the environmental authority has not been given in the amount or in the form required under the condition;

(d) the environmental authority was issued on the basis of a miscalculation of—

(i) the environmental values affected or likely to be affected, by a relevant mining activity; or

(ii) the quantity or quality of contaminant authorised to be released into the environment; or

(iii) the effects of the release of a quantity or quality of contaminant authorised to be released into the environment;

(e) a change in the way in which, or the place where, contaminants are, or are likely to be, released into the environment;

(f) the approval of an environmental protection policy or the approval of the amendment of an environmental

protection policy;

(g) an environmental audit or report, or an audit statement given under this chapter;

(h) an environmental audit or report given under chapter 7;[129]

(i) a final rehabilitation report;

(j) an annual return required under this Act;

(k) for an environmental authority (mining lease), a change provided for in an amendment to or replacement of the plan of operations for the environmental authority;

(l) a significant change in the way in which, or the extent to which, an activity under the environmental authority is being carried out;

Example of significant change for paragraph (l)—

The submitted EM plan for an environmental authority (mining lease) application was based on a particular method for removing contaminants from a waste stream for a relevant mining activity. The conditions for the authority were fixed on the basis of the submitted EM plan. The authority is transferred and the transferee changes the method.

(m) the amount or form of any financial assurance given or required for the environmental authority is no longer appropriate because of—

(i) a change in the degree of environmental harm caused, or that may be caused, by a relevant mining activity; or

(ii) the environmental record of the authority holder;

(n) the amendment is necessary to prevent environmental harm not already authorised under the environmental authority;

(o) an amendment proposed under an amendment application;

(p) another circumstance prescribed under a regulation.

129 Chapter 7 (Environmental management)

(3) Subsection (2)(l) applies even if any submitted EM plan or plan or operations for the environmental authority mentions or provides for the change.

Subdivision 2 Cancellation or suspension

293 Conditions for cancellation or suspension

(1) The administering authority may cancel or suspend an environmental authority (mining activities) if—

(a) a replacement environmental authority for the environmental authority has taken effect;[130] or

(b) an event mentioned in subsection (2) has happened and the procedure under division 2 is followed.

(2) For subsection (1)(b), the events are as follows—

(a) the environmental authority was issued or has been transferred because of a materially false or misleading certificate, declaration or representation, made either orally or in writing;

(b) financial assurance required under a condition of the environmental authority has not been given in the amount or in the form required under the condition;

(c) the environmental authority holder is, after the issue of the environmental authority, convicted of an environmental offence;

(d) after the environmental authority has taken effect[131]—

(i) the environmental authority holder no longer holds any relevant mining tenement; or

(ii) a person, other than the environmental authority holder, becomes a holder of a relevant mining tenement;

130 For when an environmental authority (mining activities) takes effect, see section 303 (Restrictions on environmental authority or transfer taking effect).

131 For when an environmental authority takes effect, see section 303 (Restrictions on environmental authority or transfer taking effect).

(e) the holder has been given an annual notice, audit notice or surrender notice and the notice has not been complied with.

Division 2 Procedure for amendment without agreement or for cancellation or suspension

294 Application of div 2

This division applies if the administering authority proposes to—

(a) amend an environmental authority (mining activities), other than—

(i) to make a correction; or

(ii) to make an amendment under section 290A; or

(iii) with the written agreement of the environmental authority holder; or

(b) cancel or suspend an environmental authority.

295 Notice of proposed action

(1) The administering authority must give the environmental authority holder a written notice stating the following—

(a) the action (the ***proposed action***) the administering authority proposes taking under this division;

(b) the grounds for the proposed action;

(c) the facts and circumstances that are the basis for the grounds;

(d) if the proposed action is to amend the environmental authority—the proposed amendment;

(e) if the proposed action is to suspend the environmental authority—the proposed suspension period;

(f) that the holder may make, within a stated period, written representations to show why the proposed action should not be taken.

(2) The stated period must end at least 20 business days after the holder is given the proposed action notice.

(3) For subsection (1)(e), the proposed suspension period may be fixed by reference to a stated event.

Example for subsection (3)—

If a ground on which the proposed action is to be taken is that financial assurance required under a condition of the environmental authority has not been given, the proposed suspension period may be stated as the period ending when the financial assurance is given.

296 Considering representations

The administering authority must consider any written representation made within the period stated in the notice under section 295 by the environmental authority holder.

297 Decision on proposed action

(1) If, after complying with section 296, the administering authority still believes a ground exists to take the proposed action, it may—

(a) if the proposed action was to amend the environmental authority in a stated way—make the amendment; or

(b) if the proposed action was to suspend the environmental authority for a stated period—suspend the environmental authority for no longer than the proposed suspension period; or

(c) if the proposed action was to cancel the environmental authority—either cancel the environmental authority or suspend it for a fixed period.

(2) The decision under subsection (1) is called the ***proposed action decision***.

(3) If the administering authority at any time decides not to take the proposed action, it must promptly give the holder written notice of the decision.

298 Notice of proposed action decision

(1) The administering authority must, within 10 business days after the proposed action decision is made—

(a) for a decision to amend an environmental authority for a level 2 mining project—give the environmental authority holder a written notice stating the decision and the reasons for it; or

(b) for a decision other than to amend an environmental authority for a level 2 mining project—give the environmental authority holder an information notice about the decision.

(2) The decision takes effect on the later of the following—

(a) the day the notice is given to the holder;

(b) a later day of effect stated in the notice.

(3) However, if the decision was to cancel or suspend the environmental authority because of the conviction of the holder for an offence, the cancellation or suspension—

(a) does not take effect until—

(i) the period to appeal against the conviction ends; and

(ii) if the appeal is made against the conviction—the appeal is finally decided or is otherwise ended; and

(b) has no effect if the conviction is quashed on appeal.

Division 3 Steps after making decision

299 Steps for corrections

If the administering authority amends an environmental authority to make a correction, it must, within 10 business days after giving notice of the correction under section 290(b)—

(a) amend the environmental authority to give effect to the amendment; and

(b) record particulars of the amendment in the appropriate register.

299A Steps for amendment to reflect NNTT conditions

If the administering authority amends an environmental authority under section 290A, it must, within 10 business days after giving notice of the amendment under section 290A—

(a) amend the environmental authority to give effect to the amendment; and

(b) record particulars of the amendment in the appropriate register; and

(c) give the environmental authority holder a copy of the amended environmental authority.

300 Steps for amendment by agreement

If, under division 1, subdivision 1, the administering authority amends an environmental authority with the environmental authority holder's agreement, it must, within 10 business days—

(a) amend the environmental authority to give effect to the amendment; and

(b) record particulars of the amendment in the appropriate register; and

(c) give the holder a copy of the amended environmental authority.

301 Steps for amendment without agreement or for cancellation or suspension

(1) This section applies if the proposed action decision is to take action and the decision has taken effect.

(2) The administering authority must, as soon as practicable—

(a) take the action; and

(b) record particulars of the action in the appropriate register.

(3) If the action is suspension of the environmental authority—

(a) the particulars must state when the suspension period starts and ends; and

(b) the suspension ends when the suspension period is stated to end.

(4) If the action is to amend the environmental authority, the administering authority must also give the environmental authority holder a copy of the amended environmental authority as soon as practicable.

Part 13 Miscellaneous provisions

Division 1 Advice from MRA chief executive

302 Requirement to seek advice from MRA chief executive

(1) The administering authority must, before it takes any of the following steps, seek advice from the chief executive of the MRA department—

(a) make a decision to refuse a transfer application, unless the chief executive of the MRA department has notified the administering authority that a relevant mining tenement will not be assigned, under the Mineral Resources Act, to the transferee under the transfer application;

(b) make a decision to refuse a surrender application;

(c) make another decision under this part about a non-code compliant application or a non-code compliant authority for a level 1 mining project, to which decision the applicant or authority holder has not agreed to in writing;

(e) give a draft environmental authority for an environmental authority (mining lease) application if it is a non-standard application.

(2) The advice may be sought in the way the administering authority considers appropriate.

(3) The advice sought may be given only within the time required under this chapter for the administering authority to take the step.

(4) A contravention of this section does not invalidate the decision or the environmental authority (mining activities) to which it relates.

Division 1A Transfer of interest in an application for or to transfer environmental authority (mining activities)

302A Amending application to change applicant

(1) This section applies to an application for, or to transfer, an environmental authority (mining activities) if the application has not been decided.

(2) The applicant may, by written notice to the administering authority, amend the application to change the name of the applicant.

(3) The notice must be signed by each person who is currently an applicant for the application and each person (a ***revised applicant***) who, after the giving of the notice, will be an applicant for the application.

(4) Any step taken under this chapter in relation to the application before the giving of the notice is taken to have been made as if the step had been taken in relation to each revised applicant.

(5) Otherwise, the amendment does not affect the requirements under this Act for the making and deciding of the application.

Division 2 When authorities or transfers take effect

303 Restrictions on environmental authority or transfer taking effect

(1) This section applies if an environmental authority (mining activities) is, or must be—

(a) issued under this chapter; or

(b) issued or amended to give effect to a transfer under this chapter.

(2) If the environmental authority states a day or an event for the authority or transfer to take effect, the authority or transfer takes effect on the stated day or when the stated event happens.

(3) If no day or event is stated, the environmental authority or transfer takes effect when the later of the following happens—

(a) the granting, under the Mineral Resources Act, of each relevant mining tenement;

(b) each environmental authority holder has become a holder of a relevant mining tenement;

(c) if a person, other than an environmental authority holder, is a holder of any relevant mining tenement—the person ceases to be a holder of the tenement.

Division 3 General provisions for applications and conditions

304 Grounds for refusing application for or to transfer environmental authority

(1) A refusal decision may be made for an application for, or to transfer, an environmental authority (mining activities) if—

(a) the decision-maker is satisfied the proposed holder is not a suitable person to hold an environmental authority; or

(b) a disqualifying event has happened in relation to the proposed holder or another person of whom the person is a partner; or

(c) if the proposed holder is a corporation, a disqualifying event has happened in relation to—

(i) any of its executive officers; or

(ii) another corporation of which any of its executive officers is, or has been, an executive officer.

(2) In deciding whether a proposed holder is a suitable person to hold an environmental authority, the decision-maker must consider all relevant matters, including, for example—

(a) the proposed holder's environmental record; and

(b) the proposed holder's ability to comply with any conditions or proposed conditions of the environmental authority or proposed environmental authority.

(3) In this section—

refusal decision means—

(a) a decision by the administering authority under this chapter to refuse the application or transfer; or

(b) an objections decision recommending the application be refused; or

(c) a Minister's decision that the application be refused.[132]

305 Conditions that may be made

(1) This section applies for the doing or making of any of the following (a ***relevant act***)—

(a) imposing or amending a condition for an environmental authority (mining activities);

(b) deciding a proposed condition for a draft environmental authority;

(c) an objections decision recommending a condition;

132 See chapter 12, part 2, division 3 (Investigating suitability).

(d) the Minister, in making the Minister's decision for an application, deciding to impose a condition;

(e) the granting, or the amendment, cancellation, surrender, suspension or transfer, of or other dealing with, an environmental authority (mining activities);

(f) stating, under the State Development Act, section 49(1),[133] conditions for a draft environmental authority for an environmental authority (mining lease).

(2) A relevant act may—

(a) require the environmental authority holder to do all or any of the following—

(i) install and operate stated plant or equipment in a stated way within a stated period;

(ii) take stated measures to minimise the likelihood of environmental harm being caused;

(iii) carry out and report on a stated monitoring program;

(iv) prepare and carry out a transitional environmental program;

(v) give relevant information reasonably required by the administering authority for the administration or enforcement of this Act;

(vi) carry out or report about stated rehabilitation or remediation work relating to the environmentally relevant activity the subject of the environmental authority; or

(b) prohibit the holder from changing, replacing or operating any plant or equipment installed in the licensed place if the change, replacement or operation increases, or is likely to substantially increase, the risk of environmental harm; or

133 State Development Act, section 49 (Application of Coordinator-General's report to environmental authority (mining lease))

(c) include a condition under section 364[134] requiring the giving of financial assurance; or

(d) provide that the environmental authority ceases, or ceases to have effect—

(i) on a stated day; or

(ii) when a stated period ends; or

(iii) on the happening of a stated event; or

(iv) if a stated event has not happened on or before a stated day.

Example of a stated event—

the granting of a relevant mining tenement

(3) To remove any doubt, it is declared that a condition may be imposed even if it imposes an obligation on the environmental authority holder that continues to apply after the authority has ended or ceased to have effect.

Example for subsection (3)—

A condition may be about the following—

1 rehabilitation of the land to which the authority relates after the authority has ended;

2 a final rehabilitation report or site management plan for the land.

(4) Subsection (2) does not limit the conditions that may be made by a relevant act.

306 Additional conditions override standard environmental conditions

(1) This section applies if—

(a) an environmental authority (mining activities) contains standard environmental conditions and an additional condition; and

(b) there is any inconsistency between a standard environmental condition and the additional condition.

134 Section 364 (When financial assurance may be required)

(2) The additional condition prevails to the extent of the inconsistency.

306A Paramountcy of native title issues decision conditions

(1) Subsection (2) applies if there is any inconsistency between—

(a) a native title issues condition; and

(b) a condition of an environmental authority (mining activities) or a draft environmental authority for an environmental authority (mining activities).

(2) The native title issues condition prevails to the extent of the inconsistency.

(3) In this section—

native title issues condition means a condition imposed or made under, or as part of, the native title issues decision under the Mineral Resources Act.

Division 4 Principal holder of authority

307 Application of div 4

This division applies if 2 or more persons jointly hold an environmental authority (mining activities).

308 Appointment of principal holder

(1) A person is taken to have been appointed as the principal holder of the environmental authority if—

(a) immediately before the issue of the environmental authority, the person held appointment under section 159(1)[135] as the principal applicant for the application for the environmental authority; and

(b) the person's appointment has not been cancelled under that section.

135 Section 159 (Appointment of principal applicant)

(2) The holders of the environmental authority may, by a signed notice from all of them to the administering authority—

(a) appoint 1 of them as the principal holder of the environmental authority; or

(b) cancel the appointment of a principal holder.

309 Effect of appointment

If a holder of the environmental authority holds appointment as its principal holder—

(a) the principal holder may, for all holders of the environmental authority, give or submit to the administering authority a notice or other document relating to the environmental authority; and

(b) the administering authority may—

(i) give a notice or other document relating to the environmental authority to all the holders by giving it to the principal holder; or

(ii) make a requirement under this Act relating to the environmental authority of all the holders by making the requirement of the principal holder.

Chapter 6 General provisions about environmental authorities and registration certificates

316 Annual fee and return

(1) This section applies for—

(a) a registration certificate for which an annual fee is prescribed under a regulation; or

(b) an environmental authority for a mining or petroleum activity for which an annual fee is prescribed under a regulation.

(2) At least 20 business days before each anniversary day for the registration certificate or environmental authority, the administering authority must give the registered operator or environmental authority holder a written notice (an ***annual notice***).

(3) An annual notice must state—

(a) whether or not the administering authority requires the operator or holder to lodge an annual return in the approved form; and

(b) that the operator or holder must pay the authority the appropriate annual fee, other than in a circumstance prescribed under a regulation for this paragraph; and

(c) that the annual fee payable under the notice must be paid to the authority within a stated reasonable time, of at least 20 business days, after the day the notice is given; and

(d) that if the operator or holder does not comply with the notice, the registration certificate or environmental authority may be cancelled or suspended.[136]

(4) The operator or holder must comply with the notice.

(5) If the operator or holder does not pay the annual fee within the time stated for payment in the annual notice, the administering authority may recover it as a debt.

(6) A failure to give the notice by the time stated in subsection (2) does not invalidate or otherwise affect the validity of the notice.

317 Reference to environmental authority includes its conditions

A reference in this Act to an environmental authority or a proposed environmental authority includes, if the context permits, a reference to the conditions of the authority or proposed authority.

136 See sections 73I (Cancelling or suspending a registration certificate), 145F(2)(d) and 293 (Conditions for cancellation or suspension).

318A Changing anniversary day

(1) Subsection (2) applies for—

(a) the registered operator for a registration certificate for which an annual fee is prescribed under a regulation; or

(b) the holder of an environmental authority for a mining or petroleum activity for which an annual fee is prescribed under a regulation.

(2) The operator or holder may apply to the administering authority to change the anniversary day for the registration certificate or environmental authority to another day of each year (the ***new day***).[137]

(3) The application must be in the approved form and accompanied by the fee prescribed under a regulation.

(4) The administering authority must, within 20 business days after the application is made, decide whether or not to change the anniversary day to the new day.

(5) The administering authority must, within 10 business days after the decision is made, give the operator or holder—

(a) if the decision is to change the day—written notice of the decision; or

(b) if the decision is not to change the day—an information notice about the decision.

(6) A decision under subsection (4) to change the anniversary day takes effect on the later of the following days—

(a) the day the operator or holder is given notice of the decision;

(b) a later day of effect stated in the notice.

(7) The administering authority may, if the operator or the holder agrees in writing, change the anniversary day for the registration certificate or environmental authority to another day of each year (also the ***new day***).

137 See, however, section 618 (Section 318A does not apply for transitional authority).

318B Special provisions for changeover in anniversary day

(1) If the anniversary day for a registration certificate or an environmental authority is changed under section 318A—

(a) the period from its last anniversary day before the change to its first anniversary day after the change (an ***interim year***) is taken to be a year for the registration certificate or environmental authority; and

(b) the administering authority's obligation under section 316(2) to give an annual notice does not apply for the first anniversary day after the change.

(2) A different form may be approved under section 316(3)(a) for an annual return for an interim year than for other years.

318C Death of environmental authority holder or registered operator

If the holder of an environmental authority or a registered operator dies, the personal representative of the holder or operator's estate is taken to be the holder of the environmental authority or the registered operator.

Chapter 7 Environmental management

Part 1 Environmental duties

319 General environmental duty

(1) A person must not carry out any activity that causes, or is likely to cause, environmental harm unless the person takes all reasonable and practicable measures to prevent or minimise the harm (the ***general environmental duty***).[138]

(2) In deciding the measures required to be taken under subsection (1), regard must be had to, for example—

138 See section 24(3) (Effect of Act on other rights, civil remedies etc.).

(a) the nature of the harm or potential harm; and

(b) the sensitivity of the receiving environment; and

(c) the current state of technical knowledge for the activity; and

(d) the likelihood of successful application of the different measures that might be taken; and

(e) the financial implications of the different measures as they would relate to the type of activity.

320 Duty to notify environmental harm

(1) This section applies to a person who, while carrying out an activity (the ***primary activity***), becomes aware that serious or material environmental harm is caused or threatened by the person's or someone else's act or omission in carrying out the primary activity or another activity being carried out in association with the primary activity.

(2) However, this section does not apply if the harm is authorised to be caused under—

(a) an environmental protection policy; or

(b) a transitional environmental program; or

(c) an environmental protection order; or

(d) an environmental authority; or

(e) a development condition of a development approval; or

(ea) a standard environmental condition of a code of environmental compliance for a chapter 4 activity; or

(f) an emergency direction.

(3) As soon as reasonably practicable after becoming aware of the event involving the harm, the person must—

(a) if the person is carrying out the primary activity during the person's employment or engagement by, or as the agent of, someone else (the ***employer***)—

(i) tell the employer of the event, its nature and the circumstances in which it happened; or

(ii) if the employer cannot be contacted—give written notice to the administering authority of the event, its nature and the circumstances in which it happened; or

(b) if paragraph (a) does not apply to the person—give written notice to the administering authority of the event, its nature and the circumstances in which it happened.

(4) If subsection (3)(a)(i) applies, the employer must immediately give written notice to the administering authority of the event, its nature and the circumstances in which it happened.

(5) A person must not, without reasonable excuse, fail to comply with subsection (3) or (4).

Maximum penalty—100 penalty units.

(6) It is not a reasonable excuse for a person to fail to give notice to the administering authority of the circumstances involving the harm on the ground that the notice, or the giving of the notice, might tend to incriminate the person.

(7) A notice given by a person is not admissible in evidence against the person (or, if subsection (3)(a) applies, the person or employer) in a prosecution for an offence against this Act constituted by the act or omission that caused or threatened the harm under the notice.

(8) Subsection (7) does not prevent other evidence obtained because of the notice, or the giving of the notice, being admitted in any legal proceeding against the person (or employer).

Part 2 Environmental evaluations

321 What is an environmental evaluation

An environmental evaluation is an evaluation of an activity or event to decide—

(a) the source, cause or extent of environmental harm being caused, or the extent of environmental harm likely to be caused, by the activity or event; and

(b) the need for a transitional environmental program for the activity or event.

322 When environmental audit required

(1) If the administering authority is satisfied on reasonable grounds that—

(a) the holder of, or a person acting under, an environmental authority is or has been, contravening a condition of the authority; or

(b) a person is, or has been, contravening a development condition of a development approval; or

(c) a person is, or has been, contravening a regulation, an environmental protection policy or a transitional environmental program;

the authority may require the person to conduct or commission an audit (an ***environmental audit***) of the matter and submit a report on the audit to it.

(2) The authority must, within 8 business days after deciding to make the requirement, give the person an information notice about the decision.

(3) The person must comply with the requirement.

Maximum penalty—100 penalty units.

323 When environmental investigation required

(1) If the administering authority is satisfied on reasonable grounds—

(a) an event has happened causing environmental harm while an activity was being carried out; or

(b) an activity or proposed activity is causing, or is likely to cause environmental harm;

the authority may require the person who has carried out, is carrying out or is proposing to carry out the activity to

conduct or commission an investigation (an ***environmental investigation***) and submit a report on the investigation to it.

(2) The authority must, within 8 business days after deciding to make the requirement, give the person an information notice about the decision.

(3) The person must comply with the requirement.

Maximum penalty—100 penalty units.

(4) This section does not apply if the administering authority requires an environmental audit for the event or activity.

(5) In this section—

activity includes rehabilitation or remediation work.

324 Notice to conduct or commission environmental evaluation

(1) A requirement to conduct or commission an environmental evaluation must be made by written notice.

(2) The notice must—

(a) state the grounds on which the requirement is made; and

(b) outline the facts and circumstances forming the basis for the grounds; and

(c) state the relevant matters for the evaluation; and

(d) state the day (at least a reasonable period after the notice is given) by which an environmental report must be submitted to the administering authority.

325 Declarations to accompany report

(1) An environmental report submitted to the administering authority must be accompanied by a statutory declaration by the recipient and the person who carried out the environmental evaluation.

(2) The recipient's declaration must be made—

(a) if the recipient is an individual—by the recipient; or

(b) if the recipient is a corporation—by an executive officer of the corporation.

(3) The recipient's declaration must state that the recipient—

(a) has not knowingly given any false or misleading information to the person who carried out the environmental evaluation; and

(b) has given all relevant information to the person who carried out the environmental evaluation.

(4) A declaration by the person who carried out the environmental evaluation must—

(a) state his or her qualifications and experience relevant to the evaluation; and

(b) state that he or she has not knowingly included any false, misleading or incomplete information in the report; and

(c) state that he or she has not knowingly failed to reveal any relevant information or document to the administering authority; and

(d) certify that—

(i) the report addresses the relevant matters for the evaluation and is factually correct; and

(ii) the opinions expressed in it are honestly and reasonably held.

326 Administering authority to consider and act on environmental reports

(1) The administering authority must decide whether or not to accept the environmental report within 20 business days after receiving it.

(2) If the administering authority accepts the report, it may do 1 or more of the following—

(a) require the recipient to prepare and submit a transitional environmental program to it;

(b) if the recipient is the holder of an environmental authority—amend the conditions of the authority;

(c) if the recipient is a registered operator for a development approval—under section 73C, add, change or cancel a development condition of the development approval;

(d) serve an environmental protection order on the recipient;

(e) take any other action it considers appropriate.

(3) If the administering authority is satisfied the report does not adequately address the relevant matters for the environmental evaluation to which the report relates, it may require the recipient to conduct or commission another environmental evaluation and submit a report on the evaluation to it.

(4) If the administering authority is satisfied additional relevant information is required, it may require the recipient to give it the information.

(5) A requirement under subsection (3) or (4) must be made by written notice given to the recipient.

(6) The notice must—

(a) state the grounds on which the requirement is made; and

(b) outline the facts and circumstances forming the basis for the grounds; and

(c) state the relevant matters for the evaluation or the information required; and

(d) state the day (at least a reasonable period after the notice is given) by which the report or information must be given to the administering authority; and

(e) state the review or appeal details.

327 Costs of environmental evaluation and report

The recipient must meet the following costs—

(a) the costs of conducting or commissioning an environmental evaluation and report;

(b) the costs of giving additional relevant information about the report required by the administering authority.

328 Extensions of time for decisions on submission of environmental reports

(1) The administering authority may decide to extend the time it is required to decide whether or not to accept an environmental report if—

(a) it has required additional relevant information about the report; or

(b) it is satisfied there are special circumstances for extending the time.

(2) The authority must, before the extension starts, give the applicant an information notice about the decision to make the extension.

329 Failure to make decision on environmental report taken to be refusal

If the administering authority fails to decide whether or not to accept an environmental report within the time it is required to make a decision on the report, the failure is taken to be a decision by the authority to refuse to accept the report at the end of the time.

Part 3 Transitional environmental programs

Division 1 Preliminary

330 What is a transitional environmental program

A transitional environmental program is a specific program that, when approved, achieves compliance with this Act for the matters dealt with by the program by—

(a) reducing environmental harm; or

(b) detailing the transition to an environmental standard.

331 Content of program

A transitional environmental program must—

(a) state the objectives to be achieved and maintained under the program for an activity; and

(b) state how the objectives are to be achieved, and a timetable to achieve the objectives, taking into account—

(i) the best practice environmental management for the activity; and

(ii) the risks of environmental harm being caused by the activity; and

(c) state appropriate performance indicators at intervals of not more than 6 months; and

(d) make provision for monitoring and reporting compliance with the program.

Division 2 Submission and approval of transitional environmental programs

332 Administering authority may require draft program

(1) The administering authority may require a person or public authority to prepare and submit to it for approval a draft transitional environmental program—

(a) as a condition of an environmental authority; or

(b) as a development condition of a development approval.

(2) The administering authority may also require a person or public authority to prepare and submit to it for approval a draft transitional environmental program if it is satisfied—

(a) an activity carried out, or proposed to be carried out, by the person or authority is causing, or may cause, unlawful environmental harm; or

(b) it is not practicable for the person or public authority to comply with an environmental protection policy or regulation on its commencement; or

(c) that a condition of an environmental authority held by the person or public authority is, or has been, contravened; or

(ca) that a standard environmental condition of a code of environmental compliance for a chapter 4 activity is, or has been, contravened by the person or public authority; or

(d) a development condition of a development approval is, or has been, contravened and the person or public authority is—

(i) an owner of the land for which the approval is granted; or

(ii) another person in whom the benefit of the approval vests.

(3) A requirement under subsection (1) or (2) must be made by written notice given to the person or public authority.

(4) The notice must state—

(a) the grounds on which the requirement is made; and

(b) the matters to be addressed by the program; and

(c) the period over which the program is to be carried out; and

(d) the day (at least a reasonable period after the notice is given) by which the program must be prepared and submitted to the administering authority; and

(e) the review or appeal details.

(5) A person of whom a requirement under subsection (1) or (2) has been made must comply with the requirement unless the person has a reasonable excuse.

Maximum penalty for subsection (5)—100 penalty units.

333 Voluntary submission of draft program

(1) A person or public authority may, at any time, submit for approval a draft transitional environmental program to the administering authority for an activity the person or public authority is carrying out or proposes to carry out.

(2) A person or public authority may submit a document under subsection (1) if it substantially complies with the requirements of this part for a transitional environmental program, even though the document was not originally prepared for this Act.

(3) The document is taken to be a draft transitional environmental program.

334 Fee for consideration of draft program

A person or public authority that submits a draft transitional environmental program to an administering authority for approval must pay the authority the fee prescribed by regulation.

335 Public notice of submission for approval of certain draft programs

(1) This section applies if a person or public authority submits for approval a draft transitional environmental program that states a period longer than 3 years over which the program is to be carried out.

(2) Within 2 business days after the application date, the person or public authority must give public notice of the submission by—

(a) advertisement published in a newspaper circulating generally in the area in which the activity to which the draft program relates is, or is proposed to be, carried out; and

(b) if the program relates to premises—

(i) placing a notice on the premises; and

(ii) serving a notice on the occupiers of all premises adjoining the premises.

(3) The notice must—

(a) be in the approved form; and

(b) invite submissions on the draft program from government departments, public authorities, local governments, land-holders, industry, interested groups and persons and members of the public; and

(c) state the day (at least 10 business days after compliance with subsection (2)) nominated by the administering authority as the day by which submissions may be made to the authority.

336 Authority may call conference

(1) The administering authority may invite the person or public authority that has submitted a draft transitional environmental program and another person who has made a submission under section 335 about the program, to a conference to help it in deciding whether or not to approve the program.

(2) The administering authority must give written notice to all persons invited to attend the conference of when and where the conference is to be held.

(3) However, if the administering authority considers it is impracticable to give notice to all persons invited to attend the conference, the authority may give notice of the conference by publishing a notice in the newspapers the authority decides.

(4) The administering authority must endeavour to appoint an independent person to mediate the conference.

337 Administering authority to consider draft programs

(1) The administering authority must decide whether to approve a draft transitional environmental program submitted to it within 20 business days after the application date.

(2) If public notice is required to be given of the submission of the draft program, the administering authority must be satisfied public notice has been properly given before making a decision.

338 Criteria for deciding draft program

(1) In deciding whether to approve or refuse to approve the draft program or the conditions (if any) of the approval, the administering authority—

(a) must comply with any relevant regulatory requirement; and

(b) subject to paragraph (a), must also consider the following—

(i) the standard criteria;

(ii) additional information given in relation to the draft program;

(iii) the views expressed at a conference held in relation to the draft program.

(2) If the draft program is prepared because of a requirement of a development condition of a development approval, the authority may approve the draft program only if it is not inconsistent with other conditions of the approval.

339 Approval of draft program

(1) This section applies if the administering authority—

(a) approves a draft transitional environmental program as amended at the request, or with the agreement, of the administering authority; or

(b) approves a draft program as submitted.

(2) The administering authority must, within 8 business days after the approval, issue and give to the person or public authority that submitted the program a certificate of approval of the program.

(3) The certificate may be issued subject to the conditions the administering authority considers appropriate and remains in force for the period specified in the certificate.

340 Notice of refusal or conditions

(1) This section applies if the administering authority decides to—

(a) refuse to approve a draft transitional environmental program; or

(b) give an approval for a draft transitional environmental program subject to conditions.

(2) The authority must give the person or public authority that submitted the program an information notice about the decision.

342 Substantial compliance with Act may be accepted as compliance

(1) This section applies if, under this Act, a person or public authority is required to give public notice of the submission of a transitional environmental program and the administering authority is not satisfied public notice has been properly given.

(2) The administering authority may consider and decide whether to approve the draft program if it is satisfied there has been substantial compliance with this Act.

343 Failure to approve draft program taken to be refusal

If the administering authority fails to decide whether to approve or refuse a transitional environmental program within the time it is required to make a decision on the program, the failure is taken to be a decision by the authority to refuse to approve the program at the end of the time.

Division 3 Amendment of approval for transitional environmental programs

344 Application

(1) Division 2 (other than section 335(1)) applies, with all necessary changes, to a submission by the holder of an approval for a transitional environmental program for an environmentally relevant activity to amend the approval.

(2) Without limiting subsection (1), if the holder submits for approval an amendment of the approval that extends the period over which the program is to be carried out to longer than 5 years, section 335(2) and (3) applies to the submission as if the submission were for the approval of a draft transitional environmental program.

(3) Also, the administering authority may approve the amendment only if it is reasonably satisfied it will not result in increased environmental harm being caused by the carrying out of the activity under the amended approval than the environmental harm that would be caused by carrying out the activity if the approval were not granted.

(4) Without limiting the matters to be considered in deciding the application, the administering authority must have regard to—

(a) the period under the original approval; and

(b) the period that remains under the original approval; and

(c) any change to the period under the original approval; and

(d) the nature of the risk of environmental harm being caused by the activity.

Division 4 Miscellaneous

345 Annual return

The holder of an approval of a transitional environmental program must, within 22 business days after each anniversary of the day of approval of the program, give to the administering authority an annual return in the approved form.

Maximum penalty—100 penalty units.

346 Effect of compliance with program

(1) This section applies if an approved transitional environmental program authorises the holder to do, or not to do, something under the program.

(2) The holder, or a person acting under the approval may do, or not do, the thing under the program despite anything in—

(a) a regulation; or

(b) an environmental protection policy; or

(c) an environmental authority held by the holder; or

(d) a development condition of a development approval; or

(e) a standard environmental condition of a code of environmental compliance for a chapter 4 activity.

(3) Without limiting subsection (2), the doing, or not doing, of the thing under the program is not a contravention of—

(a) a regulation; or

(b) an environmental protection policy; or

(c) a condition of an environmental authority held by the holder; or

(d) a development condition of a development approval; or

(e) a standard environmental condition of a code of environmental compliance for a chapter 4 activity.

347 Notice of disposal by holder of program approval

(1) This section applies if the holder of an approval of a transitional environmental program proposes to dispose of the place or business to which the program relates to someone else (the ***buyer***).

(2) Before agreeing to dispose of the place or business, the holder must give written notice to the buyer of the existence of the program.

Maximum penalty—50 penalty units.

(3) If the holder does not comply with subsection (2), the buyer may rescind the agreement by written notice given to the holder before the completion of the agreement or possession under the agreement, whichever is the earlier.

(4) On rescission of the agreement under subsection (3)—

(a) a person who was paid amounts by the buyer under the agreement must refund the amounts to the buyer; and

(b) the buyer must return to the holder any documents about the disposal (other than the buyer's copy of the agreement).

(5) Subsections (3) and (4) have effect despite any other Act or anything to the contrary in the agreement.

(6) Within 10 business days after agreeing to dispose of the place or business, the holder must give written notice of the disposal to the administering authority.

Maximum penalty for subsection (6)—50 penalty units.

348 Notice of ceasing activity by holder of program approval

Within 10 business days after ceasing to carry out the activity to which a transitional environmental program relates, the holder of the approval for the program must give written notice of the ceasing the activity to the administering authority.

Maximum penalty—50 penalty units.

349 Compliance with Act at completion of program

The holder of an approval for a transitional environmental program must achieve full compliance with this Act for the matters dealt with by the program at the end of the period over which the program is carried out.

Part 4 Special provisions about voluntary submission of transitional environmental programs

350 Program notice

(1) A person may give the administering authority a notice (the ***program notice***) about an act or omission (the ***relevant event***) that—

(a) has caused or threatened environmental harm in the carrying out of an activity by the person; and

(b) is lawful apart from this Act.

(2) The notice must—

(a) be in the approved form; and

(b) give full details of the relevant event; and

(c) declare the person's intention to prepare, and submit to the authority a transitional environmental program for the activity; and

(d) state the other information prescribed by regulation.

(3) The person may submit with the notice any report, or the results of any analysis, monitoring program, test or examination, carried out by or for the person for the relevant event.

351 Program notice privileged

(1) If the relevant event stated in the program notice constitutes an offence against this Act (the ***original offence***), the giving of the program notice, the program notice and any documents submitted with it are not admissible in evidence against the person in a prosecution for the original offence.

(2) Subsection (1) does not prevent other evidence obtained because of the giving of the program notice, the program notice or any documents submitted with it being admitted in any legal proceeding against the person.

352 Authority to act on notice

(1) Within 10 business days after receiving the program notice, the administering authority must give written notice to the person of—

(a) its receiving the notice; and

(b) the day by which a draft transitional environmental program dealing with the activity must be submitted to it for approval.

(2) The day mentioned in subsection (1)(b) must not be more than 3 months after the administering authority receives the program notice.

(3) This section has effect subject to section 355.

353 Effect of program notice

(1) On receipt of the program notice by the administering authority, the person giving the notice must not be prosecuted for a continuation of the original offence that happens after the authority receives the notice.

(2) Subsection (1) has effect only until whichever of the following happens first—

(a) the person receives from the administering authority an approval of a transitional environmental program for the activity;

(b) the person receives from the administering authority a notice of refusal to approve a draft transitional environmental program for the activity;

(c) if the person does not submit a draft transitional environmental program for the activity to the administering authority by the day stated in the notice given to the person under section 352(1)—the end of the stated day.

(3) The person may be prosecuted for a continuation of the original offence under the program notice that happens after the authority received the notice if subsection (1) ceases to apply to the person under—

(a) subsection (2)(b) if the administering authority states in the notice of refusal to approve the draft program—

(i) it is satisfied in the circumstances that subsection (1) should not apply to the person; and

(ii) the reasons for the decision; and

(iii) the review or appeal details; or

(b) subsection (2)(c).

(4) Subsection (3) applies even if the continuation of the original offence happened while subsection (1) applied.

354 Effect of failure to comply with program

If the holder of an approval for a transitional environmental program for an activity under a program notice does not comply with the program, section 353(1) ceases to apply to the person.

355 Authority may apply to Court for order setting aside immunity from prosecution

(1) If the administering authority receives a program notice from a person, the authority may apply to the Court for an order that section 353(1) does not apply to the person for any continuation of the original offence.

(2) The application must be made—

(a) within 20 business days after the administering authority receives the program notice or the longer period the Court in special circumstances allows; and

(b) by filing written notice of the application with the registrar of the Court and serving a copy of the application on the person; and

(c) by complying with rules of court applicable to the application.

(3) The making of the application does not stay the operation of section 353(1).

(4) The procedure for the application is to be in accordance with the rules of court applicable to it or, if the rules make no provision or insufficient provision, in accordance with directions of the judge.

356 Court to decide application

(1) The Court may grant an application under section 355 if the Court is satisfied—

(a) the relevant event was wilfully done or omitted to be

done with the intention of relying on the giving of a program notice as an excuse; or

(b) it is not appropriate for section 353(1) to apply to the person who gave the program notice because of the nature and extent of the environmental harm caused or threatened by the continuation of the original offence.

(2) In deciding the application, the Court may have regard to the following—

(a) the circumstances in which the relevant event happened;

(b) the nature and extent of the environmental harm caused or threatened by a continuation of the original offence under the program notice;

(c) the resilience of the receiving environment;

(d) the environmental record of the person;

(e) whether a transitional environmental program or protection order is in force for the activity.

(3) If the Court grants the application, the Court must make an order that section 353(1) does not apply to the person for a continuation of the original offence under the program notice (whether the continuation happened before or after the receiving of the program notice).

357 Power of Court to make order pending decision on application

(1) This section applies if the administering authority has made an application to the Court under section 355 but the Court has not decided the application.

(2) On the application of the administering authority, the Court may make any order the Court considers appropriate pending a decision on the application.

(3) Without limiting subsection (2), an order may direct the person who gave the program notice to do, or stop doing, anything specified in the order to prevent a continuation of the original offence under the notice.

(4) The Court's power under this section is in addition to its other powers.

(5) A person who contravenes an order commits an offence against this Act.

Maximum penalty for subsection (5)—3000 penalty units or 2 years imprisonment.

Part 5 Environmental protection orders

358 When order may be issued

The administering authority may issue an order (an ***environmental protection order***) to a person—

(a) if the person does not comply with a requirement to conduct or commission an environmental evaluation and submit it to the authority; or

(b) if the person does not comply with a requirement to prepare a transitional environmental program and submit it to the authority; or

(c) if, because of an environmental evaluation, the authority is satisfied unlawful environmental harm is being, or is likely to be, caused by an activity carried out, or proposed to be carried out, by the person; or

(d) to secure compliance by the person with—

(i) the general environmental duty; or

(ii) an environmental protection policy; or

(iii) a condition of an environmental authority; or

(iv) a development condition of a development approval; or

(iva) a standard environmental condition of a code of environmental compliance for a chapter 4 activity; or

(v) a condition of a site management plan; or

(vi) an audit notice; or

(vii) a surrender notice; or

(viii) a rehabilitation direction; or

(ix) a regulation.

359 Standard criteria to be considered before issue of order

Before deciding to issue an environmental protection order, the administering authority must consider the standard criteria.

360 Form and content of order

(1) An environmental protection order—

(a) must be in the form of a written notice; and

(b) must specify the person to whom it is issued; and

(c) may impose a reasonable requirement to prevent or minimise environmental harm; and

(d) must state the review or appeal details; and

(e) must be served on the recipient.

(2) Without limiting subsection (1)(c), an environmental protection order may—

(a) require the recipient to not start, or stop, a stated activity indefinitely, for a stated period or until further notice from the administering authority; or

(b) require the recipient to carry out a stated activity only during stated times or subject to stated conditions; or

(c) require the recipient to take stated action within a stated period.

361 Offence not to comply with order

(1) The recipient must not wilfully contravene an environmental protection order.

Maximum penalty—2000 penalty units or 2 years imprisonment.

(2) The recipient must not contravene an environmental protection order.

Maximum penalty—1665 penalty units.

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

362 Notice of disposal by recipient

(1) This section applies if the recipient of an environmental protection order proposes to dispose of the place or business to which the order relates to someone else (the ***buyer***).

(2) Before agreeing to dispose of the place or business, the recipient must give written notice to the buyer of the existence of the order.

Maximum penalty—50 penalty units.

(3) If the recipient does not comply with subsection (2), the buyer may rescind the agreement by written notice given to the recipient before the completion of the agreement or possession under the agreement, whichever is the earlier.

(4) On rescission of the agreement under subsection (3)—

(a) a person who was paid amounts by the buyer under the agreement must refund the amounts to the buyer; and

(b) the buyer must return to the recipient any documents about the disposal (other than the buyer's copy of the agreement).

(5) Subsections (3) and (4) have effect despite anything to the contrary in the agreement.

(6) Within 10 business days after agreeing to dispose of the place or business, the recipient must give written notice of the disposal to the administering authority.

Maximum penalty for subsection (6)—50 penalty units.

363 Notice of ceasing to carry out activity

Within 10 business days after ceasing to carry out the activity to which an environmental protection order relates, the recipient must give written notice of the ceasing to carry out the activity to the administering authority.

Maximum penalty—50 penalty units.

Part 6 Financial assurances

364 When financial assurance may be required

(1) The administering authority may, by condition of an environmental authority (mining activities) or approval of a transitional environmental program or site management plan, require the holder of the environmental authority or approval to give the administering authority financial assurance as security for—

(a) compliance with the environmental authority, transitional environmental program or site management plan and any conditions of the program or plan;[139] and

(b) costs or expenses, or likely costs or expenses, mentioned in section 367.

(1A) Also, the administering authority may, as a development condition for a level 1, chapter 4 activity, require the person who is, or has applied to be, the registered operator for the activity to give the administering authority financial assurance as security for—

(a) compliance with the development approval and any development conditions; and

(b) costs or expenses, or likely costs or expenses, mentioned in section 367.

139 For environmental authorities, see section 317 (Reference to environmental authority includes its conditions).

(2) However, the administering authority may impose a condition requiring a financial assurance to be given only if it is satisfied the condition is justified having regard to—

(a) for an environmental authority (mining activities) or an approval of a transitional environmental program—

(i) the degree of risk of environmental harm being caused, or that might reasonably be expected to be caused, by the activity carried out, or to be carried out, under the environmental authority or program; and

(ii) the likelihood of action being required to rehabilitate or restore and protect the environment because of environmental harm being caused by the activity; and

(iii) the environmental record of the holder; and

(b) for an approval of a site management plan—

(i) the degree of risk of serious environmental harm being caused as a result of the hazardous contaminant contaminating the land; and

(ii) the likelihood of action being required to rehabilitate or restore the land because of serious environmental harm being caused by the hazardous contaminant; and

(iii) the environmental record of the holder; and

(c) for a development approval for a level 1, chapter 4 activity—

(i) the degree of risk of environmental harm being caused, or that might reasonably be expected to be caused, by the activity carried out, or to be carried out, under the approval; and

(ii) the likelihood of action being required to rehabilitate or restore and protect the environment because of environmental harm being caused by the activity; and

(iii) the environmental record of the registered operator.

(3) The administering authority must decide the form and amount of the financial assurance.

(4) The administering authority may decide the amount by reference to a guideline or other publicly available document.

(5) The form of the financial assurance may require the amount of the financial assurance to be changed in stated circumstances, without having to amend the environmental authority, transitional environmental program, site management plan or relevant development approval to provide for the change.

(6) Despite subsections (3) to (5), the administering authority must not require financial assurance of an amount more than the amount that, in the authority's opinion, represents the total of likely costs and expenses that may be incurred taking action to rehabilitate or restore and protect the environment because of environmental harm that may be caused by the activity.

(7) The administering authority may require a financial assurance to remain in force until it is satisfied no claim is likely to be made on the assurance.

(8) In this section—

costs and expenses includes monitoring and maintenance costs and expenses.

365 Person may show cause why financial assurance should not be required for transitional environmental program or site management plan

(1) Before issuing a certificate of approval of a transitional environmental program or site management plan subject to the condition that financial assurance be given, the administering authority must give the applicant for the approval or person who submitted the program or plan a written notice under this section.

(2) The notice must—

(a) state the grounds for the condition; and

(b) state the form and extent of the financial assurance; and

(c) invite the person to make representations to the administering authority to show why the certificate should not be subject to the condition; and

(d) state the period (at least 22 business days after the notice is given to the person) within which the representations may be made.

(3) The representations must be made in writing.

(4) Within 20 business days after the end of the period stated in the notice, the administering authority must—

(a) consider the representations properly made by the person; and

(b) if the administering authority gives the approval subject to the condition that the holder give financial assurance—the authority must give written notice to the person giving reasons for imposing the condition.

366 Application for amendment or discharge of financial assurance

(1) This section applies to the following persons—

(a) the holder of an environmental authority subject to a condition that financial assurance be given;

(c) the holder of a transitional environmental program approval subject to the condition that financial assurance be given;

(d) the holder of a site management plan approval subject to the condition that financial assurance be given.

(2) The person may, in the approved form, apply to the administering authority to have the assurance amended or discharged.

(3) The application must be supported by enough information to enable the administering authority to decide the application.

(4) If the financial assurance is for an environmental authority (mining activities), the administering authority may require the applicant to give it an audit statement for the assurance before deciding the application.

(5) The audit statement must—

(a) be made by or for the applicant; and

(b) state the extent to which activities carried out under each relevant mining tenement have complied with the conditions of the environmental authority; and

(c) state whether or not the amount of the financial assurance has been calculated in the way decided by the administering authority under section 364(3).

(6) The administering authority must decide the application within 20 business days after receiving it and give the applicant an information notice about the decision.

(7) Subsection (8) applies if—

(a) the application—

(i) is to amend or discharge financial assurance for an environmental authority; and

(ii) it was made because of a transfer application for the environmental authority; and

(b) the administering authority decides to make the amendment or discharge applied for.

(8) Despite the decision, the administering authority may withhold making the amendment or discharge until—

(a) the transfer application has been approved; and

(b) any financial assurance for the authority required to be given by the transferee has been given; and

(c) the transfer has taken effect.

367 Claims on financial assurances

(1) This section applies if the administering authority incurs, or might reasonably incur, costs or expenses in taking action to—

(a) prevent or minimise environmental harm or rehabilitate or restore the environment, in relation to the carrying out of an activity under an environmental authority, a transitional environmental program approval or a

development approval for which financial assurance has been given; or

(b) carry out work to remediate land managed under a site management plan approval for which financial assurance has been given; or

(c) secure compliance with an environmental authority, transitional environmental program, site management plan, development approval or any conditions of the authority, program, plan or approval, for which financial assurance has been given.

(2) The administering authority may recover the reasonable costs or expenses of taking the action by making a claim on or realising the financial assurance or part of it.

(3) Before making the claim on or realising the financial assurance or part of it, the administering authority must give to the person who gave the financial assurance a written notice under this section.

(4) The notice must—

(a) state details of the action taken or proposed to be taken; and

(b) state the amount of the financial assurance to be claimed or realised; and

(c) invite the person to make representations to the administering authority to show why the financial assurance should not be claimed or realised as proposed; and

(d) state the period (at least 30 days after the notice is given to the person) within which the representations may be made.

(5) The representations must be made in writing.

(6) After the end of the period stated in the notice, the administering authority must consider the representations properly made by the person.

(7) If the administering authority decides to make a claim on or realise the financial assurance, it must, within 5 business days, give the person an information notice about the decision.

(8) In this section—

environmental authority includes a cancelled or surrendered environmental authority.

financial assurance means—

(a) financial assurance for an environmental authority (petroleum activities), given under chapter 4A, part 7; or

(b) any other financial assurance given under a condition imposed under section 364.

Part 7 Special provisions about waste management

368 Chief executive may require local government to remove waste etc.

(1) The chief executive may, by written notice given to a local government, require the local government to—

(a) carry out any of the following works (***waste management works***)—

(i) remove, collect, transport, store, treat or dispose of waste;

(ii) clean streets;

(iii) clean sanitary conveniences; or

(b) provide a place, containers or equipment for depositing or disposing of waste.

(2) The notice must state whether the notice applies to the whole or part of the local government's area.

(3) If the notice requires the disposal of waste, the notice may state the way it is to be disposed.

(4) The notice may apply for a period or without limit of time.

(5) The local government must comply with the notice.

369 Restrictions on performing waste management works

(1) A person must not, for fee or reward, perform waste management works in a local government's area unless the works—

(a) are performed—

(i) by or for the local government; or

(ii) under an approval, under section 369A, from the local government to perform the works; or

(iii) under a development approval; or

(b) are an environmentally relevant activity.

Maximum penalty—100 penalty units.

(2) However, subsection (1)(b) does not apply if the activity is waste transport.

369A Obtaining approval to perform waste management works

(1) A person may apply to a local government for approval to perform waste management works in its area.

(2) The application must be in the approved form and accompanied by any fee required by the local government to consider the application.

(3) However, the local government can not require a fee that is more than the lesser of—

(a) the reasonable cost of considering the application; or

(b) the maximum fee prescribed under a regulation.

(4) The local government must, as soon as practicable after the application is made, decide whether to grant or refuse the approval.

(5) If the local government does not decide the application within 44 business days after receiving it, the approval is taken to have been refused.

(6) The local government may impose relevant conditions on the approval it considers are necessary or desirable.

(7) If the local government decides to grant the approval, it must give the applicant the approval in writing within 10 business days after the decision is made.

(8) The local government must, within 10 business days after making a decision as follows, give the applicant an information notice about the decision—

(a) a decision to refuse the approval;

(b) a decision to impose a condition on the approval, other than a condition that is the same, or to the same effect, as a condition agreed to or requested by the applicant.

(9) An information notice under subsection 8(b) may accompany, or be included in, the approval.

369B Amendment or cancellation of approval

(1) A local government may, at any time, amend an approval under section 369A, by giving the approval holder written notice of the amendment, if the amendment—

(a) is to correct a clerical or formal error; or

(b) does not adversely affect the holder's interests; or

(c) is at the holder's written request.

(2) A local government may, by complying with subsections (4) to (7), otherwise amend, or cancel, an approval under section 369A.

(3) However, the approval may be cancelled only on the ground that a condition imposed on the approval has not been complied with.

(4) The local government must give the approval holder written notice stating each of the following—

(a) the action the local government proposes to take, and, if it is an amendment, the proposed amendment;

(b) the grounds for the action;

(c) the facts and circumstances that form the basis for the grounds;

(d) that the holder may make, within a stated period (the ***show cause period***), written representations to show why the action should not be taken.

(5) The show cause period must end at least 20 business days after the holder is given the notice.

(6) The local government must consider any representations made within the show cause period.

(7) If the local government decides to take the action, it must, within 10 business days after the decision is made, give the approval holder, or former approval holder, an information notice about the decision.

(8) The decision takes effect when the notice is given.

(9) In this section—

amend, an approval, includes—

(a) amending a condition imposed on the approval; and

(b) imposing a new condition on the approval.

Part 8 Contaminated land

Division 1 Interpretation

370 Definition for pt 8

In this part—

repealed Act means the *Contaminated Land Act 1991* as in force immediately before the commencement of this part.

Division 2 Inclusion of land on environmental management register

371 Owner or occupier of land to notify administering authority

(1) If the owner or occupier of land becomes aware a notifiable activity is being carried out on the land, the owner or occupier must, within 22 business days after becoming aware the activity is being carried out, give notice under the subsection to the administering authority in the approved form.

Maximum penalty—50 penalty units.

(2) If the owner or occupier of land becomes aware the land has been, or is being, contaminated by a contaminant the owner or occupier knows is a hazardous contaminant, the owner or occupier must, within 22 business days after becoming aware the land has been, or is being, contaminated, give notice under the subsection to the administering authority in the approved form.

Maximum penalty—100 penalty units.

(3) However, the owner or occupier of land does not commit an offence against subsection (1) or (2) if the administering authority has already been given notice under the subsection about the activity or contamination.

372 Local government to notify administering authority

(1) If a local government becomes aware a notifiable activity has been, or is being, carried out on land in its area, the local government must, within 22 business days after becoming aware of the activity having been, or being, carried out give notice under the subsection to the administering authority in the approved form.

(2) If a local government becomes aware that land in its area has been, or is being, contaminated by a contaminant the local government knows is a hazardous contaminant, the local government must, within 22 business days after becoming aware the land has been, or is being, contaminated, give

notice under the subsection to the administering authority in the approved form.

(3) However, subsection (1) or (2) does not apply if the administering authority has already been given notice under the subsection about the activity or contamination.

373 Notice to be given to owner of land

(1) This section applies if—

(a) the administering authority is given notice by an occupier of land (other than the land's owner) that a notifiable activity is being carried out on the land; or

(b) the administering authority is given notice by a local government that a notifiable activity has been, or is being, carried out on land in its area; or

(c) the administering authority otherwise reasonably believes that a notifiable activity has been, or is being, carried out on land; or

(d) the administering authority has conducted a preliminary investigation of land and the authority reasonably believes the land is contaminated land; or

(e) the administering authority is given a report by the occupier of land or another person about an investigation of the land conducted or commissioned by the occupier or other person and the administering authority reasonably believes the land is contaminated land.

Example of paragraph (c)—

the department in which the Mineral Resources Act is administered gives the administering authority notice that hazardous mine wastes have been stored on the land

(2) The administering authority must, within the time that is reasonable in the circumstances, give written notice about the activity or contamination to the owner of the land.

(3) However, the administering authority is not required to give a notice to the owner of the land if the land has already been investigated and the administering authority is satisfied the land is not contaminated land.

(4) The notice must—

(a) inform the owner that the administering authority believes the land has been, or is being, used for a notifiable activity or is contaminated land; and

(b) state the grounds on which the administering authority believes the land has been, or is being, used for a notifiable activity or is contaminated land; and

(c) inform the owner that the administering authority is considering including particulars of the land in the environmental management register; and

(d) if an investigation of the land has been conducted—be accompanied by a copy of the report prepared about the investigation; and

(e) invite submissions from the owner about whether or not the land has been, or is being used, for a notifiable activity or is contaminated land; and

(f) state the day (at least 22 business days after the day the notice is given) by which submissions may be made to the administering authority; and

(g) state that any submissions made to the administering authority must be accompanied by a statutory declaration by the owner declaring that the owner—

(i) has not knowingly included any false or misleading information in the submission; and

(ii) has given all relevant information to the administering authority.

374 Decision about including land in environmental management register

(1) The administering authority must, after considering any submissions made by the land's owner, decide whether the land has been, or is being, used for a notifiable activity or is contaminated land.

(2) Subsection (1) does not limit the matters the administering authority may consider in making the decision.

(3) If the administering authority decides the land has been, or is being, used for a notifiable activity or is contaminated land, the administering authority must record particulars of the land in the environmental management register.

(4) However, the administering authority is not required to record particulars of land that has been used for a notifiable activity in the environmental management register if—

(a) the land is no longer being used for a notifiable activity; and

(b) the land has been investigated and the administering authority is satisfied the land is not contaminated land.

(5) The administering authority must, within 8 business days after making a decision, give written notice of the decision to—

(a) the owner of the land; and

(b) the relevant local government.

(6) The notice must state the reasons for the decision.

(7) Also, if particulars of the land are recorded in the environmental management register, the notice to the owner must state the review or appeal details.

Division 3 Investigation of land on environmental management register

375 Voluntary submission of report about investigation

(1) A person may, at any time, conduct or commission an investigation of land (a ***site investigation***) for which particulars are recorded in the environmental management register to scientifically assess whether the land is contaminated in a way that is a risk to human health or another part of the environment and submit a report about the investigation to the administering authority.[140]

(2) However, if the person intending to conduct or commission the site investigation and submit the report is not the land's

140 See also section 381 (Who must conduct site investigation).

owner, the person must obtain the owner's consent before beginning the investigation.

376 Administering authority may require site investigation

(1) This section applies if the administering authority is satisfied—

(a) after a preliminary investigation, particulars of land are recorded in the environmental management register because the land is contaminated land; and

(b) the hazardous contaminant contaminating the land is in a concentration that has the potential to cause serious or material environmental harm; and

(c) a person, animal or another part of the environment may be exposed to the hazardous contaminant.

(2) The administering authority may require a site investigation to be conducted or commissioned by—

(a) if the person who released the contaminant is known and can be located—the person; or

(b) the relevant local government; or

(c) the owner of the land.

(3) However, the administering authority may require the local government to conduct or commission the investigation only if subsection (2)(a) does not apply and—

(a) the administering authority reasonably believes—

(i) the land has been contaminated because the local government gave approval for the use of, or an activity to be carried out on, the land; and

(ii) in giving the approval the local government did not comply with the requirements under any Act in relation to the approval; and

(iii) the local government should have known the land would be contaminated because of the approval; or

(b) under the repealed Act, particulars of the land were recorded in the contaminated sites register as a restricted site and, after the recording, the local government gave

approval for the use of, or an activity to be carried out on, the land contrary to the restriction; or

(c) under the repealed Act, particulars of the land were recorded in the contaminated sites register or, under this Act, particulars of the land are recorded in the environmental management register or contaminated land register, and—

(i) after the recording, the local government approved the land be used for a use or activity that was or is inconsistent with particulars of the land being recorded in the register; and

(ii) the use or activity has caused environmental harm to human health or another part of the environment.

(4) Also, the administering authority may require the owner of the land to conduct or commission the investigation only if subsection (2)(a) and (3) do not apply and—

(a) the administering authority reasonably believes the land was contaminated before the commencement of the repealed Act; or

(b) when the land was acquired by the owner, particulars of the land were recorded—

(i) under the repealed Act, in the contaminated sites register as a confirmed site, restricted site or probable site; or

(ii) under this Act, in the environmental management register or the contaminated land register; or

(c) the contamination happened after the owner acquired the land.

(5) However, the administering authority must not require the owner of the land to conduct or commission an investigation under subsection (4)(a) or (b) if the owner is a mortgagee of the land.

(6) Also, the administering authority must not require an investigation to be conducted or commissioned if the land is subject to a site management plan for the contamination and the conditions of the plan are being complied with.

(7) The recipient of a notice to conduct or commission a site investigation must comply with the requirement unless the administering authority waives the requirement.

Maximum penalty—100 penalty units.

377 Notice to conduct or commission site investigation

(1) A requirement to conduct or commission a site investigation must be made by written notice to the person (the ***recipient***) required to conduct or commission the site investigation.

(2) If the recipient is not the land's owner, the administering authority must also give a copy of the notice to the owner.

(3) The notice must—

(a) state the grounds on which the requirement is made; and

(b) outline the facts and circumstances forming the basis for the grounds; and

(c) state the matters relevant for the site investigation; and

(d) state the day (at least a reasonable period after the notice is given) by which a report on the site investigation must be submitted to the administering authority; and

(e) state the review or appeal details.

378 Waiver of requirement to conduct or commission site investigation

(1) A recipient may apply to the administering authority for it to waive the requirement for the recipient to conduct or commission a site investigation.

(2) The application must—

(a) be made to the administering authority in the approved form; and

(b) be supported by enough information to enable the authority to decide the application.

(3) The administering authority must decide the application within 20 business days after receiving it.

(4) The administering authority may waive the requirement to conduct or commission a site investigation only if it is satisfied—

(a) conducting or commissioning the investigation would cause the recipient financial hardship; or

(b) if the recipient is the land's owner—the owner's rights in relation to the land do not include exercising control over environmental management of the land.

(5) The administering authority must, within 8 business days after making a decision, give written notice of the decision to the recipient.

(6) The notice to the recipient must state—

(a) the reasons for the decision; and

(b) if the decision is to refuse the application—the review or appeal details.

379 Failure to make decision on waiver of site investigation taken to be refusal

If the administering authority fails to make a decision about an application for it to waive the requirement for the recipient to conduct or commission a site investigation within the time it is required to make a decision on the application, the failure is taken to be a decision by the authority to refuse the application at the end of the time.

380 Procedure to be followed if recipient is not owner

(1) This section applies if the recipient of a notice to conduct or commission a site investigation of land is not the land's owner.

(2) The recipient, or person conducting the site investigation for the recipient (the ***investigator***), may enter the land to conduct the investigation only—

(a) with the consent of the owner and occupier of the land; or

(b) if the recipient or investigator has given at least 5 business days written notice to the owner and occupier.

(3) The notice must inform the owner and any occupier of—

(a) the intention to enter the land; and

(b) the purpose of the entry; and

(c) the days and times when the entry is to be made.

(4) In conducting the site investigation, the recipient or investigator must take all reasonable steps to ensure the recipient or investigator causes as little inconvenience, and does as little damage, as is practicable in the circumstances.

(5) Nothing in this section authorises the recipient or investigator to enter a structure, or part of a structure, used for residential purposes.

(6) If a person incurs loss or damage because of the site investigation conducted by the recipient or investigator, the person is entitled to be paid by the recipient or investigator the reasonable compensation because of the loss or damage that is agreed between the recipient or investigator and the person, or failing agreement, decided by a court having jurisdiction for the recovery of amounts up to the amount of compensation claimed.

(7) The court may make the order about costs it considers just.

381 Who must conduct site investigation

A site investigation must be conducted by a person who—

(a) is a member of an organisation prescribed under a regulation for this section; and

(b) has qualifications and experience relevant to the site investigation.

382 Fee for consideration of report about site investigation

A person who submits a report about a site investigation to the administering authority for consideration must pay the authority the fee prescribed under a regulation.

383 Declarations to accompany report

(1) A site investigation report submitted to the administering authority must be accompanied by a statutory declaration by—

(a) if the report—

(i) is submitted to comply with a notice given to a person by the administering authority—the recipient; or

(ii) is voluntarily submitted by a person—the person; and

(b) the investigator.

(2) The recipient's or other person's declaration must be made—

(a) if the recipient or other person is an individual—by the recipient or other person; or

(b) if the recipient or other person is a corporation—by an executive officer of the corporation.

(3) The recipient's or other person's declaration must state that the recipient or other person—

(a) has not knowingly given any false or misleading information to the investigator; and

(b) has given all relevant information to the investigator.

(4) A declaration by the investigator must—

(a) state his or her qualifications and experience relevant to the investigation; and

(b) state that he or she has not knowingly included any false, misleading or incomplete information in the report; and

(c) state that he or she has not knowingly failed to reveal any relevant information or document to the administering authority; and

(d) certify that—

(i) the report addresses the relevant matters for the investigation and is factually correct; and

(ii) the opinions expressed in it are honestly and reasonably held.

384 Administering authority to consider and act on site investigation report

(1) The administering authority must, within 20 business days after being given the site investigation report, consider the report and decide whether the land is contaminated land.

(2) After making its decision, the administering authority may—

(a) if the administering authority is satisfied the land is not contaminated land—remove particulars of the land from the environmental management register; or

(b) if the administering authority is satisfied the land is contaminated land but can be used for stated uses with further management—leave particulars of the land on the environmental management register and prepare, or require another person to prepare, a site management plan for the land; or

(c) if the administering authority is satisfied the land is contaminated land and action needs to be taken to remediate the land to prevent serious environmental harm to a person, animal or another part of the environment—record particulars of the land in the contaminated land register; or

(d) in any other case—leave particulars of the land on the environmental management register.

(3) The administering authority must, within 8 business days after making its decision, give written notice of the decision to—

(a) the land's owner; and

(b) if a person other than the land's owner submitted the report—the other person; and

(c) if the decision is to remove particulars of the land from the environmental management register—the relevant local government; and

(d) if the decision is to record particulars of the land in the contaminated land register—

(i) the relevant local government; and

(ii) any registered mortgagee of the land.

(4) The notice must state—

(a) the reasons for the decision; and

(b) for a notice to the land's owner about a decision under subsection (2)(b) to (d)—the review or appeal details.

(5) Also, if the administering authority removes particulars of the land from the environmental management register, the notice to the following persons must be accompanied by a suitability statement for the land—

(a) the land's owner;

(b) if a person other than the land's owner submitted the report—the other person.

385 Administering authority may require another report or additional information

(1) If the administering authority is satisfied the site investigation report does not adequately address the relevant matters for the site investigation to which the report relates, it may require the recipient or other person who submitted the report to conduct or commission another site investigation and submit a report on the investigation to it.

(2) If the administering authority is satisfied additional relevant information is required about a site investigation report, it may require further information to be given to it by—

(a) if the report is submitted to comply with a notice given to a person by the administering authority—the recipient; or

(b) if the report is voluntarily submitted by a person—the person.

(3) A requirement under subsection (2) must be made by written notice given to the recipient or other person.

(4) The notice must—

(a) state the grounds on which the requirement is made; and

(b) outline the facts and circumstances forming the basis for the grounds; and

(c) state the relevant matters for the information required; and

(d) state the day (at least a reasonable period after the notice is given) by which the information must be given to the administering authority; and

(e) state the review or appeal details.

386 Owner of land to be given copy of report

If the person who submitted the report is not the land's owner, the person must, within 8 business days after giving the administering authority a site investigation report or relevant additional information, give a copy of the report or information to the owner.

Maximum penalty—10 penalty units.

387 Cost of site investigation and report

The recipient or other person who submitted the report must meet the following costs—

(a) the costs of conducting or commissioning the site investigation and report; and

(b) the costs of giving additional relevant information about the report required by the administering authority.

388 Extensions of time for decisions on submission of site investigation report

(1) The administering authority may decide to extend the time it is required to consider and make a decision about a site investigation report if—

(a) it has required additional relevant information about the report; or

(b) it is satisfied there are special circumstances for extending the time.

(2) The authority must give an information notice about its decision to extend the time to—

(a) the recipient; and

(b) if the recipient is not the land's owner—the owner.

(3) The notice must be given before the extension starts.

389 Failure to make decision on site investigation report taken to be refusal

If the administering authority fails to make a decision about a site investigation report within the time it is required to make a decision on the report, the failure is taken to be a decision by the authority to leave particulars of the land to which the report relates in the environmental management register.

Division 4 Remediation of land

390 Voluntary remediation of contaminated land

(1) A person may, after submitting a site investigation report, conduct or commission work to remediate land for which particulars are recorded in the environmental management register or contaminated land register and submit a report (a ***validation report***) about the work to the administering authority.

(2) However, if the person intending to carry out the work and submit the validation report is not the land's owner, the person must obtain the owner's consent before beginning the work.

391 Administering authority may require remediation of contaminated land

(1) The administering authority may require the following persons to conduct or commission work to remediate land for which particulars are recorded in the contaminated land register and submit a validation report about the work to the administering authority—

(a) if the person who released the hazardous contaminant contaminating the land is known and can be located—the person;

(b) the relevant local government;

(c) the owner of the land.

(2) However, the administering authority may require the local government to conduct or commission work to remediate the land only if subsection (1)(a) does not apply and—

(a) the administering authority reasonably believes—

(i) the land has been contaminated because the local government gave approval for the use of, or an activity to be carried out on, the land; and

(ii) in giving the approval the local government failed to comply with the requirements under any Act in relation to the approval; and

(iii) the local government should have known the approval would result in the land being contaminated; or

(b) under the repealed Act, particulars of the land were recorded in the contaminated sites register as a restricted site and, after the recording, the local government gave approval for the use of, or an activity on, the land contrary to the restriction; or

(c) under the repealed Act, particulars of the land were recorded in the contaminated sites register or, under this Act, particulars of the land are recorded in the environmental management register or contaminated land register, and—

(i) after the recording, the local government permitted the land to be used for a use or activity that was inconsistent with the particulars of the land being recorded in the register; and

(ii) the use or activity has caused environmental harm to human health or another part of the environment.

(3) Also, the administering authority may require the owner of the land to conduct or commission work to remediate the land only if subsection (1)(a) and (2) do not apply and—

(a) the land was affected by the hazardous contaminant before the commencement of the repealed Act; or

(b) when the land was acquired by the owner, particulars of the land were recorded—

(i) under the repealed Act, in the contaminated sites register as a confirmed site, restricted site or probable site; or

(ii) under this Act, in the environmental management register or the contaminated land register; or

(c) the contamination happened after the owner acquired the land.

(4) However, the administering authority must not require the owner of the land to conduct or commission work to remediate the land under subsection (3)(a) or (b) if the owner is a mortgagee of the land.

(5) A requirement to conduct or commission work to remediate land must—

(a) be in the form of a written notice (a ***remediation notice***); and

(b) state the person (the ***recipient***) to whom it is issued; and

(c) state the work to be conducted or commissioned by the recipient to remediate the land; and

(d) give the recipient approval to remove and treat or dispose of soil from the land and state any conditions applicable to the removal and disposal; and

(e) state that the recipient must give a validation report to the administering authority within the time (not less than 22 business days after completing the work to be carried out) stated in the notice; and

(f) state the review or appeal details; and

(g) be served on the recipient and the land's owner.

(6) Also, the remediation notice may include a requirement to prepare and submit to the administering authority for approval a site management plan for the land.

(7) The recipient must comply with the notice unless the recipient is granted a waiver under section 392.

Maximum penalty—1000 penalty units.

392 Waiver of requirement to remediate land

(1) A recipient may apply to the administering authority for it to waive the requirement for the recipient to conduct or commission work to remediate contaminated land.

(2) The application must—

(a) be made to the administering authority in the approved form; and

(b) be supported by enough information to enable the authority to decide the application.

(3) The administering authority must decide the application within 20 business days after receiving it.

(4) The administering authority may waive the requirement for the recipient to conduct or commission work to remediate the land only if it is satisfied—

(a) conducting or commissioning the remediation would cause the recipient financial hardship; or

(b) the contamination happened while the recipient was carrying out an activity that is lawful apart from this Act and the recipient complied with the general environmental duty; or

(c) the contamination happened before the commencement of the repealed Act and it would not be reasonable in the circumstances for the recipient to conduct or commission the work to remediate the land; or

(d) if the recipient is the land's owner—the owner's rights in relation to the land do not include exercising control over environmental management of the land.

(5) The administering authority must, within 8 business days after making a decision, give the recipient an information notice about the decision.

393 Failure to make decision on remediation taken to be refusal

If the administering authority fails to make a decision about an application for it to waive, wholly or partially, the requirement for the recipient to conduct or commission work to remediate contaminated land within the time it is required to make a decision on the application, the failure is taken to be a decision by the authority to refuse the application at the end of the time.

394 Procedure to be followed if recipient is not owner

(1) This section applies if the recipient of a notice to conduct or commission work to remediate contaminated land is not the land's owner.

(2) The recipient, or person conducting the work for the recipient (the ***contractor***), may enter the land to conduct the work only—

(a) with the consent of the owner and occupier of the land; or

(b) if the recipient or contractor has given at least 5 business days written notice to the owner and occupier.

(3) The notice must inform the owner and occupier of—

(a) the intention to enter the land; and

(b) the purpose of the entry; and

(c) the days and times when the entry is to be made.

(4) In conducting the work, the recipient or contractor must take all reasonable steps to ensure the recipient or contractor causes as little inconvenience, and does as little damage, as is practicable in the circumstances.

(5) Nothing in this section authorises the recipient or contractor to enter a structure, or part of a structure, used for residential purposes.

(6) If a person incurs loss or damage because of the work conducted by the recipient or contractor, the person is entitled to be paid by the recipient or contractor the reasonable compensation because of the loss or damage that is agreed between the recipient or contractor and the person, or failing agreement, decided by a court having jurisdiction for the recovery of amounts up to the amount of compensation claimed.

(7) The court may make the order about costs it considers just.

395 Who must prepare validation report

(1) The validation report must be prepared by a person who—

(a) is a member of an organisation prescribed under a regulation for this section; and

(b) has qualifications and experience relevant to the preparation of the validation report.

(2) The validation report given to the administering authority must be accompanied by—

(a) the prescribed fee; and

(b) a statutory declaration by the person who prepared the report.

(3) The declaration must—

(a) state the person's qualifications and experience relevant to the validation report; and

(b) state that the person has not knowingly included any false, misleading or incomplete information in the report; and

(c) state that the person has not failed to reveal any relevant information or document to the administering authority; and

(d) certify that—

(i) the report addresses the relevant matters for the report and is factually correct; and

(ii) the opinions expressed in it are honestly and reasonably held.

396 Administering authority to consider and act on validation report

(1) The administering authority must, within 20 business days after being given the validation report, consider the report and decide whether the land is still contaminated land.

(2) After making its decision, the administering authority may, for land for which particulars are recorded in the environmental management register—

(a) if the administering authority is satisfied the land is no longer contaminated land—remove particulars of the land from the environmental management register; or

(b) if the administering authority is satisfied the land has been partially remediated but is still contaminated land that requires further management—leave particulars of the land in the environmental management register and prepare, or require another person to prepare, a site management plan for the land; or

(c) in any other case—leave particulars of the land on the environmental management register.

(3) Also, the administering authority may, for land for which particulars are recorded in the contaminated land register—

(a) if the administering authority is satisfied the land is no longer contaminated land—remove particulars of the land from the contaminated land register; or

(b) if the administering authority is satisfied the land has been partially remediated but it is still contaminated land that requires further management—record particulars of the land in the environmental management register and prepare, or require another person to prepare, a site management plan for the land; or

(c) in any other case—leave particulars of the land on the contaminated land register.

397 Notice to be given of decision made about validation report

(1) The administering authority must, within 8 business days after making its decision give written notice of the decision to—

(a) the land's owner; and

(b) if a person other than the land's owner submitted the report—the other person; and

(c) if the decision is to record particulars of the land in, or remove particulars of the land from, the environmental management register or contaminated land register—the relevant local government; and

(d) if the decision is about land for which particulars are recorded in the contaminated land register—any registered mortgagee of the land.

(2) The notice must state—

(a) the reasons for the decision; and

(b) if the decision is to record, or to continue to record, particulars of the land in the environmental management register or contaminated land register—the review or appeal details.

(3) Also, if the administering authority removes particulars of the land from the environmental management register or contaminated land register, the notice to the following persons must be accompanied by a suitability statement for the land—

(a) the land's owner;

(b) if a person other than the land's owner submitted the report—the other person.

398 Administering authority may require another report or additional information

(1) If the administering authority is satisfied the validation report does not adequately address the relevant matters for the remediation works to which it relates, it may require the recipient or other person who submitted the report to carry out or commission additional remediation works and submit a validation report about the additional work to it.

(2) If the administering authority is satisfied additional relevant information is required about the validation report, it may require the person who submitted the report to give it the information.

(3) A requirement for further information must be made by written notice given to the person.

(4) The notice must—

(a) state the grounds on which the requirement is made; and

(b) outline the facts and circumstances forming the basis for the grounds; and

(c) state the relevant matters for the information required; and

(d) state the day (at least a reasonable period after the notice is given) by which the information must be given to the administering authority; and

(e) state the review or appeal details.

399 Extensions of time for consideration of validation report

(1) The administering authority may decide to extend the time in which it is required to consider and make a decision about a validation report if—

(a) it has required additional information about the report; or

(b) it is satisfied there are special circumstances for extending the time.

(2) The authority must give an information notice about its decision to extend the time to—

(a) the person (the ***submitter***) who submitted the report; and

(b) if the submitter is not the land's owner—the owner.

(3) The notice must be given before the extension starts.

400 Failure to make decision on validation report taken to be refusal

If the administering authority fails to make a decision about a validation report within the time it is required to make a decision about the report the failure is taken to be a decision by the authority to leave the particulars on the environmental

management register or the contaminated land register at the end of the time.

Division 5 Site management plans

Subdivision 1 Preliminary

401 What is a site management plan

(1) A site management plan is a plan used to manage land for which particulars are recorded in the environmental management register because the land is contaminated land.

(2) A site management plan is used to manage the environmental harm that may be caused by the hazardous contaminant contaminating the land by applying conditions to the use or development of, or activities carried out on, the land.

402 Content of site management plan

A site management plan must—

(a) state the objectives to be achieved and maintained under the plan; and

(b) state how the objectives are to be achieved and maintained; and

(c) make provision for monitoring and reporting compliance with the plan.

Subdivision 2 Procedure for approval of site management plan

403 Voluntary submission of draft site management plan

(1) A person may, after submitting a site investigation report, submit to the administering authority for approval a draft site management plan for land for which particulars are recorded in the environmental management register.

(2) However, if the person intending to submit the draft plan for approval is not the land's owner, the person must obtain the owner's consent before submitting it.

404 Application for approval of site management plan

An application for the approval of a site management plan must—

(a) be made to the administering authority in the approved form; and

(b) be supported by enough information to enable the administering authority to decide the application, including, for example—

(i) a report on the scientific investigation of the contamination of the land; and

(ii) relevant information about the likely risks to the environment from the hazardous contaminant contaminating the land; and

(iii) details of the measures proposed to be taken to manage the risk of serious environmental harm being caused to persons, animals or another part of the environment by the hazardous contaminant; and

(c) if the application is made by a person other than the land's owner—be accompanied by a statement from the owner agreeing to the draft plan; and

(d) be accompanied by the prescribed fee.

405 Administering authority may prepare or require site management plan

(1) This section applies if—

(a) particulars of land are recorded in the environmental management register or contaminated land register; and

(b) the land is contaminated land; and

(c) a site investigation of the land has been conducted; and

(d) the contamination may be managed by applying conditions to the use or development of, or activities carried out on, the land.

(2) The administering authority may—

(a) prepare a site management plan for the land; or

(b) require a draft site management plan to be prepared or commissioned, and submitted to it for approval, by—

(i) if the person who released the contaminant is known and can be located—the person; or

(ii) the relevant local government; or

(iii) the owner of the land.

(3) However, the administering authority may require the local government to prepare or commission the plan only if subsection (2)(b)(i) does not apply and—

(a) the administering authority reasonably believes—

(i) the land has been contaminated because the local government gave approval for the use of, or an activity to be carried out on the land; and

(ii) in giving the approval the local government did not comply with the requirements under any Act in relation to the approval; and

(iii) the local government should have known the land would be contaminated because of the approval; or

(b) under the repealed Act, particulars of the land were recorded in the contaminated sites register as a restricted site and, after the recording, the local government gave approval for the use of, or an activity to be carried out on, the land contrary to the restriction; or

(c) under the repealed Act, particulars of the land were recorded in the contaminated sites register or, under this Act, particulars are recorded in the environmental management register, and—

(i) after the recording, the local government approved the land be used for a use or activity that was or is inconsistent with particulars of the land being recorded in the register; and

(ii) the use or activity has caused environmental harm to human health or another part of the environment.

(4) Also, the administering authority may require the owner of the land to prepare or commission the plan only if subsections (2)(b)(i) and (3) do not apply and—

(a) the administering authority reasonably believes the land was contaminated before the commencement of the repealed Act; or

(b) when the land was acquired by the owner, particulars of the land were recorded—

(i) under the repealed Act, in the register as a confirmed site, restricted site or probable site; or

(ii) under this Act, in the environmental management register; or

(c) the contamination happened after the owner acquired the land.

(5) However, the administering authority must not require the owner of the land to prepare or commission a plan under subsection (4)(a) or (b) if the owner is a mortgagee of the land.

(6) The recipient of a notice to prepare or commission a site management plan must comply with the requirement.

Maximum penalty—100 penalty units.

406 Requirement to prepare draft site management plan

(1) A requirement to prepare or commission a draft site management plan for contaminated land must be made by written notice given to the person required to prepare or commission the plan (the ***recipient***).

(2) If the person is not the owner of the land, the administering authority must also give a copy of the notice to the owner.

(3) The notice must state—

(a) the grounds on which the requirement is made; and

(b) the matters to be addressed by the plan; and

(c) for a notice to the recipient—the day (at least a reasonable period after the notice is given) by which the plan must be prepared and submitted to the administering authority; and

(d) the review or appeal details.

407 Waiver of requirement to prepare or commission site management plan

(1) A recipient may apply to the administering authority for it to waive the requirement for the recipient to prepare or commission a site management plan for contaminated land.

(2) The application must—

(a) be made to the administering authority in the approved form; and

(b) be supported by enough information to enable the authority to decide the application.

(3) The administering authority must decide the application within 20 business days after receiving it.

(4) The administering authority may waive the requirement to prepare or commission a site management plan only if it is satisfied—

(a) preparing or commissioning the plan would cause the recipient financial hardship; or

(b) if the recipient is the land's owner—the owner's rights in relation to the land do not include exercising control over environmental management of the land.

(5) The administering authority must, within 8 business days after making a decision, give written notice of the decision to the recipient.

(6) The notice to the recipient must state—

(a) the reasons for the decision; and

(b) if the decision is to refuse the application—the review or appeal details.

408 Failure to make decision on waiver of site management plan taken to be refusal

If the administering authority fails to make a decision about an application for it to waive the requirement for the recipient to prepare or commission a site management plan within the time it is required to make a decision on the application, the failure is taken to be a decision by the authority to refuse the application at the end of the time.

409 Procedure to be followed if recipient is not owner

(1) This section applies if the recipient of a notice to prepare or commission a draft site management plan for land is not the land's owner.

(2) The recipient, or person preparing the plan for the recipient (the ***consultant***), may enter the land to prepare the site management plan only—

(a) with the consent of the owner and occupier of the land; or

(b) if the recipient or consultant has given at least 5 business days written notice to the owner and occupier.

(3) The notice must inform the owner and occupier of—

(a) the intention to enter the land; and

(b) the purpose of the entry; and

(c) the days and times when the entry is to be made.

(4) In preparing the plan, the recipient or consultant must take all reasonable steps to ensure the recipient or consultant causes as little inconvenience, and does as little damage, as is practicable in the circumstances.

(5) Nothing in this section authorises the recipient or consultant to enter a structure, or part of a structure, used for residential purposes.

(6) If a person incurs loss or damage because of the entry of the land by the recipient or consultant to prepare a site management plan, the person is entitled to be paid by the recipient or consultant the reasonable compensation because of the loss or damage that is agreed between the recipient or

consultant and the person, or failing agreement, decided by a court having jurisdiction for the recovery of amounts up to the amount of compensation claimed.

(7) The court may make the order about costs it considers just.

410 Who must prepare draft site management plan

A site management plan must be prepared by a person who—

(a) is a member of an organisation prescribed under a regulation for this section; and

(b) has qualifications and experience relevant to the preparation of the site management plan.

411 Administering authority may require another site management plan or additional information

(1) If the administering authority is satisfied the draft site management plan does not adequately address the relevant matters for the plan, it may require the recipient or other person who submitted the plan to prepare or commission another site management plan.

(2) Also, the administering authority may require—

(a) a recipient or other person who submits a draft site management plan to it to give it additional information about the plan; or

(b) any information included in the draft plan, or any additional information required under paragraph (a), to be verified by statutory declaration.

(3) If the authority decides to make a requirement under subsection (2)(a), it must give the person of whom the requirement is made an information notice about the decision.

412 Administering authority to consider draft site management plan

The administering authority must decide whether to approve a draft site management plan submitted to it within 20 business days after the day it is given the plan.

413 Approval of draft site management plan

(1) This section applies if the administering authority—

(a) approves a draft site management plan for contaminated land as amended at the request of, or with the agreement of, the administering authority; or

(b) approves a draft site management plan for contaminated land as submitted; or

(c) prepares a site management plan for contaminated land.

(2) The administering authority must, within 8 business days after the approval or preparation—

(a) record the details of the plan in the environmental management register; and

(b) for a plan approved by the administering authority—give to the person who submitted the plan and, if the plan is submitted by a person other than the land's owner, the owner—

(i) a certificate of approval for the plan; and

(ii) written notice of the approval; and

(iii) a suitability statement for the land; and

(c) for a plan prepared by the administering authority—give to the owner—

(i) written notice of the preparation of the plan; and

(ii) a suitability statement for the land.

(3) A notice given under subsection (2)(c) must—

(a) state the reasons for the imposition of the site management plan; and

(b) be accompanied by a copy of the site management plan; and

(c) state the review or appeal details.

(4) Also, if the administering authority approves or prepares a site management plan for land, the administering authority must, within 8 business days of the approval or preparation, give a copy of the plan to the relevant local government.

414 Refusal to approve draft site management plan

If the administering authority refuses to approve a draft site management plan, the authority must, within 8 business days after its decision, give an information notice about the decision to—

(a) the person who submitted the plan; and

(b) if the person who submitted the plan is not the land's owner—the land's owner.

415 Extensions of time for decisions on submission of draft site management plans

(1) The administering authority may decide to extend the time in which it is required to decide whether or not to approve a draft site management plan if—

(a) it has required additional information about the draft plan; or

(b) it is satisfied there are special circumstances for extending the time.

(2) The authority must give an information notice about its decision to extend the time to—

(a) the person (the ***submitter***) who submitted the draft plan; and

(b) if the submitter is not the land's owner—the owner.

(3) The notice must be given before the extension starts.

416 Failure to approve draft site management plan taken to be refusal

If the administering authority fails to decide whether to approve or refuse a draft site management plan within the time it is required to make a decision on the plan, the failure is taken to be a decision by the authority to refuse to approve the plan at the end of the time.

Subdivision 3 Restriction on local government approvals and authorities

417 Approval or authority must not allow contravention of site management plan

A local government must not, under an approval or other authority under the Integrated Planning Act or any other Act, allow the use or development of, or an activity to be carried out on, land in a way that contravenes a site management plan for the land.

Subdivision 4 Amendment of site management plan

418 Voluntary amendment of site management plans

Subdivision 2 (other than sections 405 to 407 and 409)[141] applies, with all necessary changes, to the submission by a person of a draft amendment of a site management plan.

419 Administering authority may amend or require amendment of site management plan

(1) The administering authority may amend a site management plan for land with the agreement of—

(a) the land's owner; and

(b) if the owner is not the occupier of the land—the occupier.

(2) Also, if the administering authority considers it necessary or desirable, the administering authority may—

(a) prepare an amendment of a site management plan; or

141 Sections 405 (Administering authority may prepare or require site management plan), 406 (Requirement to prepare draft site management plan), 407 (Waiver of requirement to prepare or commission site management plan) and 409 (Procedure to be followed if recipient is not owner)

(b) require a draft amendment of a site management plan to be prepared and submitted to it for approval by—

(i) if the person who released the contaminant is known and can be located—the person; or

(ii) the relevant local government; or

(iii) the owner of the land.

(3) If the administering authority prepares an amendment to a site management plan, or requires an amendment to be prepared, subdivision 2 (other than sections 403, 404 and 405(1))[142] applies, with all necessary changes, to the preparation of the draft amendment.

Division 6 Notices to be given about land recorded in registers

420 Notice to be given about recording of land in contaminated land register

(1) This section applies if—

(a) particulars of land are recorded in the contaminated land register; and

(b) the owner of the land has entered into, or proposes to enter into, an agreement with another person about occupancy of the land.

(2) The owner must—

(a) if, at the time the particulars are recorded, the owner has entered into an agreement with another person about occupancy of the land—give the person notice that particulars of the land have been recorded in the register; or

(b) if, after the particulars are recorded, the owner proposes to enter into an agreement with another person about

142 Sections 403 (Voluntary submission of draft site management plan), 404 (Application for approval of site management plan) and 405 (Administering authority may prepare or require site management plan)

occupancy of the land—give notice about the recording of the particulars to the person before entering into the agreement.

Maximum penalty—50 penalty units.

(3) If the owner does not give notice as required under subsection (2), the other person who has entered into the occupancy agreement may terminate the agreement by written notice given to the owner within 10 days after the person becomes aware of the recording.

(4) Subsection (3) applies despite anything to the contrary in the agreement.

421 Notice to be given to proposed purchaser of land

(1) This section applies to the owner of land if—

(a) particulars of the land are recorded in the environmental management register or contaminated land register; or

(b) the land is the subject of—

(i) a notice under section 373 informing the owner that the administering authority believes the land has been, or is being, used for a notifiable activity or is contaminated land; or

(ii) a notice to conduct or commission a site investigation; or

(iii) a remediation notice; or

(iv) a notice that the administering authority is preparing, or requiring someone else to prepare, a site management plan for the land; or

(c) the land is the subject of an order under section 458.[143]

(2) If the owner proposes to dispose of the land to someone else (the ***buyer***), the owner must, before agreeing to dispose of the land, give written notice to the buyer—

(a) if particulars of the land are recorded in the environmental management register or contaminated

143 Section 458 (Order to enter land to conduct investigation or conduct work)

land register—that the particulars have been recorded in the register and, if the land is subject to a site management plan, details of the plan; or

(b) if the owner has been given a notice under this part—that the owner has been given a notice under this part and particulars about the notice; or

(c) if the land is the subject of an order under section 458—that the land is the subject of the order and particulars about the order.

Maximum penalty—50 penalty units.

(3) If the owner does not comply with subsection (2), the buyer may rescind the agreement by written notice given to the owner before the completion of the agreement or possession under the agreement, whichever is the earlier.

(4) On recision of the agreement under subsection (3)—

(a) a person who was paid amounts by the buyer under the agreement must refund the amounts to the buyer; and

(b) the buyer must return to the owner any documents about the disposal (other than the buyer's copy of the agreement).

(5) Subsections (3) and (4) apply despite anything to the contrary in the agreement.

Division 7 Miscellaneous

422 Registrar to maintain records about contaminated land

(1) The administering authority must, within 8 business days after recording particulars of land in the contaminated land register, give the registrar written notice the record has been made.

(2) The registrar must maintain records that show the land stated in the notice is recorded in the contaminated land register.

(3) The registrar must maintain the records in a way that a search of the register maintained by the registrar under any Act relating to the land will show particulars of the land are recorded in the contaminated land register.

(4) The administering authority must, within 8 business days after removing particulars of land from the contaminated land register or making another change to the record about the land, give the registrar written notice about the removal or change.

(5) The registrar must, on receipt of a notice under subsection (4)—

(a) for a notice about the removal of land from the contaminated land register—remove the particulars of the land from the registrar's records; or

(b) for a notice about a change to a record about land in the contaminated land register—make the appropriate change to the registrar's record.

423 Offence to destroy etc. signs

(1) The administering authority may erect, on contaminated land, a sign regulating access to the land.

(2) However, if the contaminated land is not land for which particulars are recorded on the environmental management register or contaminated land register, the administering authority must, before erecting the sign, give the owner of the land an information notice about the decision to erect the sign.

(3) A sign erected on contaminated land must be erected—

(a) at a place where persons might reasonably be expected to enter the land; and

(b) in a way that makes the sign visible to persons intending to enter the land.

(4) A person must not enter the land in contravention of the sign unless the person has a reasonable excuse for the entry.

Maximum penalty—10 penalty units.

(5) A person must not destroy, damage, mark, deface or in any other way interfere with the sign unless the person has a reasonable excuse for the destruction, damage, marking, defacement or other interference.

Maximum penalty—10 penalty units.

424 Removal and treatment or disposal of contaminated soil

(1) A person must not, without a disposal permit—

(a) remove and treat or dispose of contaminated soil from land for which particulars are recorded in the environmental management register or contaminated land register; or

(b) bring into the State and treat or dispose of contaminated soil from contaminated land outside the State.

Maximum penalty—100 penalty units.

(2) An application for a disposal permit must—

(a) be in the approved form; and

(b) be supported by enough information to enable the administering authority to decide the application, including, for example, relevant information about the likely risks to the environment and how it is intended to dispose of the contaminated soil; and

(c) be accompanied by the application fee prescribed under a regulation.

(3) The administering authority must decide the application within 10 business days after receiving it.

(4) In making its decision whether to grant or refuse an application for a disposal permit, or the conditions of the permit, the administering authority must consider the standard criteria.

(5) The administering authority must within 8 business days after making its decision—

(a) if the decision is to grant the application—give the applicant the permit; and

(b) if the decision is to grant the application but to impose conditions on the permit—give the applicant an information notice about the decision to impose the conditions; or

(c) if the decision is to refuse the application—give the applicant an information notice about the decision.

(6) If the administering authority fails to make a decision about an application for a disposal permit within the time it is required to make a decision on the application, the failure is taken to be a decision by the authority to refuse the application at the end of the time.

(7) A disposal permit takes effect from the day of its issue, or a later day stated in it, and continues in force for the term stated in it.

(8) This section does not apply if the person is removing and disposing of the soil under a remediation notice.

425 Failure to comply with disposal permit

The holder of, or a person acting under, a disposal permit, must comply with the conditions of the permit.

Maximum penalty—100 penalty units.

Chapter 8 General environmental offences

Part 1 Offences relating to environmentally relevant activities

Division 1 Offences

426 Environmental authority required for mining or petroleum activity

(1) A person must not carry out a mining or petroleum activity that is a level 1 environmentally relevant activity unless the person holds, or is acting under—

(a) if the activity is a mining activity—a non-code compliant authority under chapter 5 for the level 1 mining project of which the mining activity is part; or

(b) if the activity is a level 1 petroleum activity—an environmental authority (petroleum activities) for the petroleum activity.

Maximum penalty—400 penalty units.

(2) A person must not carry out a mining or petroleum activity that is a level 2 environmentally relevant activity unless the person holds, or is acting under—

(a) if the activity is a mining activity—a code compliant authority or a non-code compliant authority under chapter 5 for the level 2 mining project of which the mining activity is part; or

(b) if the activity is a level 2 petroleum activity—an environmental authority (petroleum activities) for the petroleum activity.

Maximum penalty—165 penalty units.

427 Only registered operators may carry out chapter 4 activities

(1) A person must not carry out a level 1 chapter 4 activity, unless the person is a registered operator for the activity or is acting under a registration certificate for the activity.

Maximum penalty—400 penalty units.

(2) A person must not carry out a level 2 chapter 4 activity, unless the person is a registered operator for the activity or is acting under a registration certificate for the activity.

Maximum penalty—165 penalty units.

(3) This section is subject to section 73T.

Division 2 Exemptions

429 Special provisions for interstate transporters of controlled waste

(1) If a person is carrying out the interstate transportation of controlled waste, section 427 does not apply to the person, and the person does not require a development approval for carrying out the activity, if—

(a) the person holds, or is acting under, an interstate licence; and

(b) the licence authorises the transportation; and

(c) the conditions of the licence are, to the extent they are relevant to the transportation, complied with; and

(d) a consignment authorisation or number for the transportation has been issued under the law of the State into which the waste is to be transported;[144] and

(e) the following documents, or copies of the following documents, are carried in the vehicle transporting the waste while the waste is being transported in Queensland—

(i) the interstate licence;

(ii) the consignment authorisation or a document containing the consignment number.

(2) However, while the waste is being transported in Queensland, this Act applies, with necessary changes, to the person and the transportation as if—

(a) a reference in this Act to an environmental authority includes a reference to the interstate licence and any conditions of the licence; and

(b) the interstate licence and the consignment authorisation or document containing the consignment number are

144 For transportation into Queensland, see the *Environmental Protection (Waste Management) Regulation 2000*, section 38 (Consignment numbers for waste transported into Queensland).

documents required to be held or kept under this Act; and

(c) the transportation were an environmentally relevant activity to which the licence relates; and

(d) the vehicle is a place to which the licence relates.

(3) In this section—

controlled waste has the meaning given under the 'National Environment Protection (Movement of Controlled Waste between States and Territories) Measure', made by the National Environment Protection Council on 26 June 1998 under the national scheme laws and notified in the Commonwealth Gazette no. G 27 on 8 July 1998 at page 2212.

interstate licence means an authority, instrument, licence or permit, however called, that is similar to an environmental authority, a development approval for a chapter 4 activity or a registration certificate, issued under a corresponding law.

interstate transportation, of controlled waste, means the transportation of controlled waste from—

(a) a place in Queensland to a place in another State; or

(b) a place in another State to a place in Queensland; or

(c) a place in another State through Queensland to a place in another State.

Part 2 Offences relating to environmental requirements

Division 1 Environmental authorities

430 Contravention of condition of environmental authority

(1) This section applies to a person who is the holder of, or is acting under, an environmental authority.

(2) The person must not wilfully contravene a condition of the authority.

Maximum penalty—

(a) for an environmental authority (petroleum activities) for a level 1 petroleum activity or for an environmental authority (mining activities) for a level 1 mining project—2000 penalty units or 2 years imprisonment; or

(b) for an environmental authority (petroleum activities) for a level 2 petroleum activity or for an environmental authority (mining activities) for a level 2 mining project—300 penalty units.

(3) The person must not contravene a condition of the authority.

Maximum penalty—

(a) for an environmental authority (petroleum activities) for a level 1 petroleum activity or for an environmental authority (mining activities) for a level 1 mining project—1665 penalty units; or

(b) for an environmental authority (petroleum activities) for a level 2 petroleum activity or for an environmental authority (mining activities) for a level 2 mining project—250 penalty units.

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

431 Environmental authority holder responsible for ensuring conditions complied with

(1) The holder of an environmental authority must ensure everyone acting under the authority complies with the conditions of the authority.

(2) If another person acting under the authority commits an offence against section 430, the holder also commits an offence, namely, the offence of failing to ensure the other person complies with the conditions.

Maximum penalty—the penalty under section 430(2) or (3) for the contravention of the conditions.

(3) Evidence that the other person has been convicted of an offence against section 430 while acting under the authority is evidence that the holder committed the offence of failing to ensure the other person complies with the conditions.

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

(a) the holder issued appropriate instructions and used all reasonable precautions to ensure compliance with the conditions; and

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

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

Division 2 Transitional environmental programs

432 Contravention of program

(1) The holder of an approval of a transitional environmental program, or a person acting under a transitional environmental program, must not wilfully contravene the program.

Maximum penalty—1665 penalty units or 2 years imprisonment.

(2) The holder of an approval of a transitional environmental program, or a person acting under a transitional environmental program, must not contravene the program.

Maximum penalty—835 penalty units.

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

433 Approval holder responsible for ensuring program complied with

(1) The holder of an approval of a transitional environmental program must ensure everyone acting under the program complies with the program.

(2) If another person acting under the program commits an offence against section 432, the holder also commits an offence, namely, the offence of failing to ensure the other person complies with the program.

Maximum penalty—the penalty under section 432(1) or (2) for the contravention of the program.

(3) Evidence that the other person has been convicted of an offence against section 432 while acting under the program is evidence that the holder committed the offence of failing to ensure the other person complies with the program.

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

(a) the holder issued appropriate instructions and used all reasonable precautions to ensure compliance with the program; and

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

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

Division 3 Site management plans

434 Contravention of plan

(1) A person must not wilfully contravene a site management plan.

Maximum penalty—1665 penalty units or 2 years imprisonment.

(2) A person must not contravene a site management plan.

Maximum penalty—835 penalty units.

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

Part 2A Offences relating to conditions

435 Offence to contravene development condition

(1) A person must not wilfully contravene a development condition of a development approval.

Maximum penalty—2000 penalty units or 2 years imprisonment.

(2) A person must not contravene a development condition of a development approval.

Maximum penalty—1665 penalty units.

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

435A Offence to contravene standard environmental conditions

(1) A person carrying out a chapter 4 activity, that is subject to a code of environmental compliance, must not wilfully contravene a standard environmental condition of the code.

Maximum penalty—2000 penalty units or 2 years imprisonment.

(2) A person carrying out a chapter 4 activity, that is subject to a code of environmental compliance, must not contravene a standard environmental condition of the code.

Maximum penalty—1665 penalty units.

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

435B Registered operator responsible for ensuring conditions complied with

(1) Each registered operator must ensure everyone acting under the operator's registration certificate complies with—

(a) the development conditions of the development approval for the activity; or

(b) the standard environmental conditions of the code of environmental compliance for the activity.

(2) If a person acting under the registration certificate commits an offence against section 435 or 435A, the registered operator also commits an offence, namely, the offence of failing to ensure the person complies with the conditions.

Maximum penalty—the penalty under section 435(1) or (2) or section 435A(1) or (2) for the contravention of the conditions.

(3) Evidence that the person has been convicted of an offence against section 435 or 435A while acting under the registration certificate is evidence that the registered operator committed the offence of failing to ensure the person complies with the conditions.

(4) However, it is a defence for the registered operator to prove—

(a) the registered operator issued appropriate instructions and used all reasonable precautions to ensure compliance with the conditions; and

(b) the offence was committed without the operator's knowledge; and

(c) the operator could not by the exercise of reasonable diligence have stopped the commission of the offence.

Part 3 Offences relating to environmental harm

436 Unlawful environmental harm

(1) An act or omission that causes serious or material environmental harm or an environmental nuisance is unlawful (***unlawful environmental harm***) unless it is authorised to be done or omitted to be done under—

(a) an environmental protection policy; or

(b) a transitional environmental program; or

(c) an environmental protection order; or

(d) an environmental authority; or

(e) a development condition of a development approval; or

(ea) a standard environmental condition of a code of environmental compliance for a chapter 4 activity; or

(f) an emergency direction.

(2) However, it is a defence to a charge of unlawfully causing environmental harm to prove—

(a) the harm happened while an activity (that is lawful apart from this Act) was being carried out; and

(b) the defendant complied with the general environmental duty.

(3) The defendant is taken to have complied with the duty if the defendant proves—

(a) an approved code of practice applies to the causing of the environmental harm; and

(b) to the extent it is relevant, the defendant complied with the code.

437 Offences of causing serious environmental harm

(1) A person must not wilfully and unlawfully cause serious environmental harm.

Maximum penalty—4165 penalty units or 5 years imprisonment.

(2) A person must not unlawfully cause serious environmental harm.

Maximum penalty—1665 penalty units.

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

438 Offences of causing material environmental harm

(1) A person must not wilfully and unlawfully cause material environmental harm.

Maximum penalty—1665 penalty units or 2 years imprisonment.

(2) A person must not unlawfully cause material environmental harm.

Maximum penalty—835 penalty units.

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

439 Court may find defendant guilty of causing material environmental harm if charged with causing serious environmental harm

In a proceeding for an offence against section 437, if the court is not satisfied the defendant is guilty of the offence charged but is satisfied the defendant is guilty of an offence against section 438(1) or (2), the court may find the defendant guilty of the offence against section 438(1) or (2).

440 Offence of causing environmental nuisance

(1) A person must not wilfully and unlawfully cause an environmental nuisance.

Maximum penalty—835 penalty units.

(2) A person must not unlawfully cause an environmental nuisance.

Maximum penalty—165 penalty units.

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

Part 4 Other offences

441 Offences of contravention of environmental protection policy or regulation

(1) A person must not wilfully contravene a provision of an environmental protection policy or a regulation.

Maximum penalty—

(a) for a class 1 environmental offence—1665 penalty units or imprisonment for 2 years;

(b) for a class 2 environmental offence—835 penalty units;

(c) for a class 3 environmental offence—85 penalty units.

(2) A person must not contravene a provision of an environmental protection policy or a regulation.

Maximum penalty—

(a) for a class 1 environmental offence—835 penalty units;

(b) for a class 2 environmental offence—165 penalty units;

(c) for a class 3 environmental offence—50 penalty units.

(3) For subsections (1) and (2), contravention of a provision of an environmental protection policy or a regulation is a class 1, 2 or 3 environmental offence only if the policy or regulation declares contravention of the provision to be an offence of that class.

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

442 Offence of releasing prescribed contaminant

(1) A person must not release, or cause to be released, a prescribed contaminant into the environment other than under an authorised person's emergency direction.

Maximum penalty—165 penalty units.

(2) In this section—

prescribed contaminant means a contaminant prescribed by an environmental protection policy or a regulation for this section.

443 Offence to place contaminant where environmental harm or nuisance may be caused

A person must not cause or allow a contaminant to be placed in a position where it could reasonably be expected to cause serious or material environmental harm or environmental nuisance.

Maximum penalty—165 penalty units.

444 Offence of interfering with monitoring equipment

A person must not interfere with any monitoring equipment used under this Act or a development condition of a development approval.

Maximum penalty—165 penalty units.

444A Offence not to notify chapter 4 activity has stopped

If a registered operator in relation to a chapter 4 activity stops carrying out the activity, the operator must, within 20 business days, give the administering authority a written notice advising the activity has stopped.

Maximum penalty—50 penalty units.

Chapter 9 Investigation and enforcement

Part 1 Administration generally

445 Appointment of authorised persons

(1) The chief executive may appoint any of the following persons to be an authorised person—

(a) an appropriately qualified public service officer;

(b) an employee of the department;

(c) a person included in a class of persons declared by regulation to be an approved class of persons for this section.

(2) If the administration and enforcement of a matter is devolved to a local government, the local government's chief executive officer may appoint an employee of the local government to be an authorised person.

(3) A person may be appointed to be an authorised person only if, in the opinion of the chief executive or local government's chief executive officer, the person has the necessary expertise or experience to be an authorised person.

446 Terms of appointment of authorised persons

(1) An authorised person holds office on the conditions stated in the instrument of appointment.

(2) An authorised person appointed under section 445(1)(c)—

(a) is appointed for the term stated in the instrument of appointment; and

(b) may resign by signed notice given to the chief executive.

(3) An authorised person ceases to hold office—

(a) if the authorised person was appointed under section 445(1)(a)—if the authorised person ceases to be an appropriately qualified public service officer; or

(b) if the authorised person was appointed under section 445(1)(b)—if the authorised person ceases to be an employee of the department; or

(c) if the authorised person was appointed under section 445(1)(c)—if the authorised person ceases to be a member of the relevant class of persons; or

(d) if the authorised person was appointed under section 445(2)—if the authorised person ceases to be an employee of the local government.

447 Powers of authorised persons

(1) An authorised person has the powers given under this or another Act.

(2) Subsection (1) has effect subject to any limitations—

(a) stated in the authorised person's instrument of appointment; or

(b) prescribed by regulation.

(3) An authorised person appointed under section 445(2) may exercise powers only for the administration and enforcement of the matter the subject of a devolution to the local government of which the authorised person is an employee.

448 Issue of identity cards

(1) The administering executive must issue an identity card to each authorised person.

(2) The identity card must—

(a) contain a recent photograph of the authorised person; and

(b) be signed by the authorised person; and

(c) identify the person as an authorised person; and

(d) include an expiry date.

(3) Nothing in this section prevents the issue of a single identity card to a person for this Act and other Acts.

449 Production of identity card

(1) An authorised person may exercise a power in relation to someone else only if the authorised person—

(a) first produces his or her identity card for the person's inspection; or

(b) has his or her identity card displayed so that it is clearly visible to the person.

(2) If, for any reason, it is not practicable to comply with subsection (1), the authorised person must produce the identity card for inspection by the person at the first reasonable opportunity.

450 Protection from liability

(1) In this section—

official means—

(a) an authorised person; or

(b) a person acting under the direction of an authorised person.

(2) An official does not incur civil liability for an act done, or omission made, honestly and without negligence under this Act.

(3) If subsection (2) prevents a civil liability attaching to an official, the liability attaches instead to—

(a) if the official is, or is acting under the direction of, an authorised person appointed by the chief executive officer of a local government—the local government; or

(b) if paragraph (a) does not apply—the State.

451 Administering authority may require relevant information

(1) The administering authority may give a notice under this section to a person requiring the person to give it information relevant to the administration or enforcement of this Act.

(2) The notice may only be given to a person the authority suspects on reasonable grounds has knowledge of a matter, or has possession or control of a document dealing with a matter, for which the information is required.

(3) The notice must—

(a) be in the approved form; and

(b) state the person to whom it is issued; and

(c) state the information required; and

(d) state the time within which the information is to be given to the authority; and

(e) state why the information is required; and

(f) state the review or appeal details; and

(g) be given to the person.

Part 2 Powers of authorised persons for places and vehicles

452 Entry of place—general

(1) An authorised person may enter a place if—

(a) its occupier consents to the entry and, if the entry is for exercising a power under chapter 7, part 8, its owner consents; or

(b) it is a public place and the entry is made when the place is open to the public; or

(c) it is a place to which an environmental authority relates and the entry is made when—

(i) the mining or petroleum activity to which the authority relates is being carried out; or

(ii) the place is open for conduct of business; or

(iii) the place is otherwise open for entry; or

(ca) it is a place to which a registration certificate, a development approval subject to a development condition or a code of environmental compliance relates and the entry is made when—

(i) the chapter 4 activity to which the certificate, approval or code relates is being carried out; or

(ii) the place is open for conduct of business; or

(iii) the place is otherwise open for entry; or

(d) it is a place where an industry is conducted and the entry is made when—

(i) the place is open for conduct of business; or

(ii) is otherwise open for entry; or

(e) the entry is authorised by a warrant; or

(f) for land mentioned in chapter 7, part 8—the entry is authorised by an order under section 458; or

(g) the authorised person may enter the place under section 453, 454 or 455.

(2) For the purpose of asking the occupier of a place for consent to enter, an authorised person may, without the occupier's consent or a warrant—

(a) enter land around premises at the place to an extent that is reasonable to contact the occupier; or

(b) enter part of the place the authorised person reasonably considers members of the public ordinarily are allowed to enter when they wish to contact the occupier.[145]

(3) Unless the entry is made under the authority of a warrant or order, the entry must be made at a reasonable time.

453 Entry of land—search, test, sample etc. for release of contaminant

(1) In this section—

land means a parcel of land other than the part on which a building or structure of any kind is erected.

(2) This section applies if unlawful environmental harm has been caused by the release of a contaminant into the environment.

(3) An authorised person may enter land for the purpose of finding out or confirming the source of the release of the contaminant.

(4) The authorised person may exercise powers under subsection (3), at the time, with the help, and using the force, that is necessary and reasonable in the circumstances.

454 Entry of land—preliminary investigation

(1) This section applies if the administering authority believes on reasonable grounds land is contaminated land.

Example—

The administering authority may, as a result of investigations conducted in an area, become aware contaminated fill has been used in the area. In the circumstances, the administering authority may believe on reasonable grounds individual lots of land in the area are contaminated land.

(2) An authorised person may, under this section, enter the land to conduct a preliminary investigation.

(3) A power under subsection (2) may be exercised only—

(a) with the agreement of the owner and occupier of the land; or

145 See also section 485 (Consent to entry).

(b) if the administering authority has given at least 5 business days written notice to the owner and occupier.

(4) The notice must inform the owner and occupier—

(a) the administering authority reasonably believes the land is contaminated land; and

(b) an authorised person intends to enter the land; and

(c) the purpose of the entry; and

(d) the days and times when the entry is to be made.

(5) In exercising a power under subsection (2), the authorised person must take all reasonable steps to ensure the person causes as little inconvenience, and does as little damage, as is practicable in the circumstances.

(6) Nothing in this section authorises the authorised person to enter a structure, or part of a structure, used for residential purposes.

455 Entry of land for access

(1) This section applies if—

(a) an authorised person may enter land (the ***primary land***) under section 452 or 454; and

(b) it is necessary or desirable to cross other land (the ***access land***) to enter the primary land.

(2) The authorised person may enter the access land and take into or over it anything the person reasonably requires for exercising a power under section 460 in relation to the primary land—

(a) if the person obtains the consent of the occupier of the access land; or

(b) if the person gives at least 5 business days written notice to the occupier before the entry; or

(c) without the consent of, or notice to, the occupier, if the person—

(i) believes on reasonable grounds there is an imminent risk of environmental harm being caused to or from the primary land; and

(ii) has told, or has made a reasonable attempt to tell, the occupier that the person is permitted to enter the access land under this paragraph.

(3) A notice under subsection (2)(b) must—

(a) describe the primary land and the access land; and

(b) state—

(i) that the authorised person intends to enter the access land for entry to the primary land; and

(ii) the day and time the access land will be entered; and

(iii) that an owner or occupier of the access land may claim compensation under section 487 for loss or damage caused by the entry to the access land.

(4) In exercising a power under this section, the authorised person must take all reasonable steps to ensure the person causes as little inconvenience, and does as little damage, as is practicable.

(5) Nothing in this section authorises the authorised person to enter a structure, or part of a structure, used for residential purposes.

(6) This section does not limit section 452 or 454.

456 Warrants

(1) An authorised person may apply to a magistrate for a warrant for a place.

(2) An application must be sworn and state the grounds on which the warrant is sought.

(3) The magistrate may refuse to consider the application until the authorised person gives the magistrate all the information the magistrate requires about the application in the way the magistrate requires.

Example—

The magistrate may require additional information supporting the application to be given by statutory declaration.

(4) The magistrate may issue a warrant only if the magistrate is satisfied there are reasonable grounds for suspecting—

(a) there is a particular thing or activity (the ***evidence***) that may provide evidence of the commission of an offence against this Act; and

(b) the evidence is, or may be within the next 7 days, at the place.

(5) The warrant must state—

(a) that the authorised person may, with necessary and reasonable help and force, enter the place and exercise the authorised person's powers under this Act; and

(b) the evidence for which the warrant is issued; and

(c) the hours of the day when entry may be made; and

(d) the day (within 14 days after the warrant's issue) when the warrant ends.

(6) The magistrate must record the reasons for issuing the warrant.

457 Warrants—applications made otherwise than in person

(1) An authorised person may apply for a warrant by phone, fax, radio or another form of communication if the authorised person considers it necessary because of—

(a) urgent circumstances; or

(b) other special circumstances, including, for example, the authorised person's remote location.

(2) Before applying for the warrant, the authorised person must prepare an application stating the grounds on which the warrant is sought.

(3) The authorised person may apply for the warrant before the application is sworn.

(4) After issuing the warrant, the magistrate must immediately fax a copy to the authorised person if it is reasonably practicable to fax the copy.

(5) If it is not reasonably practicable to fax a copy of the warrant to the authorised person—

(a) the magistrate must—

(i) tell the authorised person what the terms of the warrant are; and

(ii) tell the authorised person the date and time the warrant was signed; and

(iii) record on the warrant the reasons for issuing the warrant; and

(b) the authorised person must write on a form of warrant (***warrant form***)—

(i) the magistrate's name; and

(ii) the date and time the magistrate signed the warrant; and

(iii) the warrant's terms.

(6) The facsimile warrant, or the warrant form properly completed by the authorised person, authorises the entry and the exercise of the other powers authorised by the warrant issued by the magistrate.

(7) The authorised person must, at the first reasonable opportunity, send to the magistrate—

(a) the sworn application; and

(b) if a warrant form was completed by the authorised person—the completed warrant form.

(8) On receiving the documents, the magistrate must attach them to the warrant.

(9) Unless the contrary is proved, a court must presume that a power exercised by an authorised person was not authorised by a warrant issued under this section if—

(a) a question arises, in a proceeding before the court, whether the exercise of power was authorised by a warrant; and

(b) the warrant is not produced in evidence.

458 Order to enter land to conduct investigation or conduct work

(1) An authorised person may apply to a magistrate for an order to enter land—

(a) to carry out work on the land to—

(i) prevent or minimise environmental harm or rehabilitate or restore the land because of an activity carried out under an environmental authority, registration certificate, transitional environmental program or site management plan; or

(ii) remediate land managed under a site management plan; or

(iii) secure compliance with—

(A) an environmental authority, transitional environmental program, site management plan or any conditions of the authority, program or plan; or

(B) development conditions of a development approval; or

(C) standard environmental conditions of a code of environmental compliance for a chapter 4 activity; or

(b) if the land is contaminated land—to conduct a site investigation of the land; or

(c) for land particulars of which are recorded in the contaminated land register—to conduct work to remediate the land.

(2) The administering authority must give written notice of the application to—

(a) the owner of the land; and

(b) if the owner is not the occupier of the land—the occupier; and

(c) if the application is for an order to carry out work mentioned in subsection (1)(a)—

(i) the environmental authority holder; or

(ii) transitional environmental program approval holder; or

(iii) the registered operator.

(3) The application for the order must be sworn and state the grounds on which it is made.

(4) The magistrate may refuse to consider the application until the person gives the magistrate all information the magistrate requires about the application in the way the magistrate requires.

Example—

The magistrate may require additional information supporting the application to be given by statutory declaration.

(5) The magistrate may make an order under this section only if the magistrate is satisfied—

(a) for an order to carry out work mentioned in subsection (1)(a), the entry sought is reasonable and necessary to carry out the work; or

(b) for an order to enter the land and carry out a site investigation—

(i) the land is listed in the environmental management register because it is contaminated land; and

(ii) the hazardous contaminant contaminating the land is in a concentration that has the potential to cause serious environmental harm; and

(iii) a person, animal or another part of the environment may be exposed to the hazardous contaminant; and

(iv) the entry sought is reasonable and necessary to conduct a site investigation of the land; or

(c) for an order to enter and conduct work to remediate the land—the magistrate is satisfied the land is contaminated and the entry sought is reasonable and necessary to conduct work to remediate the land.

(6) The order must state—

(a) that an authorised person may, with necessary and reasonable help and force, enter the land and conduct the investigation or work to remediate the land; and

(b) the hours of the day when the entry may be made; and

(c) the day when the order ends.

(7) The magistrate must record the reasons for making the order.

459 Entry or boarding of vehicles

(1) An authorised person may enter or board a vehicle if the authorised person has reasonable grounds for suspecting—

(a) the vehicle is being, or has been, used in the commission of an offence against this Act; or

(b) the vehicle, or a thing in or on the vehicle, may provide evidence of the commission of an offence against this Act; or

(c) the vehicle is of a type prescribed by regulation and is being used to transport waste of a type prescribed by regulation; or

(d) if the vehicle is a train—the train is being used to transport waste of a type prescribed by regulation.

(2) If the vehicle is moving or about to move, the authorised person may signal the person in control of the vehicle to stop the vehicle or not to move it.

(3) To enable the vehicle to be entered or boarded, the authorised person may—

(a) act with necessary and reasonable help and force; and

(b) require the person in control of the vehicle to give reasonable help to the authorised person.

460 General powers for places and vehicles

(1) An authorised person who enters a place, or enters or boards a vehicle, under this chapter may—

(a) search any part of the place or vehicle; or

(b) inspect, examine, test, measure, photograph or film the place or vehicle or anything in or on the place or vehicle; or

(c) take samples of any contaminant, substance or thing in or on the place or vehicle; or

(d) record, measure, test or analyse the release of contaminants into the environment from the place or vehicle; or

(e) take extracts from, or make copies of, any documents in or on the place or vehicle; or

(f) take into or onto the place or vehicle any persons, equipment and materials the authorised person reasonably requires for the purpose of exercising any powers in relation to the place or vehicle; or

(g) install or maintain any equipment and materials in or on the place or vehicle the authorised person reasonably requires for the purpose of conducting a monitoring program for the release of contaminants into the environment from the place or vehicle; or

(h) require the occupier of the place, or any person in or on the place or vehicle, to give to the authorised person reasonable help for the exercise of the powers mentioned in paragraphs (a) to (g); or

(i) if the authorised person enters or boards a vehicle—by written notice given to the person in control of the vehicle, require the person—

(i) to take the vehicle to a stated reasonable place by a stated reasonable time; and

(ii) if necessary, to remain in control of the vehicle at the place for a reasonable time;

to enable the authorised person to exercise the powers mentioned in paragraphs (a) to (g).

(2) However, subsection (1)(e) does not apply to an authorised person who enters land to conduct a preliminary investigation or site investigation.

(3) If, for any reason, it is not practicable to make a requirement under subsection (1)(i) by written notice, the requirement may be made orally and confirmed by written notice as soon as practicable.

(4) Nothing in this section prevents an authorised person making a further requirement under subsection (1)(i) of the same person or another person in relation to the same vehicle if it is necessary and reasonable to make the further requirement.

(5) An authorised person may not enter a part of a vehicle used only as a living area, or exercise a power under subsection (1)(a) to (g) in relation to that part, unless the authorised person is accompanied by the person in control of the vehicle.

(6) Subsection (4) does not apply if the person in control of the vehicle is unavailable or unwilling to accompany the authorised person or the authorised person is unable for another reason to comply with the subsection.

(7) This section does not apply to an authorised person who enters a place to get the occupier's consent unless the consent is given or the entry is otherwise authorised.

(8) This section does not limit any power that an authorised person has apart from this section.

461 Power to seize evidence

(1) An authorised person who enters a place under this chapter with a warrant may seize the evidence for which the warrant was issued.

(2) An authorised person who enters a place under this chapter with the occupier's consent may seize the particular thing for which the entry was made if the authorised person believes on reasonable grounds that the thing is evidence of an offence against this Act.

(3) An authorised person who enters a place under this chapter with a warrant or with the occupier's consent may also seize

another thing if the authorised person believes on reasonable grounds—

(a) the thing is evidence of an offence against this Act; and

(b) the seizure is necessary to prevent the thing being—

(i) concealed, lost or destroyed; or

(ii) used to commit, continue or repeat the offence.

(4) An authorised person who enters a place under this chapter other than with a warrant or with the occupier's consent, or who enters or boards a vehicle, may seize a thing if the authorised person believes on reasonable grounds—

(a) the thing is evidence of an offence against this Act; and

(b) the seizure is necessary to prevent the thing being—

(i) concealed, lost or destroyed; or

(ii) used to commit, continue or repeat the offence.

462 Procedure after seizure of evidence

(1) As soon as practicable after a thing is seized by an authorised person under this chapter, the authorised person must give a receipt for it to the person from whom it was seized.

(2) The receipt must describe generally each thing seized and its condition.

(3) If, for any reason, it is not practicable to comply with subsection (1), the authorised person must—

(a) leave the receipt at the place of seizure; and

(b) ensure the receipt is left in a reasonably secure way and in a conspicuous position.

(4) The authorised person must allow a person who would be entitled to the seized thing if it were not in the authorised person's possession to inspect it and, if it is a document, to take extracts from it or make copies of it.

(5) The authorised person must return the seized thing to its owner at the end of—

(a) 6 months; or

(b) if a prosecution for an offence involving it is started within the 6 months—the prosecution for the offence and any appeal from the prosecution.

(6) Despite subsection (4), the authorised person must return the seized thing to its owner immediately the authorised person stops being satisfied its retention as evidence is necessary.

(7) However, the authorised person may keep the seized thing if the authorised person believes, on reasonable grounds, it is necessary to continue to keep it to prevent its use in committing an offence.

463 Forfeiture of seized thing on conviction

(1) Despite section 462, if the owner of the seized thing is convicted of an offence for which the thing was retained as evidence, the court may order its forfeiture to—

(a) if the authorised person exercised the power of seizure in the enforcement of a matter devolved to a local government—the local government; or

(b) if paragraph (a) does not apply—the State.

(2) The forfeited thing becomes the property of the local government or State and may be destroyed or disposed of as directed by the administering executive.

(3) This section does not limit the court's powers under the *Penalties and Sentences Act 1992* or any other law.

Part 3 Other enforcement powers of authorised persons

464 Power to require name and address

(1) An authorised person may require a person to state the person's name and address if the authorised person—

(a) finds the person committing an offence against this Act; or

(b) finds the person in circumstances that lead, or has information that leads, the authorised person to suspect on reasonable grounds that the person has committed an offence against this Act.

(2) When making the requirement, the authorised person must warn the person that it is an offence against this Act to fail to state the person's name and address, unless the person has a reasonable excuse.

(3) The authorised person may require the person to give evidence of the correctness of the person's name or address if the authorised person suspects on reasonable grounds that the name or address given is false.

465 Power to require answers to questions

(1) This section applies if an authorised person suspects, on reasonable grounds, that—

(a) an offence against this Act has happened; and

(b) a person may be able to give information about the offence.

(2) The authorised person may require the person to answer a question about the offence.

(3) When making the requirement, the authorised person must warn the person it is an offence to fail to comply with the requirement, unless the person has a reasonable excuse.

466 Power to require production of documents

(1) An authorised person may require a person to produce to the authorised person for inspection a document required to be held or kept under this Act or a development condition of a development approval.

(2) The authorised person may keep a produced document to take an extract from, or make a copy of, the document.

(3) The authorised person must return the document to the person as soon as practicable after taking the extract or making the copy.

Part 4 Emergency powers of authorised persons

467 Emergency powers

(1) This section applies if an authorised person is satisfied on reasonable grounds—

(a) serious or material environmental harm has been, or is likely to be, caused; and

(b) urgent action is necessary to—

(i) prevent or minimise the harm being caused; or

(ii) rehabilitate or restore the environment because of the harm.

(2) The authorised person may—

(a) direct any person to take specified reasonable action within a specified reasonable time; or

(b) take the action, or authorise another person to take the action.

(3) The direction may be given orally or by written notice.

(4) However, if the direction is given orally, the authorised person must, as soon as practicable, confirm the direction by written notice given to the person.

(5) If the authorised person decides to take the action, the authorised person may—

(a) without a warrant, enter any place (other than premises, or the part of premises, used only for residential purposes) and take the action; and

(b) in taking the action, exercise any of the powers under this chapter; and

(c) if, in taking the action, the authorised person finds a thing that may provide evidence of the commission of an offence against this Act—sections 461(1) and 462 apply to the thing as if the thing were the evidence mentioned in the provisions and a warrant had been

issued to the authorised person authorising the authorised person to seize it.

(6) The authorised person may exercise the powers mentioned in subsection (5) (***emergency powers***) at the time, with the help, and using the force, that is necessary and reasonable in the circumstances.

(7) If a person or thing is obstructing or preventing entry to, or action being taken at, any place by an authorised person while exercising or attempting to exercise emergency powers, a police officer may, if asked by the authorised person, using the force that is necessary and reasonable—

(a) remove the person or thing from the place; and

(b) take all reasonable measures to ensure the person or thing does not again obstruct or prevent the action being taken.

(8) In exercising or attempting to exercise emergency powers, an authorised person must take all reasonable steps to ensure the authorised person causes as little inconvenience, and does as little damage, as is practicable in the circumstances.

(9) This section does not limit any power an authorised person has apart from this section.

(10) If an authorised person authorises a person to take action under subsection (2)(b)—

(a) the person may exercise the powers mentioned in subsection (5)(a); and

(b) the authorised person must inform the person—

(i) of the action the person is authorised to take; and

(ii) of the person's powers under this section; and

(iii) in general terms, of the provisions of section 486;[146] and

(c) subsections (6), (7) and (8) (so far as they relate to the power mentioned in subsection (5)(a)) apply to the person as if the person were the authorised person.

146 Section 486 (Authorised person to give notice of seizure or damage)

468 Authorised person may direct emergency release of contaminant

(1) An authorised person may give a written direction (an ***emergency direction***) to a person to release a contaminant into the environment if the authorised person is satisfied—

(a) it is necessary and reasonable to release the contaminant because of an emergency; and

(b) there is no other practicable alternative to the release.

(2) The authorised person may impose reasonable conditions on the direction.

Part 5 Offences

469 Failure of authorised person to return identity card

A person who ceases to be an authorised person must return the person's identity card to the administering executive who issued it as soon as practicable after ceasing to be an authorised person, unless the person has a reasonable excuse for not returning it.

Maximum penalty—50 penalty units.

470 Failure to give information to administering authority

(1) This section applies if a person is given a notice under section 451.[147]

(2) The person must comply with the notice unless the person has a reasonable excuse for not complying with it.

Maximum penalty—50 penalty units.

(3) It is a reasonable excuse for the person to fail to comply with the notice if complying with it might tend to incriminate the person.

147 Section 451 (Administering authority may require relevant information)

(4) The person does not commit an offence against this section if the information sought by the administering authority is not in fact relevant to the administration or enforcement of this Act.

471 Failure to comply with signal

(1) A person must obey a signal under section 459(2) to stop or not to move a vehicle, unless the person has a reasonable excuse for not obeying the signal.

Maximum penalty—50 penalty units.

(2) It is a reasonable excuse for the person to fail to stop or to move the vehicle if—

(a) to obey immediately the signal would have endangered the person or another person; and

(b) the person obeys the signal as soon as it is practicable to obey the signal.

472 Failure to comply with requirements about vehicles

(1) In this section—

required action for a vehicle, means—

(a) to bring the vehicle to a place; and

(b) to remain in control of the vehicle at a place for a reasonable time.

(2) A person who is required by an authorised person under section 459(3)(b) to give reasonable help to the authorised person to enable the entering or boarding of a vehicle must comply with the requirement, unless the person has a reasonable excuse for not complying with it.

Maximum penalty—50 penalty units.

(3) A person who is required by an authorised person under section 460(1)(i) to take required action in relation to a vehicle must comply with the requirement, unless the person has a reasonable excuse for not complying with it.

Maximum penalty—50 penalty units.

473 Failure to help authorised person—emergency

(1) This section applies if—

(a) in an emergency, an authorised person is exercising or attempting to exercise emergency powers; and

(b) for dealing with the emergency, the authorised person requires a person under section 460(1)(h) to give reasonable help to the authorised person in relation to the exercise of a power.

(2) The person must comply with the requirement, unless the person has a reasonable excuse for not complying with it.

Maximum penalty—100 penalty units.

(3) If the help required is the answering of a question or producing of a document (other than a document required to be held or kept by the person under this Act or a development condition of a development approval), it is not a reasonable excuse for the person to fail to answer the question, or produce the document, on the ground that complying with the requirement might tend to incriminate the person.

(4) When making a requirement mentioned in subsection (3), the authorised person must inform the person of the following—

(a) the person is obliged to answer the question or produce the document despite the rule of law relating to privilege against self-incrimination;

(b) the person may answer the question or produce the document subject to the objection that complying with the requirement might tend to incriminate the person;

(c) if the person makes an objection—the answer or the producing of the document may not be admitted in evidence against the person in a prosecution for an offence against this Act, other than an offence (constituted by the giving of the answer or producing of the document) against either of the following sections—

- section 480
- section 481.

(5) If, before giving the answer or producing the document, the person makes an objection, the answer or producing of the

document is not admissible in evidence against the person in a prosecution for an offence against this Act, other than an offence (constituted by the giving of the answer or producing of the document) against either of the following sections—

- section 480
- section 481.

474 Failure to help authorised person—other cases

(1) This section applies if—

(a) an authorised person requires a person under section 460(1)(h) to give reasonable help to the authorised person in relation to the exercise of a power; but

(b) section 473 does not apply.

(2) The person must comply with the requirement, unless the person has a reasonable excuse for not complying with it.

Maximum penalty—50 penalty units.

(3) If the help required is the answering of a question or producing of a document (other than a document required to be held or kept by the person under this Act or a development condition of a development approval), it is a reasonable excuse for the person to fail to answer the question, or produce the document, if complying with the requirement might tend to incriminate the person.

475 Failure to give name and address etc.

(1) A person who is required by an authorised person under section 464(1) to state the person's name or address must comply with the requirement, unless the person has a reasonable excuse for not complying with it.

Maximum penalty—50 penalty units.

(2) A person who is required by an authorised person under section 464(3) to give evidence of the correctness of a name or address must give the evidence, unless the person has a reasonable excuse for not complying with it.

Maximum penalty—50 penalty units.

(3) The person does not commit an offence against this section if—

(a) the authorised person required the person to state the person's name and address on suspicion of the person having committed an offence against this Act; and

(b) the person is not proved to have committed the offence.

476 Failure to answer questions

(1) This section applies if—

(a) an authorised person requires a person under section 465 to answer a question; but

(b) section 473 does not apply.

(2) The person must comply with the requirement, unless the person has a reasonable excuse for not complying with it.

Maximum penalty—50 penalty units.

(3) It is a reasonable excuse for the person to fail to answer the question if complying with the requirement might tend to incriminate the person.

(4) The person does not commit an offence against this section if the information sought by the authorised person is not in fact relevant to the offence.

477 Failure to produce document

A person who is required under section 466 to produce a document must comply with the requirement, unless the person has a reasonable excuse for not complying with it.

Maximum penalty—50 penalty units.

478 Failure to comply with authorised person's direction in emergency

A person to whom a notice is given under section 467(2)(a) must comply with the notice, unless the person has a reasonable excuse for not complying with it.

Maximum penalty—100 penalty units.

479 Offences in relation to release of contaminant in emergency

A person to whom an emergency direction is given must—

(a) comply with the direction (including a condition of the direction), unless the person has a reasonable excuse for not complying with it; and

(b) take all reasonable and practicable precautions to prevent or minimise—

(i) environmental harm being caused; and

(ii) the risk of death or injury to humans and animals; and

(iii) loss or damage to property.

Maximum penalty—100 penalty units.

480 False, misleading or incomplete documents

(1) A person must not give to the administering authority or an authorised person a document containing information that the person knows is false, misleading or incomplete in a material particular.

Maximum penalty—1665 penalty units or 2 years imprisonment.

(2) Subsection (1) does not apply to a person who, when giving the document—

(a) informs the authorised person of the extent to which the document is false, misleading or incomplete; and

(b) gives the correct information to the authorised person if the person has, or can reasonably obtain, the correct information.

(3) A complaint against a person for an offence against subsection (1) is sufficient if it states that the document was false, misleading or incomplete to the person's knowledge.

(4) Without limiting subsection (1), a document is taken to be false or misleading if—

(a) it includes a certification under section 90(c) or 132(2)[148] and the code compliance condition for the code compliant authority for which the certification was given is not complied with; or

(b) it is a certification under section 154(1)(c)(ii), 260A or 603A(c)[149] and a standard environmental condition for the code compliant authority which the certification relates to is not complied with.

(5) However, subsection (4) does not apply if the person shows that when the certification was made the person had reasonable grounds to believe that the person could comply with the condition.

481 False or misleading information

(1) A person must not—

(a) state anything to an authorised person that the person knows is false or misleading in a material particular; or

(b) omit from a statement made to an authorised person anything without which the statement is, to the person's knowledge, misleading in a material particular.

Maximum penalty—1665 penalty units or 2 years imprisonment.

(2) A complaint against a person for an offence against subsection (1)(a) or (b) is sufficient if it states that the statement made was false or misleading to the person's knowledge.

482 Obstruction of authorised persons

(1) In this section—

148 Section 90 (Requirements for application) or 132 (Additional requirement for transfer application for code compliant authority if no amendment application made)

149 Section 154 (General requirements for application), 260A (Additional requirement for transfer application for code compliant authority if no amendment application made) or 603A (Requirements for conversion application)

authorised person includes a person who is authorised by an authorised person to take action under section 467(2)(b).[150]

(2) A person must not obstruct an authorised person in the exercise of a power under this chapter, unless the person has a reasonable excuse for obstructing the authorised person.

Maximum penalty—100 penalty units.

483 Impersonation of authorised person

A person must not pretend to be an authorised person.

Maximum penalty—50 penalty units.

484 Attempts to commit offences

(1) A person who attempts to commit an offence against this Act commits an offence.

Maximum penalty—half the maximum penalty for committing the offence.

(2) The Criminal Code, section 4,[151] applies to subsection (1).

Part 6 General

485 Consent to entry

(1) This section applies if an authorised person intends to seek the consent of an occupier of a place to an authorised person entering the place under this chapter.

(2) Before seeking the consent, the authorised person must inform the occupier—

(a) of the purpose of the entry; and

(b) that anything found and seized may be used in evidence

150 Section 467 (Emergency powers)

151 Criminal Code, section 4 (Attempts to commit offences)

in court; and

(c) that the occupier is not required to consent.

(3) If the consent is given, the authorised person may ask the occupier to sign an acknowledgment of the consent.

(4) The acknowledgment must—

(a) state the occupier was informed—

(i) of the purpose of the entry; and

(ii) that anything found and seized may be used in evidence in court; and

(iii) that the occupier was not required to consent; and

(b) state the occupier gave the authorised person consent under this chapter to enter the place and exercise powers under this chapter.

(5) If the occupier signs an acknowledgment of consent, the authorised person must immediately give a copy to the occupier.

486 Authorised person to give notice of seizure or damage

(1) This section applies if—

(a) an authorised person seizes or damages anything in the exercise of a power under this chapter; or

(b) a person who is authorised by an authorised person under section 467(2)(b)[152] to take action damages anything in the exercise of a power under section 467.

(2) The authorised person must immediately give written notice of the particulars of the seizure or damage.

(3) The notice must be given to—

(a) if anything is seized—the person from whom the thing was seized; or

(b) if anything is damaged—the person who appears to the authorised person to be the owner of the thing.

152 Section 467 (Emergency powers)

(4) If, for any reason, it is not practicable to comply with subsection (2), the authorised person must—

(a) leave the notice at the place where the seizure or damage happened; and

(b) ensure it is left—

(i) in a reasonably secure way; and

(ii) in a conspicuous position.

487 Compensation

(1) A person may claim compensation if the person incurs loss or expense because of the exercise or purported exercise of a power under this chapter, including, for example, in complying with a requirement made of the person under this chapter.

(2) The compensation must be claimed from—

(a) if the power or requirement that gives rise to the claim was exercised or made by an authorised person appointed by the chief executive officer of a local government, or a person authorised by such an authorised person under section 467(2)(b)[153] to take action—the local government; or

(b) if paragraph (a) does not apply—the State.

(3) Payment of compensation may be claimed and ordered in a proceeding for—

(a) compensation brought in a court of competent jurisdiction; or

(b) an offence against this Act brought against the person making the claim for compensation.

(4) A court may order the payment of compensation for the loss or expense only if it is satisfied it is just to make the order in the circumstances of the particular case.

153 Section 467 (Emergency powers)

488 Administering authority to reimburse costs and expenses incurred

(1) If a person incurs costs and expenses in complying with a direction under section 467(2)(a), the administering authority must reimburse the person's reasonable costs and expenses.

(2) Subsection (1) does not apply to the person who caused or allowed the relevant situation mentioned in section 467(1) to happen.

489 Costs of investigation or remediation to be paid by recipient

(1) The amount properly and reasonably incurred by the administering authority in conducting a site investigation, or remediating land, is a debt payable to the administering authority by the recipient of the notice to conduct or commission the investigation or remediate the land.

(2) If more than 1 person failed to perform the work, the amount incurred is payable by the persons jointly and severally.

(3) However, subsection (1) does not apply if the requirement for the recipient to conduct or commission the investigation, or carry out the remediation has been waived by the administering authority.

Chapter 10 Legal proceedings

Part 1 Evidence

490 Evidentiary provisions

(1) This section applies to a proceeding under or in relation to this Act.

(2) Unless a party, by reasonable notice, requires proof of—

(a) the appointment of an authorised person under this Act; or

(b) the authority of an authorised person to do an act under this Act;

the appointment or authority must be presumed.

(3) A signature purporting to be the signature of the administering executive or an authorised person is evidence of the signature it purports to be.

(4) A certificate purporting to be signed by the Minister stating that a stated person is or was the administering authority or administering executive at a time, or during a stated period, is evidence of the matter stated in the certificate.

(5) A certificate purporting to be signed by the administering executive stating any of the following matters is evidence of the matter—

(a) a stated document is a copy of a notice, direction, decision, order, report, environmental requirement, registration certificate or other authority or permit issued or given under this Act;

(b) on a stated day, or during a stated period, a stated person was or was not the holder of an environmental requirement, registration certificate, permit or other authority issued or given under this Act;

(c) an environmental requirement, registration certificate or other authority or permit issued or given under this Act—

(i) was or was not issued or given for a stated term; or

(ii) was or was not in force on a stated day or during a stated period; or

(iii) was or was not subject to a stated condition;

(d) on a stated day, an environmental authority or registration certificate was suspended for a stated period or cancelled;

(e) on a stated day, a stated person was given a stated notice, direction, or order under this Act;

(f) a stated document is a copy of a part of, or an extract from, a register kept under this Act;

(g) a stated amount is payable under this Act by a stated person and has not been paid;

(h) that a stated substance is a contaminant or an ozone depleting substance;

(i) that a stated method of storage, preservation, handling or transportation of a sample taken under this Act has not materially affected the attributes of the sample;

(j) another matter prescribed by regulation.

(6) In a complaint starting a proceeding, a statement that the matter of the complaint came to the complainant's knowledge on a stated day is evidence of the matter.

(7) The production by the prosecutor of a certificate purporting to be signed by an appropriately qualified person (the ***analyst***) and stating—

(a) the analyst received from a stated person the sample mentioned in the certificate; and

(b) the analyst analysed the sample on a stated day and at a stated place; and

(c) the results of the analysis;

is evidence of the matter stated in the certificate.

(8) Any instrument, equipment or installation prescribed by regulation that is used by an authorised person or analyst in accordance with the conditions (if any) prescribed by the regulation is taken to be accurate and precise in the absence of evidence to the contrary.

(9) In a proceeding in which the administering authority applies to recover the costs and expenses incurred by it, a certificate by the administering executive stating that stated costs and expenses were incurred and the way and purpose for which they were incurred is evidence of the matters stated.

491 Special evidentiary provision—environmental nuisance

(1) This section applies to a proceeding for an offence against section 440 in which it is claimed the defendant caused environmental nuisance by the emission of noise, smoke, dust, fumes, light or odour.

(2) An authorised person may give evidence (without any need to call further opinion evidence) that the authorised person formed the opinion based on the authorised person's own senses that—

(a) noise, smoke, dust, fumes, light or odour was emitted from a place occupied by the defendant and travelled to a place occupied by someone else; and

(b) the level, nature or extent of the noise, smoke, dust, fumes, light or odour within the place occupied by the other person was an unreasonable interference with the person's enjoyment of the place.

492 Responsibility for acts or omissions of representatives

(1) If, in a proceeding for an offence against this Act, it is relevant to prove a person's state of mind about a particular act or omission, it is enough to show—

(a) the act or omission was done or omitted to be done 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.

(2) An act or omission done or omitted to be done for a person by a representative of the person within the scope of the representative's actual or apparent authority is taken, in a proceeding for an offence against this Act, to have been done or omitted to be done also by the person, unless the person proves the person took all reasonable steps to prevent the acts or omissions.

(3) If—

(a) an individual is convicted of an offence against this Act; and

(b) the individual would not have been convicted of the offence if subsections (1) and (2) had not been enacted;

the individual is not liable to be punished by imprisonment for the offence.

(4) In this section—

representative, of a person, means—

(a) if the person is a corporation—

(i) an executive officer, employee or agent of the corporation; and

(ii) if, under the Corporations Act, the corporation (the ***parent corporation***) controls another corporation or another corporation is a subsidiary of the parent corporation—

(A) the controlled corporation or the subsidiary corporation; and

(B) an executive officer, employee or agent of the controlled corporation or the subsidiary corporation; or

(b) if the person is an individual—an employee or agent of the individual.

Part 2 Executive officer liability

493 Executive officers must ensure corporation complies with Act

(1) The executive officers of a corporation must ensure that the corporation complies with this Act.

(2) If a corporation commits an offence against a provision of this Act, each of the executive officers of the corporation also commits an offence, namely, the offence of failing to ensure the corporation complies with this Act.

Maximum penalty—the penalty for the contravention of the provision by an individual.

(3) Evidence that the corporation committed an offence against this Act is evidence that each of the executive officers committed the offence of failing to ensure that the corporation complies with this Act.

(4) However, it is a defence for an executive officer to prove—

(a) if the officer was in a position to influence the conduct of the corporation in relation to the offence—the officer took all reasonable steps to ensure the corporation complied with the provision; or

(b) the officer was not in a position to influence the conduct of the corporation in relation to the offence.

Part 3 Legal proceedings

494 Indictable and summary offences

(1) An offence against this Act for which the maximum penalty of imprisonment is 2 years or more is an indictable offence.

(1A) An indictable offence against this Act is—

(a) for an offence for which the maximum penalty of imprisonment is 5 or more years—a crime; or

(b) otherwise—a misdemeanour.

(2) Any other offence against this Act is a summary offence.

495 Proceedings for indictable offences

(1) A proceeding for an indictable offence against this Act may be taken, at the election of the prosecution—

(a) by way of summary proceedings under the *Justices Act 1886*; or

(b) on indictment.

(2) A magistrate must not hear an indictable offence summarily if—

(a) the defendant asks at the start of the hearing that the charge be prosecuted on indictment; or

(b) the magistrate considers that the charge should be prosecuted on indictment.

(3) If subsection (2) applies—

(a) the magistrate must proceed by way of an examination of witnesses for an indictable offence; and

(b) a plea of the person charged at the start of the proceeding must be disregarded; and

(c) evidence brought in the proceeding before the magistrate decided to act under subsection (2) is taken to be evidence in the proceeding for the committal of the person for trial or sentence; and

(d) before committing the person for trial or sentence, the magistrate must make a statement to the person as required by the *Justices Act 1886*, section 104(2)(b).[154]

(4) The maximum penalty of imprisonment that may be summarily imposed for an indictable offence is 1 year's imprisonment.

496 Limitation on who may summarily hear indictable offence proceedings

(1) A proceeding must be before a magistrate if it is a proceeding—

(a) for the summary conviction of a person on a charge for an indictable offence; or

(b) for an examination of witnesses for a charge for an indictable offence.

(2) However, if a proceeding for an indictable offence is brought before a justice who is not a magistrate, jurisdiction is limited to taking or making a procedural action or order within the meaning of the *Justices of the Peace and Commissioners for Declarations Act 1991*.

497 Limitation on time for starting summary proceedings

A proceeding for an offence against this Act by way of summary proceeding under the *Justices Act 1886* must start—

(a) within 1 year after the commission of the offence; or

154 *Justices Act 1886*, section 104 (Proceedings upon an examination of witnesses in relation to an indictable offence)

(b) within 1 year after the offence comes to the complainant's knowledge, but within 2 years after the commission of the offence.

498 Notice of defence

(1) If a person intends to rely on a defence under chapter 8,[155] the person must give written notice of the intention to the prosecutor—

(a) for a charge being prosecuted by way of summary proceeding under the *Justices Act 1886*—at least 10 business days before the charge is heard; or

(b) for a charge being prosecuted on indictment—at least 5 business days before the charge is set down for hearing.

(2) If the person has not given the written notice under subsection (1), the court may, on the application of the prosecution, make either or both of the following orders—

(a) an order to adjourn the hearing;

(b) an order that the person pay the prosecution the costs incurred by the prosecution because of the application for the adjournment.

499 Proof of authority

If a provision for an offence against this Act refers to a person unlawfully doing an act or making an omission, the *Justices Act 1886*, section 76,[156] applies as if the doing of the act or the making of the omission with an environmental authority or registration certificate were an exemption contained in the provision.

500 Fines payable to local government

(1) This section applies if—

155 Chapter 8 (General environmental offences)

156 *Justices Act 1886*, section 76 (Proof of negative etc.)

(a) the administration and enforcement of a matter has been devolved or delegated to a local government; and

(b) a proceeding for an offence about the matter is taken; and

(c) a court imposes a fine for the offence.

(2) The fine must be paid to the local government.

(3) If a person other than the local government prosecutes the offence, subsection (2) does not apply to any part of the fine the court orders be paid to the party.

501 Recovery of costs of rehabilitation or restoration etc.

(1) This section applies if, in a proceeding for an offence against this Act—

(a) the court finds the defendant has caused environmental harm by a contravention of this Act that constitutes an offence; and

(b) the court finds the administering authority has reasonably incurred costs and expenses—

(i) in taking action to prevent or minimise the harm or to rehabilitate or restore the environment because of the contravention; or

(ii) reimbursing costs and expenses under section 488; and

(c) the administering authority applies to the court for an order against the defendant for the payment of the costs and expenses.

(2) The court must order the defendant to pay the administering authority's reasonable costs and expenses to the authority unless it is satisfied it would not be just to make the order in the circumstances of the particular case.

(3) This section does not limit the court's powers under the *Penalties and Sentences Act 1992* or any other law.

502 Court may order payment of compensation etc.

(1) This section applies if, in a proceeding for an offence against this Act, the court finds the defendant has caused environmental harm by a contravention of this Act that constitutes an offence.

(2) The court may order the defendant to do either or both of the following—

(a) pay to persons who, because of the contravention, have suffered loss of income, loss or damage to property or incurred costs or expenses in preventing or minimising, or attempting to prevent or minimise, loss or damage, an amount of compensation it considers appropriate for the loss or damage suffered or the costs and expenses incurred;

(b) take stated action to rehabilitate or restore the environment because of the contravention.

(3) An order under subsection (2) is in addition to the imposition of a penalty and any other order under this Act.

(4) This section does not limit the court's powers under the *Penalties and Sentences Act 1992* or any other law.

503 Recovery of costs of investigation

(1) This section applies if—

(a) a person is convicted of an offence against this Act; and

(b) the court finds the prosecution has reasonably incurred costs and expenses in investigating the offence; and

(c) the prosecution applies for an order against the person for the payment of the costs and expenses.

(2) Without limiting subsection (1)(b), costs and expenses in investigating the offence may include costs and expenses of taking any sample or conducting any inspection, test, measurement or analysis during the investigation.

(3) The court may order the person to pay to the prosecution the reasonable costs and expenses incurred by the prosecution if it is satisfied it would be just to make the order in the circumstances of the particular case.

(4) This section does not limit the court's powers under the *Penalties and Sentences Act 1992* or any other law.

Part 4 Restraint orders

504 Application of pt 4

This part does not apply to a development offence.[157]

505 Restraint of contraventions of Act etc.

(1) A proceeding may be brought in the Court for an order to remedy or restrain an offence against this Act, or a threatened or anticipated offence against this Act, by—

(a) the Minister; or

(b) the administering authority; or

(c) someone whose interests are affected by the subject matter of the proceeding; or

(d) someone else with the leave of the Court (even though the person does not have a proprietary, material, financial or special interest in the subject matter of the proceeding).

(2) In deciding whether or not to grant leave to a person under subsection (1)(d), the Court—

(a) must be satisfied—

(i) environmental harm has been or is likely to be caused; and

(ii) the proceeding would not be an abuse of the process of the Court; and

(iii) there is a real or significant likelihood that the requirements for the making of an order under this section would be satisfied; and

157 For development offences, see part 5 (Enforcement orders).

(iv) it is in the public interest that the proceeding should be brought; and

(v) the person has given written notice to the Minister or, if the administering authority is a local government, the administering executive, asking the Minister or authority to bring a proceeding under this section and the Minister or executive has failed to act within a time that is a reasonable time in the circumstances; and

(vi) the person is able to adequately represent the public interest in the conduct of the proceeding; and

(b) may have regard to other matters the Court considers relevant to the person's standing to bring and maintain the proceeding.

(3) However, the Court must not refuse to grant leave merely because the person's interest in the subject matter of the proceeding is no different from someone else's interest in the subject matter.

(4) The Court may grant leave subject to conditions, including, for example—

(a) a condition requiring the person to give security for the payment of costs of the proceeding that may be awarded against the person; or

(b) a condition requiring the person to give an undertaking about damages.

(5) If the Court is satisfied—

(a) an offence against this Act has been committed (whether or not it has been prosecuted); or

(b) an offence against this Act will be committed unless restrained;

the Court may make the orders it considers appropriate to remedy or restrain the offence.

(6) An order—

(a) may direct the defendant—

(i) to stop an activity that is or will be a contravention of this Act; or

(ii) to do anything required to comply with, or to cease a contravention of, this Act; and

(b) may be in the terms the Court considers appropriate to secure compliance with this Act; and

(c) must specify the time by which the order is to be complied with.

(7) The Court's power to make an order to stop an activity may be exercised whether or not—

(a) it appears to the Court the person against whom the order is made intends to engage, or to continue to engage, in the activity; or

(b) the person has previously engaged in an activity of that kind; or

(c) there is danger of substantial damage to the environment if the person engages, or continues to engage, in the activity.

(8) The Court's power to make an order to do anything may be exercised whether or not—

(a) it appears to the Court the person against whom the order is made intends to fail, or to continue to fail, to do the thing; or

(b) the person has previously failed to do a thing of that kind; or

(c) there is danger of substantial damage to the environment if the person fails, or continues to fail, to do the thing.

(9) Without limiting the powers of the Court, the Court may make an order—

(a) restraining the use of plant or equipment or a place; or

(b) requiring the demolition or removal of plant or equipment, a structure or another thing; or

(c) requiring the rehabilitation or restoration of the environment.

(10) The Court must order a plaintiff to pay costs if the Court is satisfied the proceeding was brought for obstruction or delay.

(11) The Court's power under this section is in addition to its other powers.

(12) A person who contravenes an order commits an offence against this Act.

Maximum penalty for subsection (12)—3000 penalty units or 2 years imprisonment.

506 Power of Court to make order pending determination of proceeding

(1) This section applies if a proceeding has been brought by a person in the Court under section 505 and the Court has not determined the proceeding.

(2) On the person's application, the Court may make an order of a kind mentioned in section 505 pending determination of the proceeding if it is satisfied it would be proper to make the order.

(3) The Court's power to make an order to stop an activity may be exercised whether or not—

(a) it appears to the Court the person against whom the order is made intends to engage, or to continue to engage, in the activity; or

(b) the person has previously engaged in an activity of that kind; or

(c) there is an imminent danger of substantial damage to the environment if the person engages, or continues to engage, in the activity.

(4) The Court's power to make an order to do anything may be exercised whether or not—

(a) it appears to the Court the person against whom the order is made intends to fail, or to continue to fail, to do the thing; or

(b) the person has previously failed to do a thing of that kind; or

(c) there is an imminent danger of substantial damage to the environment if the person fails, or continues to fail, to do the thing.

(5) The Court's power under this section is in addition to its other powers.

(6) A person who contravenes an order commits an offence against this Act.

Maximum penalty for subsection (6)—3000 penalty units or 2 years imprisonment.

Part 5 Enforcement orders

507 Proceeding for orders

(1) A person may bring a proceeding in the Court—

(a) for an order to remedy or restrain the commission of a development offence (an ***enforcement order***); or

(b) if the person has brought a proceeding under paragraph (a) and the Court has not decided the proceeding—for an order under section 509 (an ***interim enforcement order***); or

(c) to cancel or change an enforcement order or interim enforcement order.

(2) The person may bring a proceeding under subsection (1)(a) whether or not any right of the person has been, or may be, infringed by, or because of, the commission of the offence.

508 Proceeding brought in a representative capacity

(1) The proceeding may be brought by the person on their own behalf or in a representative capacity.

(2) However, if the proceeding is brought in a representative capacity, 1 of the following consents must be obtained—

(a) if the proceeding is brought on behalf of a body of persons or a corporation—the members of the governing body;

(b) if the proceeding is brought on behalf of an individual—the individual.

509 Making interim enforcement order

(1) The Court may make an interim enforcement order pending a decision of the proceeding if the Court is satisfied it would be appropriate to make the order.

(2) The Court may make the order subject to conditions, including a condition requiring the applicant for the order to give an undertaking to pay costs resulting from damage suffered by the respondent if the proceeding is unsuccessful.

510 Making enforcement order

(1) The Court may make an enforcement order if the Court is satisfied the offence—

(a) has been committed; or

(b) will be committed unless restrained.

(2) If the Court is satisfied the offence has been committed, the Court may make an enforcement order whether or not there has been a prosecution for the offence.

511 Effect of orders

(1) An enforcement order or an interim enforcement order may direct the respondent—

(a) to stop an activity that constitutes, or will constitute, a development offence; or

(b) not to start an activity that will constitute a development offence; or

(c) to do anything required to stop committing a development offence.

(2) Without limiting the Court's powers, the Court may make an order—

(a) restraining the use of plant or equipment or a place; or

(b) requiring the repairing, demolition or removal of plant or equipment, a structure or other thing; or

(c) requiring the rehabilitation or restoration of the environment.

(3) An enforcement order or interim enforcement order—

(a) may be in terms the Court considers appropriate to secure compliance with this Act; and

(b) must state the time by which the order is to be complied with.

(4) A person who contravenes an enforcement order or interim enforcement commits an offence against this Act.

Maximum penalty for subsection (4)—3000 penalty units or 2 years imprisonment.

512 Court's powers about orders

(1) The Court's power to make an enforcement order or interim enforcement order to stop, or not to start, an activity may be exercised whether or not—

(a) it appears to the Court the person against whom the order is made intends to engage, or to continue to engage, in the activity; or

(b) the person has previously engaged in an activity of the kind; or

(c) there is danger of substantial damage to the environment if the person engages, or continues to engage, in the activity.

(2) The Court's power to make an enforcement order or interim enforcement order to do anything may be exercised whether or not—

(a) it appears to the Court the person against whom the order is made intends to fail, or to continue to fail, to do the thing; or

(b) the person has previously failed to do a thing of the kind; or

(c) there is danger of substantial damage to the environment if the person fails, or continues to fail, to do the thing.

(3) The Court may cancel or change an enforcement order or interim enforcement order.

(4) The Court's power under this section is in addition to its other powers.

513 Costs involved in bringing proceeding

If the proceeding is brought in a representative capacity, the person on whose behalf the proceeding is brought may contribute to, or pay, the legal costs and expenses incurred by the person bringing the proceeding.

Chapter 11 Administration

Part 1 Devolutions

514 Devolution of powers

(1) The Governor in Council may, by regulation, devolve to a local government the administration and enforcement of—

(a) the whole or part of an environmental protection policy; or

(b) the issue of environmental authorities; or

(c) another matter under this Act (other than chapter 2 or chapter 7, part 8).

(2) The administration and enforcement of this Act for an environmentally relevant activity carried out in an area below the high or low-watermark forming the boundary of a local government's area may be devolved to the local government.

(3) On the commencement of the regulation—

(a) the local government becomes the administering authority for the devolved matter; and

(b) the local government's chief executive officer becomes the administering executive for the devolved matter; and

(c) the administration and enforcement of the devolved matter is a function of local government to be performed by the local government for its area.

(4) If the devolved matter relates to an environmentally relevant activity mentioned in subsection (2), the local government's area is, for subsection (3)(c), taken to include the area in which the activity is carried out.

(5) To remove any doubt, the local government may—

(a) make a resolution or local law (not inconsistent with this Act) about the fees payable to it for the devolved matter; and

(b) make a local law (not inconsistent with this Act) about any matter for which it is necessary or convenient to make provision for carrying out or giving effect to the devolved matter.

(6) Despite subsection (5)(a), a local government may make a resolution or local law prescribing a lower, but not a higher, fee for something for which a fee is prescribed under a regulation.

(7) If the chief executive is satisfied the local government has failed to do anything in the administration or enforcement of the devolved matter—

(a) the chief executive may do the thing; and

(b) the reasonable costs and expenses incurred by the chief executive are a debt payable by the local government to the State.

Part 2 Delegations

515 Delegation by Minister

The Minister may delegate the Minister's powers under this Act to an appropriately qualified public service officer.

516 Delegation by chief executive

(1) The chief executive may delegate the executive's powers under this Act as the chief executive to—

(a) an appropriately qualified—

(i) authorised person; or

(ii) public service officer; or

(b) a local government.

(2) A delegation of a chief executive's power to a local government may permit the subdelegation of the power to an appropriately qualified entity.

517 Delegation by administering executive or local government chief executive officer

(1) The chief executive's powers under this Act as the administering executive may be delegated or subdelegated in the same way as the chief executive's powers may be delegated or subdelegated under section 516.

(2) A local government's chief executive officer may delegate the officer's powers under this Act, as the administering executive or otherwise, to an appropriately qualified employee of the local government.

(3) A delegation under subsection (2) of a power of a local government's chief executive officer to an employee of a local government may permit the subdelegation of the power to another appropriately qualified employee of the local government.

518 Delegation by administering authority

(1) An administering authority may—

(a) if the authority is the chief executive—delegate the authority's powers under this Act to—

(i) an authorised person or public service officer; or

(ii) a local government; or

(b) if the authority is a local government—by resolution, delegate the authority's powers under this Act to an appropriately qualified entity.

(2) A delegation of a power as follows may permit the subdelegation of the power to an appropriately qualified entity—

(a) a power of the chief executive, as the administering authority, delegated to a local government;

(b) a power of a local government as the administering authority.

Part 3 Review of decisions and appeals

Division 1 Interpretation

519 Original decisions

(1) A decision mentioned in schedule 1 is an ***original decision***.

(2) A decision under an environmental protection policy or regulation that the policy or regulation declares to be a decision to which this part applies is also an ***original decision***.

520 Dissatisfied person

(1) A ***dissatisfied person***, for an original or review decision, is—

(a) if the decision is about an EIS or the EIS process for an EIS—the relevant proponent under chapter 3, part 1, for the project to which the EIS relates; or

(b) if the decision is about an environmental authority—

(i) the applicant for the authority; or

(ii) the holder of the authority; or

(c) if the decision is about a registration certificate—

(i) the applicant for the certificate; or

(ii) the holder of the certificate; or

(d) if the decision is about a transfer application under chapter 4A or 5—the applicant; or

(e) if the decision is to give an audit notice, conduct an environmental audit or prepare an environmental audit report under chapter 5, part 11—the relevant environmental authority holder; or

(f) if the decision is about an environmental evaluation or protection order—the recipient; or

(g) if the decision is about a transitional environmental program—the holder of an approval for the program or person or public authority that is required to or submits the program; or

(h) if the decision is about an approval under section 369A—the applicant for, or holder of, the approval; or

(i) if the decision is about recording particulars of land in, or removing particulars of land from, the environmental management register or contaminated land register—the land's owner; or

(j) if the decision is about a site investigation of land—

(i) the recipient for the notice to conduct or commission the site investigation; and

(ii) the land's owner, other than for a decision under section 378 or 385; and

(iii) if another person conducts or commissions the site investigation—the other person; or

(k) if the decision is about the remediation of contaminated land—

(i) the recipient for the remediation notice; and

(ii) the land's owner, other than for a decision under section 392; and

(iii) if another person conducts or commissions work to remediate the land—the other person; or

(l) if the decision is about a site management plan for contaminated land—

(i) the recipient for the notice to prepare or commission the site management plan, other than for a decision under section 413; and

(ii) the land's owner, other than for a decision under section 407; and

(iii) if another person prepares or commissions the plan—the other person, other than for a decision under section 413; or

(m) if the decision is about the remediation of contaminated land—the land's owner and, if another person conducts or commissions work to remediate the land, the other person; or

(n) if the decision is about erecting signs on contaminated land—the land's owner; or

(o) if the decision is about a disposal permit—the applicant for the permit; or

(p) if the decision is a decision under an environmental protection policy or a regulation that the policy or regulation declares to be a decision to which this part applies—the person declared under the policy or regulation to be a dissatisfied person for the decision; or

(q) if the decision is about an application for a disclosure exemption—the applicant for the exemption; or

(r) if the decision is about an approval, or an application for an approval, under section 13(4)—the applicant for, or holder of, the approval; or

(s) if the decision is about issuing replacement documents under section 621—the person who was the holder of the environmental authority.

(2) A submitter for an application is also a ***dissatisfied person*** if the decision is about—

(a) an application for an environmental authority (petroleum activities) for a level 1 petroleum activity; or

(b) an amendment application under chapter 4A for which a public notice requirement has been made; or

(c) the submission of a transitional environmental program to which section 335 applies.[158]

Division 2 Internal review of decisions

521 Procedure for review

(1) A dissatisfied person may apply for a review of an original decision.

(2) The application must—

(a) be made in the approved form to the administering authority within—

(i) 10 business days after the day on which the person receives notice of the original decision or the administering authority is taken to have made the decision (the ***review date***); or

(ii) the longer period the authority in special circumstances allows; and

158 Sections 335 (Public notice of submission for approval of certain draft programs), 378 (Waiver of requirement to conduct or commission site investigation), 385 (Administering authority may require another report or additional information), 392 (Waiver of requirement to remediate land), 407 (Waiver of requirement to prepare or commission site management plan), 413 (Approval of draft site management plan), 467 (Emergency powers)

Chapter 3, part 1 (EIS process)

Chapter 4A (Environmental authorities for petroleum activities)

Chapter 5, part 11 (Environmental audits for mining activities)

(b) be supported by enough information to enable the authority to decide the application.

(3) On or before making the application, the applicant must send the following documents to the other persons who were given notice of the original decision—

(a) notice of the application (the ***review notice***);

(b) a copy of the application and supporting documents.

(4) The review notice must inform the recipient that submissions on the application may be made to the administering authority within 5 business days after the application is made to the authority.

(5) If the administering authority is satisfied the applicant has complied with subsections (2) and (3), the authority must, within 10 business days after receiving the application—

(a) review the original decision; and

(b) consider any submissions properly made by a recipient of the review notice; and

(c) make a decision (the ***review decision***) to—

(i) confirm or revoke the original decision; or

(ii) vary the original decision in a way the administering authority considers appropriate.

(6) The application does not stay the original decision.

(7) The application must not be dealt with by—

(a) the person who made the original decision; or

(b) a person in a less senior office than the person who made the original decision.

(8) Within 10 business days after making the review decision, the administering authority must give written notice of the decision to the applicant and persons who were given notice of the original decision.

(9) The notice must—

(a) include the reasons for the review decision; and

(b) inform the persons of their right of appeal against the decision.

(10) If the administering authority does not comply with subsection (5) or (8), the authority is taken to have made a decision confirming the original decision.

(11) Subsection (7) applies despite the *Acts Interpretation Act 1954*, section 27A.[159]

(12) This section does not apply to an original decision made by—

(a) for a matter, the administration and enforcement of which has been devolved to a local government—the local government itself or the chief executive officer of the local government personally; or

(b) for another matter—the chief executive personally.

522 Stay of operation of original decisions

(1) If an application is made for review of an original decision, the applicant may immediately apply for a stay of the decision to—

(a) for an original decision mentioned in schedule 1, part 1—the Land Court; or

(b) for an original decision mentioned in schedule 1, part 2—the Court.

(2) The Land Court or the Court may stay the decision to secure the effectiveness of the review and any later appeal to the Land Court or the Court.

(3) A stay may be given on conditions the Land Court or the Court considers appropriate and has effect for the period stated by the Land Court or the Court.

(4) The period of a stay must not extend past the time when the administering authority reviews the decision and any later period the Land Court or the Court allows the applicant to enable the applicant to appeal against the review decision.

159 *Acts Interpretation Act 1954*, section 27A (Delegation of functions or powers)

Division 3 Appeals

Subdivision 1 Appeals to Land Court

523 Review decisions subject to Land Court appeal

This subdivision applies if the administering authority makes an original decision mentioned in schedule 1, part 1.

524 Right of appeal

A dissatisfied person who is dissatisfied with the decision may appeal against the decision to the Land Court.

525 Appeal period

(1) The appeal must be started within 22 business days after the appellant receives notice of the decision.

(2) However, the Land Court may at any time extend the time for starting the appeal.

526 Land Court mediation

(1) Any party to the appeal may, at any time before the appeal is decided, ask the Land Court to conduct or provide mediation for the appeal.

(2) The mediation must be conducted by the Land Court or a mediator chosen by the Land Court.

527 Nature of appeal

The appeal is by way of rehearing, unaffected by the review decision.

528 Land Court's powers for appeal

In deciding the appeal, the Land Court has the same powers as the administering authority.

529 Decision for appeals against refusals under s 207

(1) This section applies if the decision appealed against is a decision under section 207 to refuse to allow an application for environmental authority (mining lease) to proceed.[160]

(2) In deciding the appeal the Land Court must confirm the decision or allow the appeal.

(3) If the appeal is allowed—

(a) the relevant period for the administering authority to make the decision is taken to have been extended to when the decision on the appeal is made; and

(b) the authority is taken, at the end of the period, not to have made the decision.

530 Decision for other appeals

(1) This section applies if the decision appealed against is not a decision mentioned in section 529(1).

(2) In deciding the appeal, the Land Court may—

(a) confirm the decision; or

(b) set aside the decision and substitute another decision; or

(c) set aside the decision and return the matter to the administering authority who made the decision, with directions the Land Court considers appropriate.

(3) In setting aside or substituting the decision, the Land Court has the same powers as the authority.

(4) However, this part does not apply to a power exercised under subsection (3).

(5) If the Land Court substitutes another decision, the substituted decision is taken for this Act, other than section 569[161] and this subdivision, to be the authority's decision.

160 Section 207 (Administering authority may refuse application)

161 Section 569 (Notice of refusal or decision to limit exemption)

Subdivision 2 Appeals to Court

531 Who may appeal

(1) A dissatisfied person who is dissatisfied with a review decision, other than a review decision to which subdivision 1 applies, may appeal against the decision to the Court.

(2) The chief executive may appeal against another administering authority's decision (whether an original or review decision) to the Court.

(3) A dissatisfied person who is dissatisfied with an original decision to which section 521 does not apply may appeal against the decision to the Court.

532 How to start appeal

(1) An appeal is started by—

(a) filing written notice of appeal with the registrar of the Court; and

(b) complying with rules of court applicable to the appeal.

(2) The notice of appeal must be filed—

(a) if the appellant is the chief executive—within 33 business days after the decision is made or taken to have been made; or

(b) if the appellant is not the chief executive—within 22 business days after the day the appellant receives notice of the decision or the decision is taken to have been made.

(3) The Court may at any time extend the period for filing the notice of appeal.

(4) The notice of appeal must state fully the grounds of the appeal and the facts relied on.

533 Appellant to give notice of appeal to other parties

(1) Within 8 business days after filing the notice of appeal, the appellant must serve notice of the appeal on—

(a) if the appellant is the chief executive—all persons who were given notice of the original decision; or

(b) if the appellant is not the chief executive—the other persons who were given notice of the original decision.

(2) The notice must inform the persons that, within 10 business days after service of the notice of appeal, they may elect to become a respondent to the appeal by filing in the Court a notice of election under rules of court.

534 Persons may elect to become respondents to appeal

A person who properly files in the Court a notice of election becomes a respondent to the appeal.

535 Stay of operation of decisions

(1) The Court may grant a stay of a decision appealed against to secure the effectiveness of the appeal.

(2) A stay may be granted on conditions the Court considers appropriate and has effect for the period stated by the Court.

(3) The period of a stay must not extend past the time when the Court decides the appeal.

(4) An appeal against a decision does not affect the operation or carrying out of the decision unless the decision is stayed.

536 Hearing procedures

(1) The procedure for an appeal is to be in accordance with the rules of court applicable to the appeal or, if the rules make no provision or insufficient provision, in accordance with directions of the judge.

(2) An appeal is by way of rehearing, unaffected by the administering authority's decision.

537 Assessors

If the judge hearing an appeal is satisfied the appeal involves a question of special knowledge and skill, the judge may

appoint 1 or more assessors to help the judge in deciding the appeal.

538 Appeals may be heard with planning appeals

(1) This section applies if—

(a) a person appeals against an administering authority's decision (whether an original or review decision) to refuse to grant a registration certificate; and

(b) a person appeals against the assessment manager's decision under the Integrated Planning Act about a planning or development matter for the premises to which the certificate or the application for the certificate relates.

(2) On the application of a party to either of the appeals, the Court may order—

(a) the appeals to be heard together or 1 immediately after the other; or

(b) 1 appeal to be stayed until the other has been decided.

(3) The application may be made—

(a) by an appellant when starting an appeal or at any time before the appeals are decided; or

(b) by another party at any time before the appeals are decided.

(4) This section applies even though the parties, or all of the parties, to the appeals are not the same.

539 Powers of Court on appeal

(1) In deciding an appeal, the Court may—

(a) confirm the decision appealed against; or

(b) vary the decision appealed against; or

(c) set aside the decision appealed against and make a decision in substitution for the decision set aside.

(2) If on appeal the Court acts under subsection (1)(b) or (c), the decision is taken, for this Act (other than this part), to be that of the administering authority.

Part 4 General

540 Required registers

(1) The administering authority must, for its administration under this Act, keep a register of the following—

(a) in relation to chapter 3, the following—

(i) submitted draft terms of reference for EISs;

(ii) TOR notices given to the chief executive;

(iii) written summaries of comments given to the chief executive about draft terms of reference for EISs;

(iv) final terms of reference published by the chief executive;

(v) submitted EISs;

(vi) declarations of compliance under section 53 given to the chief executive;

(vii) EIS assessment reports;

(viii) bilateral agreements;

(b) development approvals for environmentally relevant activities;

(c) environmental authorities;

(ca) in relation to chapter 4, the following——

(i) registration certificates;

(ii) surrenders of registration certificates;

(iii) reports the administering authority accepts under section 73C(1)(g)(ii);

(d) in relation to chapter 4A, the following—

(i) transfers of environmental authorities (petroleum activities);

(ii) surrenders of environmental authorities (petroleum activities);

(iii) FRR assessment reports;

(e) in relation to chapter 5, the following—

(i) assessment level decisions;

(ii) submitted EM plans;

(iii) EM plan assessment reports;

(iv) draft environmental authorities (mining activities);

(v) declarations of compliance under section 214 given to the chief executive;

(vi) submitted plans of operations;

(vii) submitted progressive and final rehabilitation reports;

(viii) FRR assessment reports;

(ix) transfers of environmental authorities (mining activities);

(x) surrenders of environmental authorities (mining activities);

(xi) standard environmental conditions;

(f) in relation to chapter 7, part 8—

(i) an environmental management register; and

(ii) a contaminated land register;

(g) environmental reports;

(h) monitoring programs carried out under this Act or a development condition of a development approval;

(i) the results of monitoring programs mentioned in paragraph (h);

(j) transitional environmental programs;

(k) environmental protection orders;

(l) authorised persons;

(m) approved codes of practice;

(n) codes of environmental compliance;

(o) standard environmental conditions;

(p) other documents or information prescribed under regulation.

(2) A reference to a document in subsection (1) includes a reference to any amendment of the document made under this Act.[162]

541 Keeping of registers

(1) The register for codes of environmental compliance must include a copy of each of the codes.

(2) The register for standard environmental conditions must include a copy of each of the conditions and the gazette notice by which each of the conditions was approved.

(3) If the administering authority considers it impracticable to include a document in any other register, it may include details of the document in the register instead of the document.

(4) However, if the other register only includes details of a document—

(a) the authority must keep the document open for public inspection in the way required of a register under section 542; and

(b) section 542 applies to the document as if it were included in a register.

162 Chapters 3 (Environmental impact statements), 4 (Development approvals and registration (other than for mining or petroleum activities)), 4A (Environmental authorities for petroleum activities) and 5 (Environmental authorities for mining activities)

Sections 53 (Declaration of compliance), 73C (Adding, changing or cancelling a development condition) and 214 (Declaration of compliance)

Chapter 7, part 8 (Contaminated land)

(5) If particulars of any land are recorded in the environmental management register or contaminated land register, they must include the real property description of the land.

(6) Subject to subsections (1) to (5), the authority may keep a register in the way it considers appropriate, including, for example, on the authority's web site on the internet.

542 Inspection of register

(1) The administering authority must, for a register mentioned in section 540(1), other than the environmental management register or contaminated land register—

(a) keep the register open for inspection by members of the public during office hours on business days at the agency's relevant office for the administration of this Act; and

(b) permit a person to take extracts from the register or, on payment of the appropriate fee by a person, give the person a copy of the register, or part of it.

(2) The fee for a copy of the register or part of it is the amount that—

(a) the administering authority considers to be reasonable; and

(b) is not more than the reasonable cost of making the copy.

(3) Also, the administering authority must, on payment of the fee prescribed under a regulation, permit members of the public to obtain extracts from the environmental management register or contaminated land register.

543 Appropriate fee for copies

(1) This section applies if, under this Act, the administering authority or other entity must, on payment of the appropriate fee to the entity, give a person a copy of a document, or a part of a document.

(2) The fee for the copy of the document or part of it is the amount that is the lesser of the following—

(a) the amount the authority decides is reasonable;

(b) the amount that is no more than the reasonable cost incurred by the authority or other entity in making the copy and giving it to the person.

(3) Despite subsection (2) or any other provision of this Act, the authority or other entity may give the document without the payment.

(4) In this section—

document does not include the following registers or an extract from the registers—

(a) the environmental management register;

(b) the contaminated land register.

544 Approved forms

(1) The administering 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.

545 Advisory committees

(1) The Minister may establish as many advisory committees as the Minister considers appropriate for the administration of this Act.

(2) An advisory committee has the functions the Minister decides.

(3) A member of an advisory committee is entitled to be paid the fees and allowances decided by the Governor in Council.

546 Annual reports

(1) Within 2 months after the end of each financial year, each administering authority must give to the chief executive a report on its administration of this Act during the year.

(2) Subsection (1) does not apply if the chief executive is the administering authority.

(3) The report must—

(a) be in the form approved by the chief executive; and

(b) contain the following information—

(i) the types and number of environmentally relevant activities administered by the authority;

(ii) the action taken by the authority to enforce this Act;

(iii) the number of complaints about contraventions of this Act received by the authority;

(iv) the other information the chief executive requires by written notice given to the administering authority at least 2 months before the end of the financial year.

(4) Within 4 months after the end of each financial year, the chief executive must give to the Minister a report on the administration of this Act during the year.

(5) The chief executive's report must include a statement about requests received by the Minister to prepare environmental protection policies and a brief statement of the reasons for refusing any request.

(6) Each administering authority's report must be attached to the chief executive's report.

(7) The Minister must table a copy of the chief executive's report in the Legislative Assembly within 14 sitting days after receiving it.

547 State of environment report

(1) At least every 4 years, the chief executive must prepare and publish a report on the state of Queensland's environment.

(2) The report must—

(a) include an assessment of the condition of Queensland's major environmental resources; and

(b) identify significant trends in environmental values; and

(c) review significant programs, activities and achievements of persons and public authorities about the protection, restoration or enhancement of Queensland's environment; and

(d) evaluate the efficiency and effectiveness of environmental strategies implemented to achieve the object of this Act.

(3) The Minister must table a copy of the report in the Legislative Assembly within 14 sitting days after receiving it.

Chapter 12 Miscellaneous

Part 1 Approval of codes of practice and standard environmental conditions

548 Codes of practice

(1) The Minister may, by gazette notice, approve codes of practice stating ways of achieving compliance with the general environmental duty for any activity that causes, or is likely to cause, environmental harm.

(2) The Minister must keep copies of approved codes of practice open for inspection by members of the public during office hours on business days at—

(a) the department's head office; and

(b) the other places the Minister considers appropriate.

549 Minister may approve standard environmental conditions

(1) This section applies if a code of environmental compliance contains standard environmental conditions for carrying out an environmentally relevant activity, or aspects of an environmentally relevant activity, or the giving of financial assurance as security for—

(a) compliance with the relevant environmental authority; and

(b) costs or expenses, or likely costs or expenses, mentioned in section 367.[163]

(2) The Minister may, by gazette notice, approve the conditions.

(3) The Minister must keep copies of approved standard environmental conditions open for public inspection during office hours on business days at—

(a) the department's head office; and

(b) the other places the Minister considers appropriate.

549A When standard environmental conditions must be complied with

(1) This section applies if the Minister, under section 549(2), approves standard environmental conditions for carrying out a chapter 4 activity.

(2) If there is a difference between a development condition applying for the activity before the approval and a standard environmental condition for the activity, the standard environmental condition prevails to the extent of the difference.

(3) However, for a person who was, immediately before the approval under section 549(2) was given, lawfully carrying out the activity, sections 435A and 435B[164] do not apply until 1 year after the standard environmental conditions for the activity were approved.[165]

550 Effect of changes to standard environmental conditions

If—

163 Section 367 (Claims on financial assurances)

164 Section 435A (Offence to contravene standard environmental conditions) and 435B (Registered operator responsible for ensuring conditions complied with)

165 See however sections 333 (Voluntary submission of draft program) and 346(2) (Effect of compliance with program).

(a) there are standard environmental conditions (the ***existing conditions***) for a chapter 4 activity or environmentally relevant activity; and

(b) under section 549, a change is approved to the existing conditions;

despite the change, the existing conditions continue to apply for the chapter 4 activity or environmentally relevant activity until 1 year after the day the change is approved.[166]

Part 2 General provisions about applications and submissions

Division 1 Preliminary

551 Definitions for pt 2

In this part—

applicant, for a TEP submission, means the person or public authority that made the submission.

deciding, for an application or submission, includes the following—

(a) a step required for considering or deciding the application or submission;

(b) imposing a condition;

(c) including a condition in a draft environmental authority;

(d) for an application under chapter 5[167] for which an assessment level decision is required—making the assessment level decision.

166 For registered operators, see, however, section 333 (Voluntary submission of draft program).

167 Chapter 5 (Environmental authorities for mining activities)

TEP submission means a submission for approval of, or an approval of an amendment to, a transitional environmental program.

Division 2 General provisions

552 What is the *application date* for application or TEP submission

(1) This section applies if a person—

(a) applies for, or to amend or transfer, an environmental authority, other than an environmental authority (mining activities); or

(b) makes a TEP submission.

(2) The ***application date*** for the application or submission is the day that is 10 business days after the day it is made to the administering authority.

(3) However, if, within 8 business days after that day, the authority requires additional information relating to the application or submission, the ***application date*** is the day the authority states as the application date in a written notice given by it to the person.

(4) The application date stated in the notice must not be a day earlier than 2 business days after the person's receipt of the notice.

553 Electronic applications and submissions

(1) This section applies if—

(a) this Act requires an application or submission to be made in an approved form; and

(b) the form provides that the application or submission may be made at a stated e-mail address.

(2) The application or submission may be made by electronically transmitting to the e-mail address the information required by the approved form in a format substantially similar to the approved form.

554 Electronic notices about applications and submissions

(1) This section applies if an application or submission has been made in an approved form, whether or not it has been made under section 553.

(2) A notice from the applicant to the administering authority about the application or submission may be given by electronically transmitting it to any e-mail address for service for the authority stated in the approved form.

(3) A notice from the authority or anyone else to the applicant about the application or submission may be given by electronically transmitting it to any e-mail address for service for the applicant stated in the application.

555 Extension of decision period

(1) This section applies if the administering authority is deciding, or is required to decide—

(a) an application for or in relation to an environmental authority; or

(b) a TEP submission.

(2) The authority may extend the required period to make the decision if, before the extension starts, it gives the applicant and any submitters for the application an information notice about the decision to extend.

556 Administering authority may seek advice, comment or information

(1) If the administering authority is deciding, or is required to decide, an application or TEP submission, it may require—

(a) the applicant to give the authority stated additional information about the application or TEP submission; or

(b) any information given in the application or TEP submission, or any additional information required under paragraph (a), to be verified by statutory declaration.

(2) The authority must, within 10 business days after deciding to make a requirement under subsection (1), give the applicant an information notice about the decision.

(3) The authority may seek relevant advice, comment or information from another person and the request may be by public notice.

(4) Also, if the application is for, or relates to, an environmental authority (mining activities), the administering authority may give anyone a document or information about the application that is not subject to a disclosure exemption.

(5) Asking for and receiving, or giving, a document or advice, comment or information under this section does not—

(a) replace any public notice or other step required to decide the application or TEP submission; or

(b) extend or reduce the period required for deciding the application or TEP submission or taking a step in deciding the application or submission.

(6) However, subsection (5)(b) does not limit section 555.

557 Decision criteria are not exhaustive

(1) This section applies if—

(a) an entity is deciding, or is required to decide, an application or TEP submission under this Act; and

(b) a provision of this Act requires the entity, in making the decision, to consider stated criteria or matters.

(2) The stated criteria or matters do not limit the criteria or matters the entity may consider in making the decision.

558 Publication of decision or document by administering authority

(1) This section applies if a provision of this Act requires the administering authority to publish a decision or document.

(2) The publication may be made by placing a link to a record or register of the decision or to the document on the authority's web site on the internet.[168]

(3) However, if a regulation requires the decision or document to be published in another way, it must be published in that way.

(4) The decision or document may also be published in any other way decided by the chief executive.

(5) In this section—

publish includes make available for public inspection, including, for example, insert or record particulars of in an appropriate register.

Division 3 Investigating suitability

559 Investigation of applicant suitability or disqualifying events

(1) The administering authority may investigate a person to help it decide whether—

(a) the person is a suitable person to hold, or continue to hold, an environmental authority; or

(aa) the person is a suitable person to be, or continue to be, a registered operator; or

(b) a disqualifying event has happened in relation to the person.

(2) The administering authority may obtain a report on the person from an administering authority of another State under a corresponding law about a matter mentioned in subsection (1).

(3) The commissioner of the police service must, if asked by the authority, give it a written report about any convictions for environmental offences recorded against the person obtained from—

(a) information in the commissioner's possession; and

168 At the commencement of this section, the administering authority's web site could be located at <www.epa.qld.gov.au>.

(b) information the commissioner can reasonably obtain by asking officials administering police services in other Australian jurisdictions.

(4) However, subsection (3) is subject to the *Criminal Law (Rehabilitation of Offenders) Act 1986*.

560 Use of information in suitability report

(1) This section applies if the administering authority is considering information contained in a report about a person obtained under section 559 (a ***suitability report***).

(2) The information must not be used for any purpose other than to make the decision for which the report was obtained.

(3) In making the decision, the authority must have regard to the following matters relating to information about the commission of an offence by the person—

(a) when the offence was committed;

(b) the nature of the offence and its relevance to the decision.

561 Notice of use of information in suitability report

Before using information contained in a suitability report to assess a matter mentioned in section 559(1), the administering authority must—

(a) disclose the information to the person to whom the report relates; and

(b) allow the person a reasonable opportunity to make representations to the authority about the information.

562 Confidentiality of suitability reports

(1) This section applies to a person who—

(a) is, or has been a public service employee or an employee of a local government; and

(b) has, in that capacity acquired information, or gained access to a suitability report about someone else (the ***second person***).

(2) The person must not disclose the information, or give access to the report, to anyone else.

Maximum penalty—100 penalty units.

(3) However, subsection (2) does not apply if the disclosure of the information, or giving of access to the report is—

(a) with the second person's written consent; or

(b) to an employee of the authority for making the decision for which the report was obtained; or

(c) to the Land Court or the Court; or

(d) to a person carrying out functions for the tribunal, Court or administering authority; or

(e) to a person employed or engaged to give advice to the Land Court or administering authority in the carrying out of its functions; or

(f) under a direction or order made in a proceeding; or

(g) expressly permitted or required under another Act.

563 Destruction of suitability reports

(1) This section applies if the administering authority has obtained a suitability report and it has made the decision for which the report was obtained.

(2) The authority must destroy the report as soon as practicable after the later of the following—

(a) if the report wholly or partly relates to a conviction for an environmental offence—

(i) if an appeal is made against the conviction—the deciding or other ending of the appeal and any appeal from that appeal; or

(ii) otherwise—the end of the period to appeal against the conviction;

(b) the end of the period under this Act to appeal against, or apply for a review of, the decision;

(c) the deciding or other ending of an appeal or review mentioned in paragraph (b) and any appeal from that appeal or review.

Part 3 Exemption from disclosure

Division 1 Obtaining disclosure exemption

564 Who may apply

A person may apply to the administering authority for an exemption (a ***disclosure exemption***) from disclosure for stated information contained in a document submitted, or proposed to be submitted, by the person under this Act.

565 Requirements for application

A disclosure exemption application must—

(a) be in the approved form; and

(b) state that the disclosure of the information the subject of the application is, in the applicant's opinion, likely to disadvantage the applicant's interests; and

(c) identify the nature and extent of the disadvantage; and

(d) state the nature of the disadvantage; and

(e) state that the information is—

(i) not required to be disclosed under another law of the State; and

(ii) not publicly available; and

(f) be supported by enough information to allow the authority to decide the application.

566 Deciding application

The administering authority must, within 20 business days after it receives the application, consider the application and decide either to grant or refuse it.

567 Criteria for decision

The administering authority may grant a disclosure exemption application only if it is satisfied—

(a) the information sought to be exempted is—

(i) not required to be disclosed under another law of the State; and

(ii) not publicly available; and

(b) disclosure of the information is likely to disadvantage the applicant's interests; and

(c) the disadvantage outweighs the public interest in the information being disclosed.

568 Exemption may be limited

The administering authority may grant a disclosure exemption application—

(a) for the whole or part of the information the subject of the application; and

(b) for only a stated period.

569 Notice of refusal or decision to limit exemption

(1) This section applies if the administering authority decides to—

(a) refuse a disclosure exemption application; or

(b) allow a disclosure exemption application, but only for part of the information the subject of the application; or

(c) grants the application for only a stated period.

(2) The authority must, within 10 business days after the decision is made, give the applicant an information notice about the decision.

Division 2 Effects of disclosure exemption

Subdivision 1 Preliminary

570 Application of div 2

This division applies if a disclosure exemption application has been granted and any period for which the application was granted has not ended.

571 Meaning of *exempted material* for div 2

(1) In this division, ***exempted material*** means—

(a) information the subject of a disclosure exemption; or

(b) a part of a document submitted, or proposed to be submitted, under this Act that contains the information.

(2) However, material that is exempted material under subsection (1) ceases to be exempted material if it is publicly disclosed by anyone who obtained the disclosure exemption.

Subdivision 2 Effects

572 Effect on operation of disclosure requirements under Act

If a provision of this Act requires exempted material to be disclosed, the provision only has effect to the extent it requires the disclosure to be made—

(a) to a person with the applicant's written consent; or

(b) to the administering authority; or

(c) to the Land Court or the Court; or

(d) to a person carrying out functions for the Land Court, the Court or the authority; or

(e) to a person employed or engaged to give advice to the Land Court, Court or the authority in the carrying out of its functions; or

(f) under a direction or order made in a proceeding.

573 Effect on administering authority

The administering authority must not disclose exempted material to anyone other than the applicant for the disclosure exemption, unless the disclosure is—

(a) made under section 572; or

(b) expressly permitted or required under another Act.

574 Effect on officials

(1) An official must not disclose exempted material acquired by the official in the official's capacity as an official to anyone else, unless the disclosure is—

(a) made under section 572; or

(b) expressly permitted or required under another Act.

Maximum penalty—100 penalty units.

(2) In this section—

official means—

(a) a person who is, or has been, a public service employee; or

(b) another person performing functions under or in relation to the administration of this Act.

Part 4 Entry to land to comply with environmental requirement

575 Entry orders

(1) This section applies if an environmental requirement requires a person to conduct work in relation to land to which the requirement relates (the ***primary land***).

(2) The person may apply to a Magistrates Court for an order (an ***entry order***) to enter—

(a) the primary land; or

(b) other land (***access land***) that is necessary or desirable to cross to enter the primary land.

(3) The application must state fully the grounds on which the entry order is sought.

(4) The applicant must serve a copy of the application on—

(a) the owner of the primary land and any access land; and

(b) if the owner of the primary land or any access land is not the occupier of that land—the occupier.

(5) The court may make an entry order only if it is satisfied it is necessary and reasonable to comply with the environmental requirement.

(6) However, the court must not make an entry order that authorises entry to a structure, or a part of a structure, used for residential purposes.

(7) Unless the court otherwise orders, an entry order remains in force until the environmental requirement is complied with.

(8) An entry order must state each of the following—

(a) that the applicant may, with necessary and reasonable help—

(i) enter the primary land to conduct work to comply with a stated environmental requirement; and

(ii) cross any access land to enter the primary land under subparagraph (i);

(b) the hours of the day when an entry under paragraph (a) may be made;

(c) the nature of the work that may be conducted on the primary land;

(d) if the court has made an order under subsection (7)—when the entry order ends;

(e) if the court has not made an order under subsection (7)—that the entry order remains in force until the environmental requirement has been complied with.

(9) An entry order may be made with other conditions.

(10) Without limiting subsection (9), a condition may—

(a) require security to be given for the benefit of anyone who might suffer a cost, damage or loss because of the exercise or purported exercise of a power under an entry order; and

(b) provide for how and when the security may be released or used.

576 Procedure for entry under entry order

(1) This section applies if—

(a) a person (the ***entering person***) is intending to enter land under an entry order; and

(b) an occupier is present on the land.

(2) Before entering the land, the entering person must do or make a reasonable attempt to—

(a) identify himself or herself to the occupier; and

(b) give the occupier a copy of the entry order; and

(c) tell the occupier that the entering person is permitted by the entry order to enter the land.

577 Duty to avoid damage

In exercising a power under an entry order, a person must take all reasonable steps to ensure the person causes as little inconvenience, and does as little damage, as is practicable.

578 Notice of damage

(1) If a person who enters land under an entry order damages the land or something on the land, the person must, as soon as practicable, give written notice of the damage to—

(a) the owner of the land; and

(b) if the owner is not the occupier of the land—the occupier; and

(c) the administering authority.

(2) However, 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 position and in a reasonably secure way.

(3) The notice must state—

(a) particulars of the damage; and

(b) that the person who suffered the damage may claim compensation under section 579 from the person who obtained the entry order.

579 Compensation

(1) This section applies if a person (the ***responsible person***) who, under this Act, must comply with an environmental requirement, enters, or authorises someone else to enter, land to which the requirement relates to comply with the requirement.

(2) Compensation is payable from the responsible person to any owner or occupier of the land for any compensatable effect the owner or occupier suffers because of—

(a) the entry; or

(b) work conducted in relation to the land to comply, or purport to comply, with the environmental requirement.

(3) However, compensation is not payable under subsection (2)(b) if the work was conducted by someone other than the

responsible person and the responsible person did not authorise the other person to conduct the work.

(4) The compensation may be claimed and ordered in a proceeding brought in a court of competent jurisdiction, including, for example, in an application under any of the following provisions to which the responsible person and the owner or occupier are parties—

(a) the Mineral Resources Act, section 281 or 283B;

(b) the *Petroleum Act 1923*, section 79R;

(c) the P&G Act, section 533.[169]

(5) A court may order the payment of the compensation only if it is satisfied it is just to make the order in the circumstances of the particular case.

(6) In this section—

compensatable effect means all or any of the following in relation to the 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 owner or occupier owns;

(e) any other cost or loss arising from the work.

enter includes an entry with the consent of the owner or occupier.

owner includes—

(a) for land under the *Land Act 1994* for which there are trustees—the trustees; or

169 Mineral Resources Act, section 281 (Determination of compensation by tribunal) or 283B (Review of compensation by tribunal)

Petroleum Act 1923, section 79R (Deciding compensation through tribunal)

P&G Act, section 533 (Deciding compensation through tribunal)

(b) for land held under a lease under the *Local Government (Aboriginal Lands) Act 1978*, section 3[170]—a relevant local government; or

(c) for land under a lease from the State under the *Aborigines and Torres Strait Islanders (Land Holding) Act 1985* that has been excised from land granted in trust for Aboriginal or Torres Strait Islander purposes under the Land Act—the trustees of the land; or

(d) for a conservation park or resources reserve under the *Nature Conservation Act 1992* (the ***NCA***) for which there are trustees—

(i) if, under the NCA, the park or reserve has trustees whose powers are not restricted—the trustees; or

(ii) otherwise—the chief executive of the department in which the NCA is administered; or

(e) the State, for land that is any of the following—

(i) unallocated State land;

(ii) a reserve under the Land Act for which there is no trustee;

(iii) a national park, national park (Aboriginal land), national park (scientific), national park (Torres Strait Islander land), national park (recovery) or forest reserve under the NCA;

(iv) a State forest or timber reserve under the *Forestry Act 1959*;

(vi) a State controlled road under the *Transport Infrastructure Act 1994*.

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

Part 4A Validation

579A Validation of amendment of environmental authority MIM800098402

(1) This section applies to the amendment application made on 6 April 2005 for environmental authority (mining lease) number MIM800098402.

(2) The Minister's decision made on 8 March 2007 to grant the application is taken to have been validly made under chapter 5.

(3) The environmental authority as amended under the decision is taken to have been issued under chapter 5 on 22 March 2007.

Part 5 Regulations

580 Regulation-making power

(1) The Governor in Council may make regulations under this Act.

(2) Without limiting subsection (1), a regulation may be made about any of the following matters—

(a) the matters for which fees are payable under this Act, the amounts of the fees, the persons who are liable to pay fees, when the fees are payable, the recovery of unpaid amount of fees, and the exemption from payment of fees or the waiver of fees;

(b) the records to be kept and returns to be made by persons and the inspection of the records;

(c) the types of tests and monitoring programs to be conducted by holders of environmental authorities;

(d) the types of plant or equipment that may be used for environmentally relevant activities and the way in which the plant or equipment is to be installed, operated and maintained;

(e) help, access and facilities to be provided to authorised persons by persons for inspections, examinations, tests and measurements for this Act;

(f) the taking, preserving and transporting of samples and the making of inspections, examinations, tests, measurements and analyses for this Act, and the proof of them;

(g) setting standards, controls or procedures for the manufacture, generation, sale, use, transportation, storage, treatment or disposal of a contaminant, including waste;

(h) the removal, collection, transport, deposit, storage or disposal of waste;

(i) the qualifications or licence required by a person engaged in carrying out an environmentally relevant activity, and the approval of training courses to provide the qualifications or licence;

(j) environmental impact assessments, reports, statements or studies;

(k) requirements for EISs or the EIS process to allow—

(i) the process to be accredited under the Commonwealth Environment Act; or

(ii) the making of a bilateral agreement; or

(iii) the State to meet its obligations under a bilateral agreement;

(l) litter;

(m) the keeping of the environmental management register and contaminated land register, including, for example, the information to be included in the registers and made available to persons searching the registers;

(n) the approval or making of codes of environmental compliance;

(o) the appointment and qualifications of environmental auditors;

(p) the carrying out of environmental audits;

(q) requirements for environmental audit reports;

(r) audit statements;

(s) financial assurance;

(t) approvals under section 13(4), including, for example, the following—

(i) procedures for a person to apply for an approval;

(ii) matters that must be considered in deciding the application;

(iii) conditions that may be imposed on an approval;

(iv) the amendment, cancellation or suspension of an approval;

(u) a matter relating to an environmental value, other than a matter mentioned in this Act, that must be considered to decide an application relating to an activity that adversely affects, or may adversely affect, the environmental value;

(v) protecting an environmental value by requirements for labelling particular products.

(3) Without limiting subsection (2)(a), a regulation may prescribe fees by reference to—

(a) factors related to the quantity or quality of contamination caused or likely to be caused by the persons liable to pay the fees; or

(b) other factors.

(4) Also, without limiting subsection (2)(a), a regulation may prescribe fees payable to the administering authority in relation to its functions under the Integrated Planning Act, as assessment manager or concurrence agency, including, for example—

(a) application fees for development applications; and

(b) fees for monitoring compliance with development conditions on a development approval.

(5) A regulation may be made to give effect to, and enforce compliance with, a national environment protection measure made under the national scheme laws.

(6) A regulation may be made—

(a) creating offences against the regulation; and

(b) fixing a maximum penalty of a fine of 165 penalty units for an offence against the regulation.

581 Integrated development approval system regulations and guidelines

(1) This section applies if the administering authority delegates the authority's powers under this Act to a local government.

(2) A regulation may make provision about, or empower the administering authority to make guidelines about—

(a) the policy objectives and criteria to which the local government must have regard; and

(b) the way in which the local government must exercise a delegated power, including, for example, time limits for the making of decisions; and

(c) appeals from the local government's decisions; and

(d) the cases involving the exercise of a delegated power that must be referred to the administering authority or someone else for decision, including the criteria to be applied in deciding whether a particular case must be referred; and

(e) the conditions to which an authority issued by the delegate must be subject; and

(f) the consequences of contravention of the regulation or guidelines.

(3) This section does not limit the *Acts Interpretation Act 1954*, section 27A.[171]

171 *Acts Interpretation Act 1954*, section 27A (Delegation of functions or powers)

Chapter 13 Savings, transitional and related provisions

Part 1 Transitional provisions for Environmental Protection and Other Legislation Amendment Act 1997

582 Transfer of certain land on contaminated sites register to environmental management register

(1) This section applies to land that, immediately before the commencement of this section, was recorded in the contaminated sites register under the *Contaminated Land Act 1991* as being classified as a probable site or restricted site.

(2) The administering authority must, on or before the commencement, record particulars of the land in the environmental management register.

(3) Any conditions on the use or management of the land recorded in the contaminated sites register continue to apply to the land as if the conditions were contained in a site management plan prepared for the land under this Act.

(4) To remove any doubt, it is declared that the owner of land to which this section applies does not have a right of review under section 521, or appeal under section 531, in relation to the recording of particulars of the land in the environmental management register.

583 Transfer of certain land on contaminated sites register to contaminated land register

(1) This section applies to land that, immediately before the commencement of this section, was recorded in the contaminated sites register under the *Contaminated Land Act 1991* as being classified as a confirmed site.

(2) The administering authority must, on or before the commencement, record particulars of the land in the

contaminated land register.

(3) To remove any doubt, it is declared that the owner of land to which this section applies does not have a right of review under section 521 or appeal under section 531 in relation to the recording of particulars of the land in the contaminated land register.

Part 2 Transitional provisions for Environmental Protection and Other Legislation Amendment Act 2000

Division 1 Preliminary

584 Definitions for pt 2

In this part—

additional conditions see section 603(3).

amending Act means the *Environmental Protection and Other Legislation Amendment Act 2000*.

commencement day means the day this section commences.

condition, of a mining tenement, for division 2, see section 585.

conversion application see section 603(2).

environmental document requirement means a requirement under section 608.

existing Act means this Act as it was in force immediately before chapter 5 commenced.

existing mining activity, under a mining tenement, means an activity carried out under the tenement on, or at any time before, the commencement day.

reminder notice see section 596(2).

transitional authority, for division 4, see section 592.

transitional period means the period from the commencement day to 5 years after the commencement day.

Division 2 Existing environmental authorities and mining activities

Subdivision 1 Preliminary

585 What is a *condition* of a mining tenement for div 2

(1) For this division, a ***condition*** of a mining tenement means any of the following—

(a) a condition of the mining tenement determined, imposed or prescribed under the Mineral Resources Act;

(b) a condition of, or stated in, the mining tenement;

(c) a commitment, obligation, requirement or undertaking under, or stated in, the most recent version of a planning document for the mining tenement.

(2) For subsection (1)(c), the most recent version of a planning document is taken to be the original planning document adopted by the MRA department, as amended from time to time by any amendment or purported amendment of the document adopted by that department.

(3) For subsection (2), a document or amendment is taken to have been adopted by the MRA department if—

(a) it has been accepted or approved under the Mineral Resources Act by the MRA Minister, the mining registrar, the MRA department or an officer of that department; or

(b) the MRA department, or an officer of that department, has accepted or approved, or purported to accept or approve, the document or amendment, whether or not the acceptance or approval was required by, or could lawfully have been made under, the Mineral Resources Act.

(4) In this section—

Mineral Resources Act means that Act as in force from time to time before the commencement day.

MRA department means the department through which the Mineral Resources Act is administered.

planning document, for a mining tenement, means—

(a) if the mining tenement is a mining claim—the outline under the Mineral Resources Act, section 61(1)(j)(iv) for the mining claim; or

(b) if the mining tenement is an exploration permit—the statement under the Mineral Resources Act, section 133(1)(g)(i) specifying a description of the program of work for the permit; or

(c) if the mining tenement is a mineral development licence—the statement under the Mineral Resources Act, section 183(1)(m) containing proposals for the licence mentioned in that paragraph; or

(d) if the mining tenement is a mining lease—

(i) any environmental management overview strategy for the lease; and

(ii) either—

(A) any plan of operations for the lease under the Mineral Resources Act, part 7; or

(B) if there is no plan of operations in force for the lease immediately before the commencement day—the most recent expired plan of operations for the lease under the Mineral Resources Act, part 7.[172]

172 Mineral Resources Act, sections 61 (Application for grant of mining claim), 133 (Application for exploration permit), 183 (Application for mineral development licence) and part 7 (Mining leases)

Subdivision 2 Existing authorities for mining activities

586 Existing authority becomes an environmental authority (mining activities)

(1) This section applies if, immediately before the commencement day—

(a) an environmental authority is in force; and

(b) the authority was for, or included, a mining activity.

(2) On the commencement day, the authority, is taken to be an environmental authority (mining activities).

(3) Chapter 5[173] applies to the authority, subject to division 4.

586A Existing authority becomes an environmental authority (mining activities)

(1) This section applies if, on 1 January 2001—

(a) an environmental authority had been issued; and

(b) the authority was for, or included, a mining activity; and

(c) the authority could not take effect until a mining tenement was granted.

(2) From the day the tenement was or is granted, the authority is taken to be an environmental authority (mining activities).

(3) Chapter 5 applies to the authority, subject to division 4.

587 Conditions of environmental authority

(1) The conditions of an environmental authority that, under section 586 or 586A, is taken to be an environmental authority (mining activities) are as follows—

(a) the conditions of the authority immediately before the commencement day;

173 Chapter 5 (Environmental authorities for mining activities)

(b) each condition of a relevant mining tenement that, had an environmental authority (mining activities) been granted for the relevant mining activity on the commencement day, would reasonably be expected to be a condition of the environmental authority (mining activities);

(c) any financial assurance condition imposed on the authority under section 598;[174]

(d) another condition prescribed under a regulation.

(2) If under subsection (1)(b) a condition of a relevant mining tenement becomes a condition of the authority, it ceases to have effect as a condition of the tenement.

(3) Subsection (2) applies despite the Mineral Resources Act.

Subdivision 3 Existing mining activities without environmental authority

588 New environmental authority (mining activities) for existing activities

(1) This section applies if, immediately before the commencement day—

(a) a person holds a mining tenement; and

(b) there is no environmental authority in force for any mining activity authorised under the mining tenement.

(2) On the commencement day, the person, is taken to hold a single environmental authority (mining activities) for all existing mining activities under the mining tenement that, immediately before the commencement day, were level 2 environmentally relevant activities.

(3) However, if the mining tenement was part of a mining project, the person is taken to hold a single environmental authority (mining activities) for all existing mining activities under the

174 Section 598 (Financial assurance for transitional authority)

mining tenements that form the project.

(4) Chapter 5 applies to the authority, subject to division 4.

589 Conditions of environmental authority

(1) The conditions of an environmental authority (mining activities) under section 588 are—

(a) each condition of a relevant mining tenement that would reasonably be expected to be a condition of the authority; and

(b) any financial assurance condition imposed on the authority under section 598; and

(c) another condition prescribed under a regulation.

(2) If, under subsection (1)(a), a condition of a relevant mining tenement becomes a condition of the authority, it ceases to have effect as a condition of the tenement.

(3) Subsection (2) applies despite the Mineral Resources Act.

Division 3 Unfinished applications

590 Procedure if certificate of application issued and conditions decided

(1) The existing Act applies to an environmental authority application if, before the commencement day—

(a) a person applied for a mining tenement and an environmental authority in relation to the tenement; and

(b) a certificate of application for the mining tenement application was endorsed by the mining registrar; and

(c) the administering authority has decided conditions for the environmental authority; and

(d) the mining tenement has not been granted and the environmental authority has not been issued.

(2) An environmental authority issued by applying the existing Act becomes an environmental authority (mining activities) immediately after it is issued.

(3) However, despite any provision of the existing Act, the conditions of the environmental authority must only be—

(a) the decided conditions; and

(b) any condition that—

(i) under the Mineral Resources Act, would have been imposed on a relevant mining tenement had the amending Act not been enacted; and

(ii) had an environmental authority (mining activities) been granted for each relevant mining activity on the commencement day, would reasonably be expected to be a condition of the environmental authority (mining activities); and

(c) any financial assurance condition imposed on the authority under section 598.

(4) Chapter 5 applies to the authority, subject to division 4.

(5) In this section—

certificate of application means a certificate of application under the Mineral Resources Act, section 64 or 252, as in force immediately before the commencement day.[175]

591 Procedure for other unfinished applications

(1) This section applies if—

(a) before the commencement day, a person applied for a mining tenement; and

(b) the mining tenement has not been granted; and

(c) an environmental authority application in relation to the mining tenement is not an application to which, under section 590(1), the existing Act applies.

(2) The environmental authority application is taken to have been made on the commencement day.

175 Section 598 (Financial assurance for transitional authority)
Chapter 5 (Environmental authorities for mining activities)
Mineral Resources Act, sections 64 and 252 (Certificate of application etc.)

(3) Chapter 5 applies to the application.

(4) However, the following do not apply—

(a) a time requirement under that chapter for the administering authority to—

(i) make an assessment level decision; or

(ii) take a step for deciding the application; or

(iii) decide the application or make a decision about the application;

(b) sections 169 and 182.

Division 4 Transitional authorities for mining activities

Subdivision 1 Preliminary

592 Meaning of *transitional authority* for div 4

(1) For this division, a ***transitional authority*** means—

(a) an existing environmental authority that, under section 586 or 586A is taken to be an environmental authority (mining activities); or

(b) a new environmental authority (mining activities) that, under section 588, is taken to be held by a person; or

(c) an environmental authority (mining activities) if, under section 590(1), the existing Act applied to the application for the authority.

(2) However, a transitional authority under subsection (1) ceases to be a transitional authority if it is—

(a) amended under subdivision 3; or

(b) transferred.[176]

176 See also subdivision 3 (Amendment and consolidation of transitional authorities).

(3) Subsection (2) does not affect the authority continuing to be an environmental authority (mining activities) after it ceases to be a transitional authority.

Subdivision 2 Special provisions for transitional authorities

593 Transitional authority taken to be non-code compliant

A transitional authority is taken to be a non-code compliant authority under chapter 5, issued for mining activities that are level 1 environmentally relevant activities.

594 Limited application of s 426 for transitional authority

(1) Section 426 does not apply to a person carrying out an existing mining activity under a mining tenement that is not authorised under a transitional authority if the holder of a transitional authority has—

(a) made a relevant amendment application and the application has not been decided; or

(b) given the administering authority notice of the activity (***activity notice***) and no more than 30 days have passed since the notice was given.

(2) However, an activity notice can not be given if an activity notice has already been given for the activity or another activity that is substantially the same as the activity.

(3) An activity notice must state—

(a) the mining tenement under which the existing activity is being carried out; and

(b) the nature of the activity; and

(c) that the activity is not authorised under the conditions of the transitional authority.

(4) To remove any doubt, it is declared that this section does not limit the application of sections 430 and 431 to the transitional authority.

(5) In this section—

relevant amendment application means an application to amend the transitional authority that, if granted, would allow the carrying out of the activity under the authority.[177]

595 Requirement to apply to amend, surrender or transfer transitional authority

(1) The holder of a transitional authority must, within the required period, make in relation to the authority—

(a) a conversion application; or

(b) an amendment, surrender or transfer application under chapter 5.

(2) Also, if the holder does not also hold a relevant mining tenement, the holder must, on the happening of the earlier of the following, make a surrender application or an application under section 607 for the authority—

(a) the replacement or amendment, under section 235, of any plan of operations for the authority;

(b) 90 days before the transitional period ends.[178]

(3) In this section—

required period means—

(a) if the person is, under section 588, taken to hold the authority—6 months after the commencement day; or

(b) otherwise—the transitional period.

596 Notice by administering authority to amend, surrender or transfer transitional authority

(1) This section applies if the holder of a transitional authority does not make an application required under section 595.

177 Sections 590 (Procedure if certificate of application issued and conditions decided), 430 (Contravention of condition of environmental authority) and 431 (Environmental authority holder responsible for ensuring conditions complied with)

178 Sections 607 (Consolidation of conditions for same mining project) and 235 (Amending or replacing plan)

(2) The administering authority may, by written notice (a ***reminder notice***), require the holder to make the application within a fixed period of at least 10 business days.

(3) The reminder notice must state the following—

(a) the application the holder is required to make under section 595;

(b) the period fixed for making the application;

(c) reasons for the decisions to make the requirement and to fix the period;

(d) the review or appeal details for the decisions.

597 Consequences of failure to comply with reminder notice

(1) A person to whom a reminder notice has been given must comply with the notice unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

(2) The failure to comply with the reminder notice is, for applying chapter 5, part 12 to the transitional authority, taken to be an event mentioned in section 293(2).[179]

598 Financial assurance for transitional authority

(1) This section applies if, under the Mineral Resources Act, security has been deposited or required in relation to a relevant mining tenement for a transitional authority.

(2) A condition is taken to have been imposed, under section 364, on the authority that the authority holder must give the administering authority financial assurance for each relevant mining tenement.

(3) If the security has been deposited under the Mineral Resources Act for a relevant mining tenement, the requirement under the condition to give the financial

179 Chapter 5, part 12 (Amendment, cancellation or suspension by administering authority) and section 293 (Conditions for cancellation or suspension)

assurance is taken to have been complied with for the tenement.

(4) The financial assurance required under the condition is taken to be security for the matters mentioned in section 364(1)(a) and (b) in relation to the transitional authority.

(5) Subsection (4) applies despite the Mineral Resources Act or the terms of an instrument granting the security or other document, including, for example, a term that the security or its benefit is not transferable.

(6) For section 364(1), the form of the financial assurance for each relevant mining tenement is taken to have been required in the same form as each security given or required for the tenement.

(7) However, the financial assurance is taken to have been given for valuable consideration and any instrument granting it is taken to have been executed as a deed under seal by each party to the instrument.

(8) The amount of financial assurance for each relevant mining tenement is taken to have been decided under section 364(3) as the lesser of the following—

(a) the amount of security given or required for each relevant mining tenement;

(b) any amount the administering authority decides would have been the amount under section 364(3) for the financial assurance had the amount been decided on the commencement day.

(9) Section 365 and chapter 11, part 3 do not apply to financial assurance under this section or to a decision under subsection (8)(b).[180]

180 Sections 364 (When financial assurance may be required) and 365 (Person may show cause why financial assurance should not be required for environmental management program or site management plan) and chapter 11, part 3 (Review of decisions and appeals)

599 Effect of financial assurance on security

(1) The financial assurance condition under section 598 only affects a security to the extent provided under that section.

(2) Without limiting subsection (1), section 598 does not affect or change—

(a) the security as a security under the Mineral Resources Act; or

(b) the matters for which the security was given under that Act; or

(c) the enforcement of the security under that Act, as amended by the amending Act.

(3) Section 598, or any thing done under it, does not—

(a) discharge a security; or

(b) discharge or release a surety or other obligee, wholly or partly, from an obligation; or

(c) fulfil a condition allowing a person to terminate an instrument or be released, wholly or partly, from an obligation or modify the operation or effect of an instrument or obligation.

(4) If the advice or consent of, or giving notice to, a person would be necessary to give effect to the giving of the financial assurance—

(a) the advice is taken to have been obtained; and

(b) the consent or notice is taken to have been given.

600 Plan of operations

(1) This section applies if a transitional authority is an environmental authority (mining lease).

(2) If a plan of operations for a relevant mining lease is in force under the Mineral Resources Act immediately before the commencement day, the plan—

(a) is taken to be the plan of operations for the transitional authority submitted under section 233; but

(b) continues in force only until the earlier of the following—

(i) the end of the period that the plan would, other than for the amending Act, have been in force under the Mineral Resources Act;

(ii) the plan is replaced under section 235.[181]

(3) If there is no plan of operations in force for a relevant mining lease immediately before the commencement day, the most recent expired plan of operations under the Mineral Resources Act for the lease—

(a) is taken to be the plan of operations for the transitional authority submitted under section 233; but

(b) continues in force only until 6 months after the commencement day.

(4) Section 540(1)(e)(iv) does not apply to a plan of operations that, under this section, is taken to be the plan of operations for an authority.

601 Annual fee and return for first year of transitional period

(1) This section applies to the holder of a transitional authority, instead of section 316,[182] for the first year of the transitional period.

(2) The holder must, unless the holder has a reasonable excuse, do the following on or before the end of the first year—

(a) pay the administering authority the appropriate annual fee, other than in a circumstance prescribed under a regulation for this paragraph; and

(b) give the authority an annual return in the approved form.

Maximum penalty—100 penalty units.

(3) The administering authority may recover, as a debt, a fee required to be paid under this section that has not been paid.

181 Sections 233 (Plan of operations required before acting under relevant mining lease) and 235 (Amending or replacing plan)

182 Section 316 (Annual fee and return)

(4) This section does not affect the application of section 316 for the holder or the transitional authority for any period other than the first year of the authority.

602 Anniversary day for certain transitional authorities

(1) The anniversary day for a transitional authority is the commencement day if—

(a) under section 588,[183] a person is taken to hold the authority; or

(b) the authority was a level 2 approval under the existing Act.[184]

(2) If a transitional authority ceases to be a transitional authority, but becomes another type of environmental authority (mining activities), the anniversary day for the environmental authority (mining activities) is taken to be the day the authority ceased to be a transitional authority.

Subdivision 3 Amendment and consolidation of transitional authorities

603 Application to convert transitional authority to environmental authority for a level 2 mining project

(1) This section applies despite chapter 5, part 8.

(2) A transitional authority holder who holds each relevant mining tenement may apply (a ***conversion application***) to the administering authority to convert the transitional authority to either of the following under chapter 5—

(a) a code compliant authority;

(b) a non-code compliant authority for a level 2 mining project.

(3) If the application is for a non-code compliant authority for a level 2 mining project, it may also request that conditions

183 Section 588 (New environmental authority (mining activities) for existing activities)

184 For other transitional authorities, see schedule 3, definition *anniversary day.*

(***additional conditions***) other than the relevant standard environmental conditions be imposed on the authority.

603A Requirements for conversion application

A conversion application must—

(a) be in the approved form; and

(b) state the type of environmental authority (mining activities) under section 603(2) to which the transitional authority is proposed to be converted; and

(c) if the application is for a code compliant authority—certify that all mining activities proposed to be carried out under it comply with the criteria prescribed under section 151(2)(a)[185] for the stated type of environmental authority to be a code compliant authority under chapter 5; and

(d) if the application is for a non-code compliant authority for a level 2 mining project—certify that the applicant can, in carrying out the relevant mining activities for the converted authority, comply with—

(i) the relevant standard environmental conditions for the stated type of environmental authority; or

(ii) the relevant standard environmental conditions and any additional conditions requested; and

(e) be accompanied by the fee prescribed under a regulation.

603B Automatic conversion for particular applications

(1) This section applies on the making of a conversion application if it complies with section 603A.

(2) If the application is for a code compliant authority, the relevant transitional authority becomes a code compliant authority under chapter 5.

(3) If the application is for a non-code compliant authority for a

185 Section 151 (What is a *level 1 mining project* and a *level 2 mining project*)

level 2 mining project and no additional conditions are requested in the application, the relevant transitional authority becomes a non-code compliant authority for a level 2 mining project.

603C Deciding application if additional conditions requested

(1) This section applies if the conversion application is for a non-code compliant authority for a level 2 mining project and additional conditions are requested in the application.

(2) The administering authority must, within 10 business days after it receives the application, decide whether—

(a) to grant the application; and

(b) if it decides to grant—to impose the additional conditions.

(3) However, an additional condition may be imposed only if the administering authority considers—

(a) the condition is necessary or desirable; and

(b) that, if the condition is imposed, the proposed non-code compliant authority would still be for a level 2 mining project.

(4) In making the decisions, the administering authority must consider the criteria mentioned in section 173(2).

(5) On, the granting of the application, the relevant transitional authority is taken to be a non-code compliant authority for a level 2 mining project.

(6) If additional conditions are imposed on the non-code compliant authority, the administering authority must, within 10 business days after the granting of the application—

(a) amend the non-code compliant authority to include the conditions; and

(b) record particulars of the amendment in the appropriate register; and

(c) give the applicant a copy of the amended non-code compliant authority.

604 Other amendment applications

(1) This section applies if an application, other than a conversion application, is made to amend a transitional authority.

(2) Chapter 5, part 8, applies to the application.

(3) However, chapter 5, part 6, division 6,[186] does not apply to the application if—

(a) the activities authorised under each relevant mining tenement have not changed since the commencement day; and

(b) no application has been made to change the activities authorised under any relevant mining tenement.

605 Additional grounds for amendment by administering authority

For applying section 292 for a transitional authority, the following grounds apply, as well as the grounds under section 292(2)—

(a) the ending of the transitional period;

(b) the administering authority can not, by applying section 587 or 589, work out the conditions of the transitional authority;

(c) a condition of the transitional authority under section 587 or 589 creates a right or imposes an obligation that the administering authority considers is uncertain or not reasonably enforceable;

(d) if the transitional authority is an environmental authority (mining lease)—the authority holder submits or amends a plan of operations for the authority;

(e) the amendment is necessary to prevent environmental harm not already authorised under the environmental authority.[187]

186 Chapter 5, part 6, division 6 (Public notice and objections stage) See also section 251 (Relevant application process applies).

187 Sections 292 (Other amendments), 587 and 589 (Conditions of environmental authority)

606 Ministerial power to amend

(1) This section applies to an environmental authority (mining activities) that is, or has been, a transitional authority.

(2) During the transitional period the Minister may amend the authority if the Minister—

(a) gives the environmental authority holder a written notice (an ***amendment notice***) stating—

(i) the proposed amendment; and

(ii) the Minister's reasons for the amendment; and

(iii) that the holder may, within a stated period of at least 10 business days, make written representations to show why the amendment should not be made; and

(b) considers any written representations made by the holder within the stated period.

(3) The administering authority must, within 10 business days after the Minister decides to amend the environmental authority—

(a) make the amendment; and

(b) give the holder a copy of the amended environmental authority; and

(c) record particulars of the amendment in the appropriate register.

(4) If the Minister gave an amendment notice, but decided not to make the proposed amendment, the administering authority must, within 10 business days after the decision is made, give the holder a written notice of the decision.

607 Consolidation of conditions for same mining project

(1) This section applies—

(a) if more than 1 person holds a transitional authority for the same mining project; and

(b) despite chapter 5.

(2) A person who holds a transitional authority for the project,

may apply to the administering authority to—

(a) amend any environmental authority (mining activities) held by a stated holder of a relevant mining tenement to include the conditions of the applicant's transitional authority; and

(b) surrender the applicant's transitional authority.

(3) The application must—

(a) be in the approved form; and

(b) if the stated mining tenement holder is not the applicant—be accompanied by the tenement holder's written consent.

(4) The administering authority must, within 10 business days after it receives the application, decide either to grant or refuse it.

(5) If the authority decides to grant the application, it must within 10 business days after the decision is made—

(a) amend the stated mining tenement holder's environmental authority (mining activities) to give effect to the amendment; and

(b) record the surrender in the appropriate register; and

(c) give the mining tenement holder a copy of the amended authority.

(6) The amendment takes effect on the day of the amendment or a later day stated in the amended authority.

(7) If the authority decides to refuse the application, it must within 10 business days after the decision is made, give each applicant an information notice about the decision.

(8) This section does not limit the authority's power to amend an environmental authority (mining activities) under chapter 5, part 12 or section 605.[188]

188 Chapter 5, part 12 (Amendment, cancellation or suspension by administering authority) or section 605 (Additional grounds for amendment by administering authority)

Subdivision 4 Environmental management plan requirements

608 Environmental management plan may be required

(1) This section applies if a transitional authority is—

(a) an environmental authority (exploration); or

(b) an environmental authority (mineral development); or

(c) an environmental authority (mining lease).

(2) During the transitional period, the administering authority may require the holder of the transitional authority to submit an environmental management plan to it.

(3) However, the requirement may be given to the holder only by a written notice—

(a) stating the following—

(i) the holder's name;

(ii) the transitional authority;

(iii) the requirement;

(iv) a reasonable period of at least 28 days for the requirement to be complied with; and

(b) that is accompanied by, or includes, an information notice about the decision to make the requirement.

(4) An environmental management plan submitted under this section is taken to be the submitted EM plan for the transitional authority.

609 Consequence of failure to comply with requirement

(1) If a person fails to comply with an environmental document requirement for a transitional authority, section 293 applies for the transitional authority as if—

(a) the failure was an event mentioned in section 293(2); and

(b) the reference to cancellation or suspension in section 293(1) is a reference only to suspension.

(2) Subsection (1) does not prevent the administering authority deciding to amend the transitional authority under chapter 5, part 12.[189]

Division 5 Transitional provisions other than for mining activities

610 Application of div 5

This division applies for an environmental authority, or an application for an environmental authority, under the existing Act, other than for a mining activity.

611 Unfinished applications under existing Act

(1) An application for a licence under chapter 3, part 4, of the existing Act that, immediately before the commencement day, has not been decided is taken on the commencement day to be an application for a licence (without development approval) under chapter 4, part 3, division 2, subdivision 1.

(2) An application for a level 1 approval under chapter 3, part 4, of the existing Act that, immediately before the commencement day, has not been decided is taken on the commencement day to be a conversion application under chapter 4, part 4.

(3) An application for a licence under chapter 3, part 4A, of the existing Act that, immediately before the commencement day, has not been decided is taken on the commencement day to be an application for a licence (with development approval) under chapter 4, part 3, division 1.

(4) An application for a level 1 approval under chapter 3, part 4A, of the existing Act that, immediately before the commencement day, has not been decided is taken on the commencement day to be a conversion application under chapter 4, part 4.

189 Section 293 (Conditions for cancellation or suspension)

Chapter 5, part 12 (Amendment, cancellation or suspension by administering authority)

(5) An application for a development approval under chapter 3, part 4B, of the existing Act that, immediately before the commencement day, has not been decided is taken on the commencement day to be an application to which chapter 4, part 2 applies.

(6) An application under chapter 3 of the existing Act to amend an environmental authority that, immediately before the commencement day, has not been decided is taken on the commencement day to be an amendment application under chapter 4, part 5.

(7) An application under chapter 3 of the existing Act to transfer an environmental authority that, immediately before the commencement day, has not been decided is taken on the commencement day to be a transfer application under chapter 4, part 6.[190]

612 Environmental authorities under existing Act

(1) A provisional licence in force under section 47[191] of the existing Act is taken on the commencement day to be a provisional licence issued on the same day as the day the provisional licence under section 47 was issued.

(2) A licence in force under the existing Act is taken on the commencement day to be a licence under this Act as amended by the amending Act.

(3) A level 1 approval in force under the existing Act is taken on the commencement day to be a level 1 approval under this Act as amended by the amending Act.

(4) A level 2 approval in force under the existing Act is taken on

190 Existing Act, chapter 3, parts 4 (Environmental authorities for environmentally relevant activities without development approvals), 4A (Environmental authorities for level 1 environmentally relevant activities with development approvals) and 4B (Development approvals for certain environmentally relevant activities)

Chapter 4, part 3, division 1 (Obtaining licence (with development approval)) and division 2, subdivision 1 (General provisions for obtaining licence)

Chapter 4, parts 2 (Development approvals), 4 (Conversion of licence to level 1 approval), 5 (Amending environmental authorities by application) and 6 (Dealings with environmental authorities)

191 Existing Act, section 47 (Provisional licence)

the commencement day to be a level 2 approval under this Act as amended by the amending Act.

(5) This section does not limit the *Environmental Protection Regulation 1998*, section 73.

Division 6 Miscellaneous provisions

613 Requirement to seek advice from MRA chief executive

The requirement under section 302[192] applies for a decision by the Minister or the administering authority to amend an environmental authority (mining activities) under this part, unless the authority holder has agreed in writing to the amendment.

614 Existing Act continues to apply for special agreement Acts

(1) The existing Act continues to apply for an activity, circumstance, or matter provided for under, or to which, a special agreement Act applies as if the amending Act, other than for the insertion of section 584[193] and this section, had not been enacted.

(2) In this section—

special agreement Act means any of the following Acts and any agreement or lease under or mentioned in the Acts—

(a) *Alcan Queensland Pty. Limited Agreement Act 1965*;

(c) *Central Queensland Coal Associates Agreement Act 1968*;

(d) *Central Queensland Coal Associates Agreement and Queensland Coal Trust Act 1984*;

(e) *Central Queensland Coal Associates Agreement (Amendment) Act 1986*;

192 Section 302 (Requirement to seek advice from MRA chief executive)

193 Section 584 (Definitions for pt 2)

(f) *Central Queensland Coal Associates Agreement Amendment Act 1989*;

(g) *Commonwealth Aluminium Corporation Pty. Limited Agreement Act 1957*;

(h) *Greenvale Agreement Act Amendment Act 1974*;

(i) *Greenvale Agreement Act Amendment Act 1975*;

(j) *Mount Isa Mines Limited Agreement Act 1985*;

(k) *Queensland Cement & Lime Company Limited Agreement Act 1977*;

(l) *Queensland Nickel Agreement Act 1970*;

(m) *Queensland Nickel Agreement Act 1988*;

(n) *Thiess Peabody Coal Pty. Ltd. Agreement Act 1962*;

(o) *Thiess Peabody Mitsui Coal Pty. Ltd. Agreements Act 1965*.

616 Reference to renumbered provision

(1) In the next reprint of any other Act or of any subordinate legislation, a reference to a provision of this Act must, if the context permits, be changed to agree with the numbering and renumbering.

(2) In an approved form or other document, a reference to a provision of the Act is, if the context permits, taken to be changed to agree with the numbering and renumbering.

Part 3 Validation provision for Environmental Protection and Another Act Amendment Act 2002

617 Validation of particular environmental authorities

(1) This section applies to an environmental authority issued or

purporting to have been issued—

(a) on or after 1 July 1998 and before the commencement of this section; and

(b) for—

(i) a mining activity as defined in this Act when the authority was issued or purported to have been issued; or

(ii) a petroleum activity.

(2) The environmental authority is taken to be, and to always have been, valid.

Part 4 Transitional provision for Environmental Protection and Other Legislation Amendment Act 2002

618 Section 318A does not apply for transitional authority

(1) The anniversary day for an environmental authority (mining activities) that, under section 592, is a transitional authority can not be changed under section 318A.

(2) Subsection (1) ceases to apply if the authority ceases to be a transitional authority under section 592(2).

Part 5 Transitional provisions for Environmental Protection Legislation Amendment Act 2003

619 Continuing effect of particular environmental authorities

(1) Subsection (2) applies for an environmental authority for a chapter 4 activity (other than an approval mentioned in section 624(1)(b)), if—

(a) the authority is in force immediately before the commencement of this section; and

(b) there is no development approval for the activity.

(2) From the commencement—

(a) the authority has effect as if it were a registration certificate for the activity; and

(b) the authority has effect as if the holder of the authority were the registered operator for the activity; and

(c) the authority has effect as if it were—

(i) if the activity would, after the commencement, be a mobile and temporary activity—a development approval for a material change of use under the Integrated Planning Act, schedule 8, part 1, table 5, item 3; or

(ii) in any other case—a development approval for a material change of use under the Integrated Planning Act, schedule 8, part 1, table 2, item 1; and

(d) any condition of the authority, has effect as if it were a development condition of the development approval; and

(e) if the authority is a provisional licence, or is for a level 2, chapter 4 activity and was granted for a stated period—the authority (including as it has effect as a registration certificate and as a development approval) has effect only until the end of the period for which the

authority would have had effect if the *Environmental Protection Legislation Amendment Act 2003* had not been enacted.

(3) Subsection (4) applies for an environmental authority for a chapter 4 activity (other than an approval mentioned in section 624(1)(b)), if—

(a) the authority is in force immediately before the commencement of this section; and

(b) there is a development approval for the activity.

(4) From the commencement—

(a) the development approval continues to have effect; and

(b) the authority has effect as if it were a registration certificate for the activity; and

(c) the authority has effect as if the holder of the authority were the registered operator for the activity; and

(d) any condition of the authority, has effect as if it were a development condition of the development approval.

620 Additional ground for changing or cancelling development conditions

(1) This section applies to a condition of an environmental authority given continuing effect under section 619(2)(d) or (4)(d).

(2) The administering authority for the environmental authority may change or cancel the condition if—

(a) the change or cancellation is necessary because the condition is no longer appropriate as a development condition of a development approval for the activity; or

(b) the condition needs to be changed or cancelled so that the administering authority, in applying section 619, can accurately and reliably identify the conditions of the development approval; or

(c) the conditions are otherwise unclear, uncertain or contradictory.

(3) However, the administering must not act under subsection (2)

if the change to or cancellation of the condition adversely affects the interests of the registered operator for the activity.

(4) If the condition is changed it must in substance reflect the intent of the condition as included in the environmental authority as it existed before section 619 commenced.

(5) If the administering authority changes or cancels a condition, it must within 10 business days—

(a) record the particulars of the change or cancellation in the appropriate register; and

(b) give the registered operator—

(i) a copy of the development conditions as applying after the change or cancellation; and

(ii) a registration certificate.

621 Administering authority may issue replacement documents

(1) The administering authority may, for an activity being carried out under an environmental authority mentioned in section 619(1), give to the person carrying out the activity—

(a) if the activity was carried out at 1 location—a development approval for the location; or

(b) if the activity was carried out at more than 1 location and is not a mobile and temporary environmentally relevant activity—a development approval for each location; or

(c) if the activity is a mobile and temporary environmentally relevant activity—a development approval for a mobile and temporary environmentally relevant activity.

(2) If the person carrying out the activity does not have a registration certificate for the activity, the administering authority may also give the person a registration certificate for the activity.

(3) The development approval must contain the same details about the activity and conditions for carrying out the activity as were contained in the authority.

(4) If the administering authority acts under subsection (1) or subsections (1) and (2), the administering authority must give the person carrying out the activity an information notice about the administering authority's decision to give the approval or approval and certificate.

(5) The approval or approval and certificate have effect and the environmental authority is cancelled—

(a) if there is no appeal against the administering authority's decision under subsection (4)—from the day after the appeal period expires; or

(b) if there is an appeal against the administering authority's decision under subsection (4)—from the day after the appeal is finally decided or is otherwise ended.

623 Effect of commencement on level 1 approvals for particular environmentally relevant activities

(1) Subsection (2) applies to a level 1 approval, for a level 1 chapter 4 activity that, under section 619 is taken to be a registration certificate.

(2) Section 316 does not apply to the registration certificate unless the administering authority gives the registered operator a notice stating the administering authority is satisfied the risk of environmental harm from carrying out the activity is no longer insignificant.

(3) In this section—

level 1 approval means a level 1 approval immediately before the commencement of the *Environmental Protection Legislation Amendment Act 2003*.

624 Effect of commencement on particular approvals

(1) This section applies for a person who immediately before the commencement of this section was the operator of, and was carrying out, a level 2 chapter 4 activity under—

(a) a development approval in force immediately before the commencement; or

(b) an approval that—

(i) is mentioned in—

(A) the repealed *Environmental Protection (Interim) Regulation 1995*, (the ***repealed regulation***) as in force on 1 March 1995, section 63 or 65; or

(B) the repealed regulation, as in force on 28 June 1996, section 65; and

(ii) was in force immediately before the commencement.[194]

(1A) However, this section does not apply if the activity is authorised under an environmental authority to which section 619 applies.

(2) From the commencement, the person is, for 1 year after the commencement, taken to be the registered operator for the activity, and—

(a) for an approval mentioned in subsection (1)(a)—the approval, and any conditions of the approval, continue to have effect; or

(b) for an approval mentioned in subsection (1)(b)—the approval ceases to have effect on the first of the following to happen—

(i) the person carrying out the activity changes;

(ii) there is a material change of use of premises for the activity, as defined under the Integrated Planning Act, section 1.3.5, definition *material change of use*, paragraph (a) or (b);

(iii) a development approval for the activity takes effect.

(3) The person must, within 1 year of the commencement, give the administering authority the same details the person would have to give the administering authority if the person were applying for a registration certificate.

194 Repealed *Environmental Protection (Interim) Regulation 1995* as in force on 1 March 1995, section 63 (Transitional provision about works for level 2 activities) or 65 or as in force on 28 June 1996, section 65 (Transitional provisions about sch 1, item 3)

(4) If the person complies with subsection (3), the administering authority must give the person a registration certificate.

(5) To remove any doubt, it is declared that the registration certificate does not limit or otherwise affect subsection (2)(a) or (b).

625 Effect of commencement on applications for development approvals for level 2 environmentally relevant activities

(1) Subsection (2) applies for an application for a development approval for a level 2 chapter 4 activity that had not lapsed immediately before the commencement of this section.

(2) Before carrying out the activity under the development approval, the person who proposes to carry out the activity must obtain a registration certificate.

626 Effect of commencement on particular applications in progress

(1) This section applies to—

(a) an application for an environmental authority for a chapter 4 activity not decided before the commencement of this section, including an application mentioned in section 611; or

(b) an application to amend, surrender or transfer an environmental authority for a chapter 4 activity not decided before the commencement of this section.

(2) From the commencement—

(a) processing of the application and all matters incidental to the processing must proceed as if the *Environmental Protection Legislation Amendment Act 2003* had not been enacted; and

(b) any environmental authority granted, amended or transferred is taken to be an environmental authority to which section 619 applies.

(3) However, subsection (4) applies for an application mentioned in subsection (1) if—

(a) the administering authority, by written notice, asks the applicant to give the administering authority a stated document or information relevant to the application; and

(b) the applicant does not give the document or information to the administering authority within the time stated in the request or such other time the administering authority agrees to in writing.

(4) The application lapses at the end of the time stated in the request or agreed to.

627 Effect of commencement on development approval applications in progress

(1) Subsection (2) applies if an application for a development approval, or for an amendment of a development condition of a development approval, for a chapter 4 activity, has not been decided and has not lapsed, immediately before the commencement of this section.

(2) From the commencement, processing of the application and all matters incidental to the processing must proceed as if the *Environmental Protection Legislation Amendment Act 2003* had not been enacted.

628 Effect of commencement on particular actions in progress

(1) This section applies for an environmental authority mentioned in section 619.

(2) Subsection (3) applies if, immediately before the commencement of this section, all action, that could have been taken under this Act in relation to a notice given under section 133 or 135 about the amendment, suspension or cancellation of the environmental authority, had not been taken.

(3) From the commencement, any action that had not been taken before the commencement may be taken under this Act, as amended by the *Environmental Protection Legislation Amendment Act 2003*, with necessary changes.

(4) Subsection (5) applies if, immediately before the

commencement of this section the environmental authority, remained suspended.

(5) From the commencement, the environmental authority, taken under section 619 to be a registration certificate, remains suspended for the period the environmental authority would have been suspended but for the commencement of the *Environmental Protection Legislation Amendment Act 2003*.

630 Continuing operation of s 611 (Unfinished applications under existing Act)

References to provisions of this Act in section 611 continue to operate as if the *Environmental Protection Legislation Amendment Act 2003* had not been enacted.

Part 6 Transitional provisions for Petroleum and Other Legislation Amendment Act 2004

631 Financial assurance if security for related petroleum authority is monetary

(1) This section applies to an environmental authority if—

(a) under the *Petroleum Act 1923* or the *Petroleum and Gas (Production and Safety) Act 2004*, the environmental authority is the relevant environmental authority for a petroleum authority; and

(b) the *Petroleum Act 1923*, section 159 or the *Petroleum and Gas (Production and Safety) Act 2004*, section 920 applies to security held for the petroleum authority.[195]

(2) A condition is taken to have, under section 364, been imposed on the environmental authority that its holder must give the

195 *Petroleum Act 1923*, section 159 (Monetary securities)
P&G Act, section 920 (Monetary securities)

administering authority financial assurance for the environmental authority in the amount required to be transferred under either section mentioned in subsection (1)(b).

(3) The amount is taken to also be the financial assurance.

(4) The financial assurance is taken to be for the matters mentioned in section 364(1) in relation to the environmental authority.

(5) On the making of the transfer, the requirement under the condition to give the financial assurance is taken to have been complied with.

632 Financial assurance if security for related petroleum authority is non-monetary

(1) This section applies to an environmental authority if—

(a) under the *Petroleum Act 1923* or the *Petroleum and Gas (Production and Safety) Act 2004*, the environmental authority is the relevant environmental authority for a petroleum authority; and

(b) the *Petroleum Act 1923,* section 160 or the *Petroleum and Gas (Production and Safety) Act 2004*, section 921 applies to security held for the petroleum authority.[196]

(2) A condition is taken to have, under section 364, been imposed on the environmental authority that its holder must give the administering authority financial assurance for the environmental authority.

(3) The security mentioned in either section mentioned in subsection (1)(b) is taken to also be the financial assurance.

(4) The financial assurance is taken to be for the matters mentioned in section 364(1) in relation to the environmental authority.

(5) Subsection (3) and (4) applies despite the terms of an instrument granting the security or any other document,

196 *Petroleum Act 1923*, section 160 (Non-monetary securities)
P&G Act, section 921 (Non-monetary securities)

including, for example, a term that the security or its benefit is not transferable.

(6) The condition ends at the earlier of the following to happen—

(a) the amendment, under section 634, of the condition;

(b) the end of 12 months after the 2004 Act start day under the *Petroleum and Gas (Production and Safety) Act 2004*.

633 Effect of financial assurance on the security

(1) A condition about financial assurance imposed under this part only affects a security to the extent provided under this part.

(2) Without limiting subsection (1), section 632 does not affect or change—

(a) the security mentioned in section 632(1) as a security under the *Petroleum Act 1923* or the *Petroleum and Gas (Production and Safety) Act 2004*; or

(b) the matters for which the security was given under that Act; or

(c) the enforcement of the security under that Act.

(3) Section 632, or any thing done under it, does not—

(a) discharge a security; or

(b) discharge or release a surety or other obligee, wholly or partly, from an obligation; or

(c) fulfil a condition allowing a person to terminate an instrument or be released, wholly or partly, from an obligation or modify the operation or effect of an instrument or obligation.

(4) If the advice or consent of, or giving notice to, a person would be necessary to give effect to the giving of the financial assurance—

(a) the advice is taken to have been obtained; and

(b) the consent or notice is taken to have been given.

634 Amendment of financial assurance condition under this part

(1) The administering authority may amend a condition about financial assurance imposed under this part to require the giving of replacement financial assurance, in a form and amount decided by the authority.

(2) Section 364 applies for the amendment as if a reference in the section to the imposition of a condition requiring financial assurance were a reference to the amendment.

(3) Chapter 7, part 6, applies for the financial assurance.[197]

Part 7 Transitional provisions for Environmental Protection and Other Legislation Amendment Act 2004

Division 1 Preliminary

635 Definitions for pt 7

In this part—

commencement means the commencement of the *Environmental Protection and Other Legislation Amendment Act 2004*, section 32.[198]

existing Act means this Act as in force immediately before the commencement.

new chapter 4A means chapter 4A immediately after the commencement.

old chapter 4A means chapter 4A under the existing Act.

197 Chapter 7, part 6 (Financial assurances)

198 *Environmental Protection and Other Legislation Amendment Act 2004*, section 32 (Replacement of ch 4A (Environmental authorities for petroleum activities))

Division 2 Provisions for former integrated authorities

636 Application of div 2

This division applies to the constituent parts of an integrated authority that, under the existing Act, were in force immediately before the commencement.

637 Continuing status of each constituent part as an environmental authority

(1) This section—

(a) applies despite the repeal of former chapter 6, part 1;[199] and

(b) is subject to section 638.

(2) From the commencement, each of the constituent parts continues to be an environmental authority of the type stated in the integrated authority.

(3) The repeal does not change the anniversary days of the environmental authorities.

(4) The relevant provisions of new chapter 4A or chapter 5 and chapter 6 apply to the environmental authorities.

638 Re-issuing of environmental authorities if they do not form a single mining or petroleum project

(1) The administering authority may, at any time after the commencement, decide whether the constituent parts together form a single mining or petroleum project.

(2) If the administering authority decides the constituent parts are for different mining or petroleum projects, it may—

(a) cancel the constituent parts as environmental authorities; and

(b) issue to the former holder of the cancelled constituent

199 Former chapter 6, part 1 (Integrated authorities)

parts new environmental authorities (mining activities) or environmental authorities (petroleum activities) for each of the different mining or petroleum projects.

(3) The conditions of each of the new environmental authorities must be the conditions of the cancelled constituent parts that applied to the mining or petroleum project the subject of the new environmental authority, subject to any necessary changes.

Division 3 Other provisions

639 Environmental authorities under old chapter 4A

(1) A licence, other than a provisional licence, under old chapter 4A in force immediately before the commencement is, on the commencement, taken to be a non-code compliant authority under new chapter 4A for a level 1 petroleum activity.

(2) On the commencement, a provisional licence under old chapter 4A ceases to be an environmental authority.

(3) A level 2 approval under old chapter 4A in force immediately before the commencement is, on the commencement, taken to be a non-code compliant authority under new chapter 4A, for a level 2 petroleum activity.

640 Applications in progress under old chapter 4A

(1) An environmental authority application under old chapter 4A that, immediately before the commencement, had not been decided is taken to be an application—

(a) if it is for a level 2 petroleum activity—under new chapter 4A, part 2, division 3, subdivision 2; or

(b) if it is for a level 1 petroleum activity—under new chapter 4A, part 2, division 4.[200]

(2) An amendment, surrender or transfer application under old chapter 4A that, immediately before the commencement had

200 New chapter 4A, part 2, division 3, subdivision 2 (Non code compliant authorities) and division 4 (Level 1 petroleum activities)

not been decided is, on the commencement, taken to be the corresponding type of application under new chapter 4A.

641 Existing environmental management documents

The current environmental management plan or current EMOS under the existing Act for, or for an application for, an environmental authority (mining activities), is on the commencement taken to be the submitted EM plan for the environmental authority or application.[201]

Division 4 Provisions inserted under Environmental Protection and Other Legislation Amendment Act 2007

641A Definition for div 4

In this division—

commencement means the commencement of the *Environmental Protection and Other Legislation Amendment Act 2004*, part 3.

641B Non-standard environmental authority taken to be environmental authority for level 1 mining project

(1) This section applies to a non-standard environmental authority (mining activities) that was in force under the Act immediately before the commencement and has remained in force since the commencement.

(2) The authority is taken to be an environmental authority (mining activities) for a level 1 mining project.

201 See the existing Act, sections 187 (Environmental management plan required), 201 (EMOS required) and 253 (Previous environmental management document may be amended).

641C Standard environmental authority taken to be environmental authority for level 2 mining project

(1) This section applies to a standard environmental authority (mining activities) that was in force under the Act immediately before the commencement and has remained in force since the commencement.

(2) The authority is taken to be an environmental authority (mining activities) for a level 2 mining project.

Part 8 Transitional provision for Environmental Protection and Other Legislation Amendment Act 2005

642 EISs currently undergoing EIS process

Sections 56A and 56B do not apply for an EIS if the draft terms of reference for the EIS were, under section 41, submitted before the commencement of sections 56A and 56B.

643 Transitional provision for amended ss 619 and 624

(1) Subsection (2) applies if, immediately before the commencement of this section, section 619 applied in relation to an approval mentioned in section 624(1)(b), as in force on the commencement of this section,

(2) To remove any doubt, it is declared that section 619, as amended by the *Environmental Protection and Other Legislation Amendment Act 2005*, ceases to apply in relation to the approval on the commencement of this section.

Part 9 Transitional provisions for Environmental Protection and Other Legislation Amendment Act 2007

644 References to environmental management programs or draft programs

(1) A reference to an environmental management program in an Act or document is taken, if the context permits, to be a reference to a transitional environmental program.

(2) A reference to a draft environmental management program in an Act or document is taken, if the context permits, to be a reference to a draft transitional environmental program.

Schedule 1 Original decisions

sections 519(1), 522 and 523

Part 1 Original decisions for Land Court appeals

Division 1 Decisions under chapter 3

Section	Description of decision
43(3)(c)	decision about giving TOR notice
51(2)(a)(iii)	decision about giving EIS notice
51(2)(b)(ii)	decision about way of publishing EIS notice
68(1) and (2)	decision not to allow EIS to proceed
68(3)(a)	fixing of new notice period
68(3)(b)	fixing of new comment or submission period

Division 2 Decisions under chapter 4A

Section	Description of decision
96	refusal of application for environmental authority (petroleum activities) for level 2 petroleum activity
98	imposition of condition of environmental authority (petroleum activities) for level 2 petroleum activity, other than a condition that is the same, or is to the same effect, as a condition agreed to or requested by the applicant
109(1) and (2)	decision not to allow application to proceed

Schedule 1 (continued)

Section	Description of decision
109(3)(b)	fixing of new notice period or submission period
112	grant or refusal of application for environmental authority (petroleum activities) for level 1 petroleum activity
114	imposition of condition of environmental authority (petroleum activities) for level 1 petroleum activity, other than a condition that is the same, or is to the same effect, as a condition agreed to or requested by the applicant
122(1)	decision to make public notice requirement for amendment application
124	refusal of amendment application
124(2)	decision to grant an amendment application subject to the applicant's written agreement to the administering authority amending the environmental authority in a stated way
134	refusal of transfer
140(2)	decision to give surrender notice
140(2)	fixing of period for compliance with surrender notice
145A	refusal of surrender
145J(1)	proposed action decision
145O(2)	decision to require the giving of financial assurance
145P(6)	decision to require the giving of financial assurance

Schedule 1 (continued)

Division 3 Decisions under chapter 5

Section	Description of decision
193(1)	refusal of application for environmental authority (exploration) or environmental authority (mineral development)
193(2)	imposition of conditions of environmental authority (exploration) or environmental authority (mineral development)
207(1)	refusal of environmental authority (mining lease) application
211(3)	decision to require another way of publishing application notice
215(1) and (2)	decision not to allow application to proceed
266J	refusal of progressive certification
266N	requirement to make residual risk payment
271(2)	decision to give surrender notice
271(2)	fixing of period for compliance with surrender notice
277	refusal of surrender application.
278A	decision to give rehabilitation direction
278B	requirement to make residual risk payment

Division 4 Decisions under chapter 7

Section	Description of decision
366	refusal to amend or discharge a financial assurance for an environmental authority (mining activities)

Schedule 1 (continued)

Division 5 Decisions under chapter 12, part 3

Section	Description of decision
566	refusal of disclosure exemption application
568	grant of disclosure exemption application for only part of the information the subject of the application or for a stated period

Part 2 Original decisions for court appeals

Division 1 Decisions under chapter 1

Section	Description of decision
13(4)	refusal to grant an application for an approval
13(4)	imposition of condition on an approval

Division 2 Decisions under chapter 4

Section	Description of decision
73F(2)	refusal to grant a single registration certificate
73F(5)	refusal to grant an application for registration
73L	decision to cancel or suspend registration
73O(3)	decision to refuse surrender of registration certificate

Schedule 1 (continued)

Division 3 Decisions under chapter 5

Section	Description of decision
254(2)(b)(ii)	decision to require another way of publishing notice of amendment application
257(1)	refusal of amendment application
262(1)	refusal of transfer application
280(1)	decision to give audit notice
280(1) and (3)(d)	fixing of period for conducting or commissioning environmental audit and giving environmental audit report
283(1)	decision to conduct or commission an environmental audit or prepare an environmental audit report
297(1)	proposed action decision, other than a decision to amend an environmental authority for a level 2 mining project

Division 4 Decisions under chapter 6

318A(4)	decision not to change anniversary day

Division 5 Decisions under chapter 7

Section	Description of decision
322(1)	requirement for environmental audit
323(1)	requirement for environmental investigation
326(4)	requirement for additional information about an environmental evaluation

Schedule 1 (continued)

Section	Description of decision
328(1)	extension of time for decision on submission of environmental report
332(1) or (2)	requirement for draft transitional environmental program
337(1) or 344	decision on whether to approve, or to approve an amendment of an approval of, a draft transitional environmental program
339(3)	imposition of conditions on a transitional environmental program approval
340	refusal to approve draft transitional environmental program
353(3)(a)	removal of immunity from prosecution for a person under a refusal to approve a draft transitional environmental program
358	issue of environmental protection order
366(6)	refusal to amend or discharge a financial assurance, other than for an environmental authority (mining activities)
367(2)	claim on, or realisation of, financial assurance
369A(4) or (5)	refusal to grant an application for an approval
369A(6)	imposition of condition on an approval
369B(2)	decision to amend or cancel an approval
374(1)	decision whether land has been, or is being, used for a notifiable activity or is contaminated land
376(2)	requirement for site investigation
378(3)	refusal of application for waiver of requirement to conduct or commission site investigation and report
384(1)	decision whether land is contaminated land

Schedule 1 (continued)

Section	Description of decision
384(2)	decision about particulars of land in contaminated land register
385(2)	requirement for further information about site investigation and report
388(1)	extension of time to make decision about site investigation report
391(1)	requirement to conduct or commission work to remediate contaminated land
392(3)	refusal of application for waiver of requirement to conduct or commission work to remediate contaminated land
396(1)	decision whether land is still contaminated land
398(2)	requirement for additional information about validation report
399(1)	extension of time for consideration of validation report
405(2)(a)	decision to prepare site management plan
405(2)(b) or 411(1)	requirement to prepare or commission site management plan
407(3)	refusal of application for waiver of requirement to prepare or commission site management plan
411(2)(a)	requirement for additional information about site management plan
412	decision on whether to approve draft site management plan
415(1)	extension of time for decision about approval of draft site management plan
419(2)(a)	decision to prepare an amendment of a site management plan

Schedule 1 (continued)

Section	Description of decision
419(2)(b)	requirement for preparation and submission of draft amendment of site management plan
423(1)	erection of sign on contaminated land for which particulars are not recorded on the environmental management register or contaminated land register
424(3)	refusal of disposal permit application
424(3) and (4)	imposition of conditions on disposal permit

Division 6 Decision under chapter 9

Section	Description of decision
451(1)	requirement for information relevant to the administration or enforcement of this Act

Division 7 Decisions under chapter 12, part 2

Section	Description of decision
555(2)	extension of period for deciding application relating to environmental authority or TEP submission
556(1)(a)	requirement for additional information about an application or TEP submission

Schedule 1 (continued)

Division 8 Decisions under chapter 13

Section	Description of decision
596(2)	decision to give reminder notice
596(2)	fixing of period for compliance with reminder notice
607(4)	decision about consolidating transitional authorities for same mining project
608(2)	decision to make environmental document requirement for transitional authority.
621(4)	decision to give registration certificate and development approval
623(2)	decision to give a notice that the risk of environmental harm from carrying out a chapter 4 activity under an environmental authority is no longer insignificant

Schedule 2 Notifiable activities

schedule 3, dictionary, definition *notifiable activity*

1 Abrasive blasting—carrying out abrasive blast cleaning (other than cleaning carried out in fully enclosed booths) or disposing of abrasive blasting material.

2 Aerial spraying—operating premises used for—

(a) filling and washing out tanks used for aerial spraying; or

(b) washing aircraft used for aerial spraying.

3 Asbestos manufacture or disposal—

(a) manufacturing asbestos products; or

(b) disposing of unbonded asbestos; or

(c) disposing of more than 5t of bonded asbestos.

4 Asphalt or bitumen manufacture—manufacturing asphalt or bitumen, other than at a single-use site used by a mobile asphalt plant.

5 Battery manufacture or recycling—assembling, disassembling, manufacturing or recycling batteries (other than storing batteries for retail sale).

6 Chemical manufacture or formulation—manufacturing, blending, mixing or formulating chemicals if—

(a) the chemicals are designated dangerous goods under the dangerous goods code; and

(b) the facility used to manufacture, blend, mix or formulate the chemicals has a design production capacity of more than 1t per week.

7 Chemical storage (other than petroleum products or oil under item 29)—storing more than 10t of chemicals (other than compressed or liquefied gases) that are dangerous goods under the dangerous goods code.

8 Coal fired power station—operating a coal fired power station.

Schedule 2 (continued)

9 Coal gas works—operating a coal gas works.

10 Defence establishments or training areas—operating a defence establishment or a training area used for handling ammunition in a way that may have caused, or may cause, remnant unexploded ordnance.

11 Drum reconditioning or recycling—reconditioning or recycling of metal or plastic drums including storage drums.

12 Dry cleaning—operating a dry cleaning business where—

(a) solvents are stored in underground tanks; or

(b) more than 500L of halogenated hydrocarbon are stored.

13 Electrical transformers—manufacturing, repairing or disposing of electrical transformers.

14 Engine reconditioning works—carrying out engine reconditioning work at a place where more than 500L of any of the following are stored—

(a) halogenated and non-halogenated hydrocarbon solvents;

(b) dangerous goods in class 6.1 under the dangerous goods code;

(c) industrial degreasing solutions.

15 Explosives production or storage—operating an explosives factory under the *Explosives Act 1999*.

16 Fertiliser manufacture—manufacturing agriculture fertiliser (other than the blending, formulation or mixing of fertiliser).

17 Foundry operations—commercial production of metal products by injecting or pouring molten metal into moulds and associated activities in works having a design capacity of more than 10t per year.

18 Gun, pistol or rifle range—operating a gun, pistol or rifle range.

19 Herbicide or pesticide manufacture—commercially manufacturing, blending, mixing or formulating herbicides or pesticides.

Schedule 2 (continued)

20 Landfill—disposing of waste (excluding inert construction and demolition waste).

21 Lime burner—manufacturing cement or lime from limestone material using a kiln and storing wastes from the manufacturing process.

22 Livestock dip or spray race operations—operating a livestock dip or spray race facility.

23 Metal treatment or coating—treating or coating metal including, for example, anodising, galvanising, pickling, electroplating, heat treatment using cyanide compounds and spray painting using more than 5L of paint per week (other than spray painting within a fully enclosed booth).

24 Mine wastes—

(a) storing hazardous mine or exploration wastes, including, for example, tailings dams, overburden or waste rock dumps containing hazardous contaminants; or

(b) exploring for, or mining or processing, minerals in a way that exposes faces, or releases groundwater, containing hazardous contaminants.

25 Mineral processing—chemically or physically extracting or processing metalliferous ores.

26 Paint manufacture or formulation—manufacturing or formulating paint where the design capacity of the plant used to manufacture or formulate the paint is more than 10t per year.

27 Pest control—commercially operating premises, other than premises operated for farming crops or stock, where—

(a) more than 200L of pesticide are stored; and

(b) filling or washing of tanks used in pest control operations occurs.

28 Petroleum or petrochemical industries including—

(a) operating a petrol depot, terminal or refinery; or

(b) operating a facility for the recovery, reprocessing or recycling of petroleum-based materials.

Schedule 2 (continued)

29 Petroleum product or oil storage—storing petroleum products or oil—

(a) in underground tanks with more than 200L capacity; or

(b) in above ground tanks with—

(i) for petroleum products or oil in class 3 in packaging groups 1 and 2 of the dangerous goods code—more than 2500L capacity; or

(ii) for petroleum products or oil in class 3 in packaging groups 3 of the dangerous goods code—more than 5000L capacity; or

(iii) for petroleum products that are combustible liquids in class C1 or C2 in Australian Standard AS 1940, 'The storage and handling of flammable and combustible liquids' published by Standards Australia—more than 25000L capacity.

30 Pharmaceutical manufacture—commercially manufacturing, blending, mixing or formulating pharmaceutics.

31 Printing—commercial printing using—

(a) type metal alloys; or

(b) printing inks or pigments or etching solutions containing metal; or

(c) cast lead drum plates; or

(d) a linotype machine with a gas-fired lead melting pot attached; or

(e) more than 500L of halogenated and non-halogenated hydrocarbon solvents.

32 Railway yards—operating a railway yard including goods-handling yards, workshops and maintenance areas.

33 Scrap yards—operating a scrap yard including automotive dismantling or wrecking yard or scrap metal yard.

34 Service stations—operating a commercial service station.

35 Smelting or refining—fusing or melting metalliferous metal or refining the metal.

Schedule 2 (continued)

36 Tannery, fellmongery or hide curing—operating a tannery or fellmongery or hide curing works or commercially finishing leather.

37 Waste storage, treatment or disposal—storing, treating, reprocessing or disposing of waste prescribed under a regulation to be regulated waste for this item (other than at the place it is generated), including operating a nightsoil disposal site or sewage treatment plant where the site or plant has a design capacity that is more than the equivalent of 50000 persons having sludge drying beds or on-site disposal facilities.

38 Wood treatment and preservation—treating timber for its preservation using chemicals, including, for example, arsenic, borax, chromium, copper or creosote.

Schedule 3 Dictionary

section 7

additional condition, for chapter 5, part 3, division 2, see section 170(1).

administering authority means—

(a) for a matter, the administration and enforcement of which has been devolved to a local government under section 514—the local government; or

(b) for another matter—the chief executive.

administering executive means—

(a) for a matter, the administration and enforcement of which has been devolved to a local government under section 514—the local government's chief executive officer; or

(b) for another matter—the chief executive.

advice agency, for a development application, has the meaning given by the Integrated Planning Act.

affected person, for a project, see section 38.

amendment application for—

(a) chapter 4A—see section 118; or

(b) chapter 5—see section 238(1).

anniversary day—

Anniversary day, for an environmental authority—

1 Generally, the *anniversary day* for an environmental authority means each anniversary of the day the authority is issued.[202]

2 Also, if the anniversary day for an environmental authority is changed under section 318A, the *anniversary day* for the authority is the day as changed.

202 See, however, section 602 (Anniversary day for certain transitional authorities).

Schedule 3 (continued)

3 The anniversary day for an environmental authority does not change merely because the authority is amended or transferred.

Anniversary day, for a registration certificate—

1 Generally, the *anniversary day* for a registration certificate means each anniversary of the day the certificate took effect.

2 However, if the anniversary day for a registration certificate is changed under section 318A, the *anniversary day* for the certificate is the day as changed.

3 Also, if the registration certificate is issued for a continuing chapter 4 activity, the *anniversary day* for the certificate is the *anniversary day* for the previous registration certificate for the activity.

4 The anniversary day for a registration certificate does not change merely because the certificate is amended.

annual notice see section 316(2).

applicable code see the Integrated Planning Act, schedule 10.

applicant for chapter 12, part 2, see section 551.

applicants for—

(a) chapter 4A, part 4—see section 130(b); or

(b) chapter 5, part 9—see section 260(1)(b).

application date see section 552.

application documents, for chapter 5, see section 150.

application notice, for—

(a) chapter 4A, part 2, division 4—see section 106(1); or

(b) chapter 5, part 6—see section 211.

application requirements, for chapter 5, see section 154(3).

appropriately qualified—

1 *Appropriately qualified*, for an entity to whom a power under this Act may be delegated or subdelegated,

Schedule 3 (continued)

includes having the qualifications, experience or standing appropriate to exercise the power.

Example of standing—

a person's classification level in the public service

2 If the power may be delegated or subdelegated by a local government, the following are *appropriately qualified* entities for the delegation or subdelegation—

(a) the local government's mayor;

(b) a standing committee or a chairperson of a standing committee of the local government;

(c) the local government's chief executive officer;

(d) an employee of the local government, having the qualifications, experience or standing appropriate to exercise the power.

Example of standing for paragraph (d)—

the employee's classification level in the local government

approved code of practice means a code of practice approved by the Minister under section 548.

approved form means a form approved by the administering executive.

assessable development means assessable development as defined under the Integrated Planning Act.

assessment level decision, for chapter 5, part 8, means—

(a) generally—the assessment level decision under section 246(1)(a) and (3); but

(b) if, under section 247(2), the EPA Minister has made the assessment level decision—that decision.

assessment manager has the meaning given by section 3.1.7 of the Integrated Planning Act.

assessment period for—

(a) chapter 5, part 5, division 3—see section 191(2); or

(b) chapter 5, part 6, division 3—see section 205(3).

Schedule 3 (continued)

audit notice see section 280(1).

auditor means an individual who holds an appointment as an auditor under section 285.

authorised person means a person holding office as an authorised person under an appointment under this Act by the chief executive or chief executive officer of a local government.

best practice environmental management, for an activity, see section 21.

bilateral agreement means a bilateral agreement as defined under the Commonwealth Environment Act to which the State is a party.

boat means a boat, ship or other vessel of any size or kind, and includes a hovercraft.

business, of a holder of an environmental authority, means the business of carrying out the environmentally relevant activity the subject of the authority.

business days—

(a) generally, does not include a day between 26 December and 1 January in the following year; and

(b) for chapter 3, part 1, see section 39.

certified rehabilitated area, for a mining tenement, see section 266A(3).

chapter 4 activity means an environmentally relevant activity, other than a mining activity or a petroleum activity.

code compliance condition, for chapter 4A, see section 93(1).

code compliant application, for chapter 5, see section 154(4).

code compliant authority for—

(a) chapter 4A—see section 75(2); or

(b) chapter 5—see section 148(3).

Schedule 3 (continued)

code of environmental compliance means a code of environmental compliance approved or made under a regulation.

comment period, for chapter 3, part 1, see section 39.

Commonwealth Environment Act means the *Environment Protection and Biodiversity Conservation Act 1999* (Cwlth).

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

concurrence agency, for a development application, has the meaning given by the Integrated Planning Act.

conditional surrender, of a mining tenement, means a surrender in relation to the tenement of a type mentioned in the Mineral Resources Act, section 107(7), 161(4), 210(13) or 309(12).

conditions, for an environmental authority, includes a condition of an environmental authority that has ended or ceased to have effect if the condition imposed an obligation that continues to apply after the authority has ended or ceased to have effect.

contaminant see section 11.

contaminated land means land contaminated by a hazardous contaminant.

contaminated land register means the register kept by the administering authority under section 540(1)(f)(ii).

contamination see section 10.

continuation, for an original offence under a program notice, includes the happening again of the offence because of a relevant event of the same type stated in the notice.

continuing chapter 4 activity means a chapter 4 activity—

(a) that is carried out by a registered operator who proposes to dispose of the operator's business to someone else (the ***proposed buyer***); and

(b) for which the proposed buyer applies for a registration certificate.

Schedule 3 (continued)

conviction includes a plea of guilty or a finding of guilt by a court even though a conviction is not recorded.

Coordinator-General's report, for a significant project, means the Coordinator-General's report under the State Development Act, section 35,[203] evaluating the EIS for the project.

correction, for—

(a) chapter 4A, part 6—see section 145D; or

(b) chapter 5, part 12—see section 290.

corresponding law means under a law of the Commonwealth or another State that provides for the same or similar matters as this Act.

Court means the Planning and Environment Court.

current objection, for an application, means an objection relating to the application that—

(a) the administering authority has accepted; and

(b) has not been withdrawn.

dangerous goods code means the 'Australian Code for the Transport of Dangerous Goods by Road and Rail' prepared by the Office of Federal Road Safety and published by the Commonwealth.

deciding, for an application or submission, for chapter 12, part 2, see section 551.

designated urban area see the *Wild Rivers Act 2005*, schedule.

development has the meaning given by section 1.3.2 of the Integrated Planning Act.

development application means an application for a development approval.

203 State Development Act, section 35 (Coordinator-General evaluates EIS, submissions, other material and prepares report)

Schedule 3 (continued)

development approval means development approval as defined under the Integrated Planning Act.

development condition—

1 *Development condition*, of a development approval, means a condition of the approval imposed by, or imposed because of a requirement of, the administering authority as assessment manager or concurrence agency for the application for the approval.

2 The term includes a reference to a condition referred to in the State Development Act, section 39(1).

development offence means an offence against section 435.

disclosure exemption see section 564.

disposal permit means a permit under section 424 to remove and treat or dispose of contaminated soil from land for which particulars are recorded in the environmental management register or contaminated land register.

disqualifying event means—

(a) a conviction for an environmental offence; or

(b) the cancellation or suspension of—

(i) an environmental authority; or

(ii) a registration certificate; or

(iii) an authority, instrument, licence or permit, however called, similar to an environmental authority or registration certificate under a corresponding law.

dissatisfied person see section 520.

draft environmental authority, for an environmental authority (mining activities) application, means the draft environmental authority for the application prepared by the administering authority under chapter 5, part 4, division 3 or part 6, division 5.

draft terms of reference, for an EIS, see section 39.

ecologically sustainable development see section 3.

Schedule 3 (continued)

EIS means an environmental impact statement.

EIS amendment notice see section 66(3).

EIS assessment report see section 57(2).

EIS decision, for chapter 5, part 8, means—

(a) the EIS decision under section 246(1)(b) and (4); or

(b) if the EPA Minister has made a decision under section 247(3)—that decision.

EIS notice see section 51(2)(a).

EIS process, for an EIS, means—

(a) the process under chapter 3, part 1; and

(b) the seeking and giving, under chapter 3, part 1, division 7, subdivision 1, of advice, comment or information in relation to the EIS.

EIS requirement, for an application, means that an EIS has been required under this Act for the application.

emergency direction see section 468.

emergency powers see section 467(6).

EM plan assessment report for—

(a) chapter 5, part 5, see section 191(1); or

(b) chapter 5, part 6, see section 205(2).

enforcement order see section 507.

engaging in conduct includes failing to engage in conduct.

enter, a place, includes re-enter the place.

entry order, for chapter 12, part 4, see section 575(2).

environment see section 8.

environmental audit for chapter 7, part 2, see section 322.

environmental authority means an environmental authority under chapter 4A or 5.

environmental authority (exploration) see section 148(c).

Schedule 3 (continued)

environmental authority (mineral development) see section 148(d).

environmental authority (mining activities) see section 146(2).

environmental authority (mining claim) see section 148(b).

environmental authority (mining lease) see section 148(e).

environmental authority (petroleum activities) see section 74(2).

environmental authority (prospecting) see section 148(a).

environmental evaluation means an environmental audit or investigation.

environmental harm see section 14.

environmental investigation see section 323.

environmentally relevant activity see section 18.

environmental management plan, for—

(a) chapter 3, part 1—see section 39; or

(b) chapter 4A—means an environmental management plan under section 103; or

(c) chapter 5—

(i) for, or for an application for, an environmental authority (exploration) or environmental authority (mineral development)—means a submitted EM plan under section 189; or

(ii) for, or for an application for, an environmental authority (mining lease)—means a submitted EM plan under section 203; or

(iii) for, or an application for, an environmental authority (prospecting) or an environmental authority (mining claim)—means an EM plan required under section 163B.

environmental management register means the register kept by the administering authority under section 540(1)(f)(i).

Schedule 3 (continued)

environmental nuisance see section 15.

environmental offence means—

(a) an offence against any of the following provisions—

- section 236(3)
- section 322
- section 323
- section 357(5)
- section 361
- chapter 5, parts 10 and 11
- chapter 8; or

(b) an offence against a corresponding law, if the act or omission that constitutes the offence would, if it happens in the State, be an offence against a provision mentioned in paragraph (a).

environmental protection commitment, for a submitted EM plan, means—

(a) a commitment under, or stated in, the plan; or

(b) an obligation imposed, or an undertaking given, under the plan; or

(c) a requirement under the document to produce a stated outcome.

environmental protection order see section 358.

environmental protection policy means an environmental protection policy approved under chapter 2.

environmental report means a report on an environmental evaluation.

environmental requirement means—

(a) an environmental authority; or

(b) a transitional environmental program; or

(c) a site management plan; or

Schedule 3 (continued)

(d) a condition of an environmental authority that has ended or ceased to have effect, if the condition—

(i) continues to apply after the authority has ended or ceased to have effect; and

(ii) has not been complied with.[204]

environmental value see section 9.

EPA Minister means the Minister for the time being administering this Act.

executive officer, of a corporation, means—

(a) if the corporation is the Commonwealth or a State—a chief executive of a department of government or a person who is concerned with, or takes part in, the management of a department of government, whatever the person's position is called; or

(b) if the corporation is a local government—

(i) the chief executive officer of the local government; or

(ii) a person who is concerned with, or takes part in, the local government's management, whatever the person's position is called; or

(c) if paragraphs (a) and (b) do not apply—a person who is—

(i) a member of the governing body of the corporation; or

(ii) concerned with, or takes part in, the corporation's management;

whatever the person's position is called and whether or not the person is a director of the corporation.

exempted material, for chapter 12, part 3, division 2, see section 571.

204 See sections 98 and 114 (Conditions that may and must be imposed) and 305(3) (Conditions that may be made) and schedule 3, definition *conditions*.

Schedule 3 (continued)

exploration permit means—

(a) an exploration permit under the Mineral Resources Act; or

(b) a former exploration permit under the Mineral Resources Act continued in effect under section 148 of that Act.

fee includes tax.

final rehabilitation report means—

(a) for chapter 4A—a final rehabilitation report prepared under chapter 4A, part 5, division 3; or

(b) for chapter 5—a final rehabilitation report prepared under chapter 5, part 10, division 2, subdivision 2.

final terms of reference, for chapter 3, part 1, see section 39.

financial assurance, for an environmental authority (petroleum activities) means financial assurance for the authority given under chapter 4A, part 7.

FRR amendment notice, for chapter 5, see section 275(3).

FRR assessment report, for—

(a) chapter 4A—see section 145; or

(b) chapter 5—see section 276.

general environmental duty see section 319.

hazardous contaminant means a contaminant that, if improperly treated, stored, disposed of or otherwise managed, is likely to cause serious or material environmental harm because of—

(a) its quantity, concentration, acute or chronic toxic effects, carcinogencity, teratogenicity, mutagenicity, corrosiveness, explosiveness, radioactivity or flammability; or

(b) its physical, chemical or infectious characteristics.

holder, for a mining tenement, means a holder of the tenement under the Mineral Resources Act.

Schedule 3 (continued)

hovercraft means a vehicle designed to be supported on cushion of air.

identity card, of an authorised person, means the identity card issued to the authorised person under section 448.

information notice, about a decision, means a written notice stating—

(a) the decision; and

(b) if the decision is a decision other than to impose a condition on an environmental authority, the reasons for the decision; and

(c) the review or appeal details.

integrated environmental management system, for an environmentally relevant activity or activities, means a system for the management of the environmental impacts of the carrying out of the activity or activities.

Integrated Planning Act means the *Integrated Planning Act 1997*.

interested person, for chapter 3, part 1, see section 39.

interim enforcement order see section 507.

joint applicants for—

(a) chapter 4A—see section 85; or

(b) chapter 5—see section 157.

joint application for—

(a) chapter 4A—see section 86(1); or

(b) chapter 5—see section 158(1).

land includes—

(a) the airspace above land; and

(b) land that is, or is at any time, covered by waters; and

(c) waters.

level 1 environmentally relevant activity means a level 1 environmentally relevant activity under section 20.

Schedule 3 (continued)

level 1 mining project see section 151(1).

level 1 petroleum activity see section 77(2).

level 2 chapter 4 activity means a chapter 4 activity that is a level 2 environmentally relevant activity.

level 2 environmentally relevant activity means a level 2 environmentally relevant activity under section 20.

level 2 mining project see section 151(2).

level 2 petroleum activity see section 77(3).

material environmental harm see section 16.

mineral development licence means—

(a) a mineral development licence under the Mineral Resources Act; or

(b) a former mineral development licence under the Mineral Resources Act continued in effect under section 215 of that Act.

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

mining activity see section 147.

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

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

mining project see section 149.

mining registrar, for an application or a mining tenement, means the mining registrar under the Mineral Resources Act for the district under that Act for the land to which the application or tenement relates.

mining tenement means a prospecting permit, mining claim, exploration permit, mineral development licence or mining lease.

Minister's decision for chapter 5, part 6, division 7, subdivision 1, see section 225(1).

Schedule 3 (continued)

mobile and temporary environmentally relevant activity means a chapter 4 activity, other than a activity that is dredging material, extracting rock or other material, or the incinerating of waste—

(a) carried out at various premises using transportable plant or equipment, including a vehicle; and

(b) that does not result in the building of any permanent structures or any physical change of the landform at the premises (other than minor alterations solely necessary for access and setup including, for example, access ways, footings and temporary storage areas); and

(c) carried out at 1 location and—

(i) for less than 28 days in a calendar year; or

(ii) the activity is necessarily associated with, and is exclusively used in the construction or demolition phase of a project.

MRA Minister means the Minister for the time being administering the Mineral Resources Act.

national environmental protection measure means a national environmental protection measure made under the national scheme laws.

national scheme laws means—

(a) the *National Environment Protection Council Act 1994* (Cwlth); and

(b) the *National Environment Protection Council (Queensland) Act 1994*.

National Strategy for Ecologically Sustainable Development means the 'National Strategy for Ecologically Sustainable Development' endorsed by the Council of Australian Governments on 7 December 1992.

NNTT means the National Native Title Tribunal established under the Commonwealth Native Title Act, part 6.

noise see section 12.

nominated waterway see the *Wild Rivers Act 2005*, schedule.

Schedule 3 (continued)

non-code compliant application, for chapter 5, see section 154(5).

non-code compliant authority for—

(a) chapter 4A—see section 75(4); or

(b) chapter 5—see section 148(5).

notifiable activity means an activity in schedule 2.

objection period, for chapter 5, means—

(a) the objection period under section 212; or

(b) if section 215 applies—any new objection fixed under section 215(3)(b)(ii).

objections decision, for chapter 5, see section 219(1).

objector, for an application, means an entity that makes a properly made objection about the application whose objection has not been withdrawn.

obstruct includes hinder, resist and attempt to obstruct.

occupier, of a place, includes the person apparently in charge of the place.

operational land, for chapter 3, part 1, see section 39.

original decision see section 519.

original offence, for a program notice, see section 351.

owner—

1 The *owner* of land is—

(a) for freehold land—the person recorded in the freehold land register as the person entitled to the fee simple interest in the land; or

(b) for land held under a lease, licence or permit under an Act—the person who holds the lease, licence or permit; or

(c) for trust land under the *Land Act 1994*—the trustees of the land; or

Schedule 3 (continued)

(d) for Aboriginal land under the *Aboriginal Land Act 1991*—the persons to whom the land has been transferred or granted; or

(e) for Torres Strait Islander land under the *Torres Strait Islander Land Act 1991*—the persons to whom the land has been transferred or granted; or

(f) for land for which there is a native title holder under the *Native Title Act 1993* (Cwlth)—each registered native title party in relation to the land.

2 Also, a mortgagee of land is the owner of the land if—

(a) the mortgagee is acting as a 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.

ozone depleting substance means—

(a) any chlorofluorocarbon or halon; or

(b) another substance prescribed by regulation to be an ozone depleting substance.

person, for—

(a) chapter 3, part 1—see section 39; or

(b) chapter 4A, part 2—see section 81.

person in control, of a vehicle, includes—

(a) the driver of the vehicle; and

(b) the person in command of the vehicle; and

(c) the person who appears to be in control or command of the vehicle.

P&G Act see section 76(2).

petroleum activity see section 77(1).

petroleum authority see section 76(1).

Schedule 3 (continued)

petroleum legislation see section 76(3).

petroleum project see section 80.

preliminary investigation, for land, means an investigation to find out whether the land is contaminated land.

premises includes—

(a) a building or structure, or part of a building or structure, of any kind; and

(b) the land on which a building or structure is situated.

program notice see section 350.

progressive certification, for a mining tenement, see section 266A(2).

project authority see section 155(4)(a).

properly made objection see section 217(2).

properly made submission, for—

(a) chapter 3—see section 55(2); or

(b) chapter 4A, part 2, division 4—see section 111(2).

proponent, for chapter 3, part 1, see section 39.

proposed action—

(a) for chapter 4, part 4—see section 73J(1)(a); or

(b) for chapter 4A, part 6, division 2—see section 145H(1)(a); or

(c) for chapter 5, part 12, division 2—see section 295(1)(a).

proposed action decision—

(a) for chapter 4, part 4—see section 73L(2); or

(b) for chapter 4A, part 6, division 2—see section 145J(2); or

(c) for chapter 5—see section 297(2).

proposed holder means—

(a) for an application for an environmental authority, any applicant for the environmental authority; or

Schedule 3 (continued)

(b) for an application to transfer an environmental authority, the proposed transferee.

prospecting permit means—

(a) a prospecting permit under the Mineral Resources Act; or

(b) a former prospecting permit under the Mineral Resources Act continued in effect under section 30 of that Act.

public authority includes an entity established under an Act and a government owned corporation under the *Government Owned Corporations Act 1993*.

public notice requirement, for chapter 4A, see section 122(2).

public place means any place the public is entitled to use or is open to, or used by, the public (whether or not on payment of an admission fee).

recipient means—

(a) for an environmental evaluation—the person on whom the requirement for the evaluation is made; or

(b) for an environmental protection order—the person to whom the order is issued; or

(c) for a notice to conduct or commission a site investigation—the person to whom the notice is given; or

(d) for a remediation notice—the person to whom the notice is given; or

(e) for a notice to prepare or commission a site investigation report—the person to whom the notice is given.

recognised entity means any of the following—

(a) the administering authority;

(b) the department in which the *Fisheries Act 1994* or *Water Act 2000* is administered;

(c) a local government;

Schedule 3 (continued)

(d) a public authority;

(e) an agency, however called, established under a corresponding law with similar functions to the functions of the chief executive;

(f) a ministerial council established by the Council of Australian Governments;

(g) the Commonwealth Scientific and Industrial Research Organisation;

(h) a cooperative research centre completely or partly funded by the Commonwealth;

(i) an Australian university.

referral agency means an advice agency or concurrence agency.

refusal period, for—

(a) chapter 5, part 4—see section 173(1); or

(b) chapter 5, part 6—see section 207(1).

register means a register kept under section 540.

registered operator means the holder of a registration certificate, for a chapter 4 activity, issued under section 73F and in force.

registrar means the registrar of titles or another person responsible for keeping a register in relation to dealings in land.

registration certificate see section 73F.

regulatory requirement means a requirement under an environmental protection policy or a regulation for the administering authority to—

(a) grant or refuse to grant, or follow stated procedures for evaluating, any of the following applications—

(i) an application under chapter 4;

(ii) an environmental authority application;

Schedule 3 (continued)

(iii) an application for approval of a transitional environmental program; or

(b) impose, change or cancel a condition on a development approval for a chapter 4 activity, an environmental authority or an approval of a transitional environmental program; or

(c) consider a matter for issuing an environmental protection order.

rehabilitation direction means a direction given under section 278A.

release, of a contaminant into the environment, includes—

(a) to deposit, discharge, emit or disturb the contaminant; and

(b) to cause or allow the contaminant to be deposited, discharged emitted or disturbed; and

(c) to fail to prevent the contaminant from being deposited, discharged, emitted or disturbed; and

(d) to allow the contaminant to escape; and

(e) to fail to prevent the contaminant from escaping.

relevant event, for a program notice, see section 350(1).

relevant local government, for land, means the local government for the local government area where the land is situated.

relevant matters, for an environmental evaluation, means the matters to be addressed by the evaluation.

relevant mining activity, for—

(a) an application for or about an environmental authority (mining activities)—means a mining activity the subject of the application; or

(b) an environmental authority (mining activities)—means a mining activity the subject of the authority.

relevant mining lease, for an environmental authority (mining lease) means a mining lease, or proposed mining

Schedule 3 (continued)

lease, to which the relevant mining activity for the authority relates.

relevant mining tenement, for an environmental authority (mining activities) or an environmental authority (mining activities) application, means a mining tenement, or proposed mining tenement, to which a relevant mining activity relates.

relevant petroleum activity see section 79.

relevant petroleum authority see section 78.

relevant place, for chapter 4A, part 2, see section 81.

relevant standard environmental conditions, for an environmental authority (mining activities), or proposed environmental authority (mining activities), means the standard environmental conditions applying to the activities the subject of the authority

remediate, contaminated land, means—

(a) rehabilitate the land; or

(b) restore the land; or

(c) take other action to prevent or minimise serious environmental harm being caused by the hazardous contaminant contaminating the land.

remediation notice see section 391(5)(a).

replacement environmental authority, for an environmental authority, means another environmental authority that is the same, substantially the same as, or replaces, the environmental authority.

residential complex—

1 A *residential complex* is land in a wild river area, including buildings and infrastructure on the land, that is used to accommodate fewer than the following—

(i) 50 permanent residents;

(ii) 200 temporary residents.

Example—

homestead, out-station, resort complex

Schedule 3 (continued)

2 The term does not include land in a designated urban area in the wild river area.

residual risks, of an area within a mining tenement, means all or any of the following—

(a) the risk that, although the rehabilitation appeared to be satisfactory when the area was assessed for an application for progressive certification or for surrender—

(i) it will, in the foreseeable future, fail to perform as predicted in a relevant progressive rehabilitation report or final rehabilitation report; and

(ii) the failure will result in the need for repair, replacement or maintenance work for the area;

(b) the risk that the area will need ongoing management;

Examples of ongoing management—

- maintenance of fences to ensure the safety of steep slopes or to prevent access to contaminated areas
- providing a pump-back system to manage the discharge of contaminants

(c) the risk of contaminants being released from the area by animals, water or wind and potentially causing environmental harm that may require a program to monitor what management action should be taken in relation to the release.

review date see section 521(2)(a)(i).

review decision see section 521(5)(c).

review or appeal details, for a notice or order, means a statement in the notice or order as follows—

(a) that a person as follows may apply for a review of, or appeal against, the decision to which the notice or order relates—

(i) the person given the notice or order;

(ii) another dissatisfied person for the original decision to which the notice or order relates;

Schedule 3 (continued)

(b) about whether the person may apply for a review or may appeal against the decision;

(c) about the period or time allowed for making the application for a review or for starting an appeal;

(d) if the person may apply for a review—about how to apply for a review;

(e) if the person may appeal—about how to start an appeal.

sanitary convenience means a urinal, water-closet, earth closet, cesspit, cesspool or other receptacle for human waste.

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

self-assessable development means self-assessable development as defined under the Integrated Planning Act.

serious environmental harm see section 17.

significant project means a project declared under the State Development Act, section 26, to be a significant project.

site investigation report means a report submitted to the administering authority about a site investigation of land for which particulars are recorded in the environmental management register.

site management plan means a site management plan approved under chapter 7, part 8.

standard criteria means—

(a) the principles of ecologically sustainable development as set out in the 'National Strategy for Ecologically Sustainable Development'; and

(b) any applicable environmental protection policy; and

(c) any applicable Commonwealth, State or local government plans, standards, agreements or requirements; and

(d) any applicable environmental impact study, assessment or report; and

Schedule 3 (continued)

(e) the character, resilience and values of the receiving environment; and

(f) all submissions made by the applicant and submitters; and

(g) the best practice environmental management for activities under any relevant instrument, or proposed instrument, as follows—

(i) an environmental authority;

(ii) a transitional environmental program;

(iii) an environmental protection order;

(iv) a disposal permit;

(v) a development approval; and

(h) the financial implications of the requirements under an instrument, or proposed instrument, mentioned in paragraph (g) as they would relate to the type of activity or industry carried out, or proposed to be carried out, under the instrument; and

(i) the public interest; and

(j) any applicable site management plan; and

(k) any relevant integrated environmental management system or proposed integrated environmental management system; and

(l) any other matter prescribed under a regulation.

standard environmental conditions, for an environmental authority or a chapter 4 activity, means the standard environmental conditions approved for the authority or activity under section 549.

State Development Act means the *State Development and Public Works Organisation Act 1971*.

state of mind, of a person, includes—

(a) the person's knowledge, intention, opinion, belief or purpose; and

Schedule 3 (continued)

(b) the person's reasons for the intention, opinion, belief or purpose.

submission period, for—

(a) chapter 3, part 1—see section 39; or

(b) chapter 4A, part 2—see section 81.

submitted EM plan—

1 The *submitted EM plan* for, or for an application for, an environmental authority (exploration) or environmental authority (mineral development) is the environmental management plan for the authority submitted under section 187, as amended from time under section 190, 253 or 258A.

2 The submitted EM plan for, or for an application for, an environmental authority (mining lease) is the environmental management plan for the authority submitted under section 201, as amended from time under section 204, 226A, 253 or 258A.

submitter, for an application, means a person who makes a properly made submission about the application.

suitability report see section 560(1).

suitability statement, for land, means a statement about the uses and activities for which the land is suitable.

surrender application for—

(a) chapter 4A—see section 137(1)(a); or

(b) chapter 5—see section 268(1)(a).

surrender notice for—

(a) chapter 4A—see section 140(2); or

(b) chapter 5—see section 271(2).

TEP submission, for chapter 12, part 2, see section 551.

TOR notice see section 42(1).

transfer application for—

Schedule 3 (continued)

(a) chapter 4A—see section 129(2)(a); or

(b) chapter 5—see section 259(2)(a).

transitional environmental program means a transitional environmental program approved under chapter 7, part 3.

unlawful environmental harm means environmental harm that is unlawful under section 436(1).

validation report see section 390.

vehicle includes a train, boat and an aircraft.

waste see section 13.

waste management works see section 368.

waters means Queensland waters.

wild river area see the *Wild Rivers Act 2005*, schedule.

wild river declaration see the *Wild Rivers Act 2005*, schedule.

wild river high preservation area means a high preservation area under the *Wild Rivers Act 2005*.

wild river preservation area means a preservation area under the *Wild Rivers Act 2005*.

wilfully means—

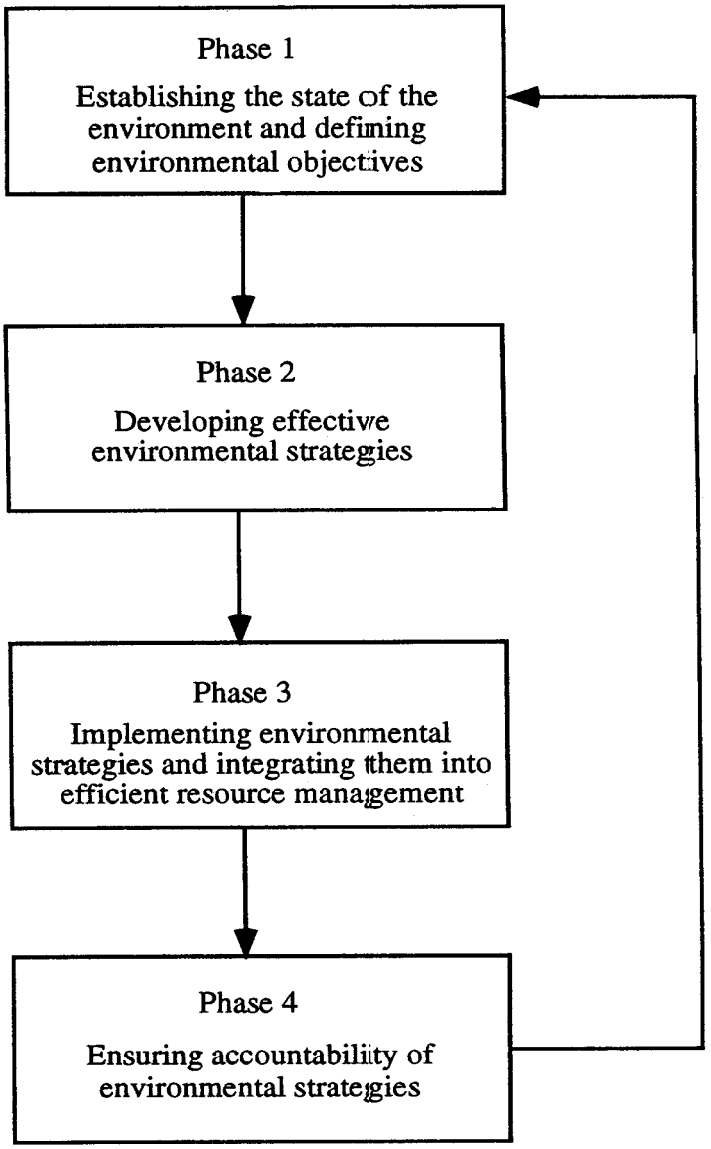
(a) intentionally; or

(b) recklessly; or

(c) with gross negligence.

Figure

section 4(3)



Endnotes

1 Index to endnotes

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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 9 November 2007. Future amendments of the Environmental Protection Act 1994 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
num	=	numbered	s	=	section
o in c	=	order in council	sch	=	schedule
om	=	omitted	sdiv	=	subdivision
orig	=	original	SIA	=	Statutory Instruments Act 1992
p	=	page	SIR	=	Statutory Instruments Regulation 2002
para	=	paragraph	SL	=	subordinate legislation
prec	=	preceding	sub	=	substituted
pres	=	present	unnum	=	unnumbered
prev	=	previous			

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 to	Effective	Reprint date
1	none	1 March 1995	28 April 1995
2	1996 Act No. 10	1 June 1996	6 June 1996
2A	1997 Act No. 7	1 June 1997	28 July 1997
3	1998 Act No. 19	6 July1998	6 July 1998
3A	1998 Act No. 31	3 September 1998	18 September 1998
3B	1999 Act No. 20	1 January 2000	4 January 2000
3C	2000 Act No. 5	1 July 2000	14 July 2000
4 rv	2000 Act No. 64	1 January 2001	1 January 2001
4A rv	2001 Act No. 46	28 June 2001	28 June 2001
4B rv	2001 Act No. 46	25 November 2001	25 November 2001
4C rv	2001 Act No. 86	3 December 2001	3 December 2001
4D rv	2002 Act No. 10	19 April 2002	19 April 2002

Reprint No.	Amendments included	Effective	Notes
4E	2002 Act No. 45	1 January 2003	R4E withdrawn, see R5

Reprint No.	Amendments included	Effective	Notes
5	—	1 January 2003	
5A	2003 Act No. 10	28 March 2003	
5B	2003 Act No. 46	27 August 2003	
5C	2003 Act No. 95	3 December 2003	
5D	2003 Act No. 91	31 March 2004	
5E	2004 Act No. 5	13 May 2004	
5F	2003 Act No. 96	3 October 2004	
5G	2003 Act No. 95	4 October 2004	
5H	2004 Act No. 53	29 November 2004	
5I	2004 Act No. 25 2004 Act No. 26	31 December 2004	
5J	2004 Act No. 48	1 January 2005	R5J withdrawn, see R6
6	—	1 January 2005	
6A	2005 Act No. 3	3 March 2005	
6B	2005 Act No. 53	18 November 2005	
6C	2005 Act No. 42	2 December 2005	
6D	2005 Act No. 53	1 January 2006	
6E	—	2 January 2006	prov exp 1 January 2006
7	2006 Act No. 11	30 March 2006	
7A	2006 Act No. 59	7 December 2006	
7B	2007 Act No. 8	28 February 2007	
7C	2007 Act No. 36	29 August 2007	
7D	2007 Act No. 39	21 September 2007	
7E	2007 Act No. 46	25 October 2007	
7F	2007 Act No. 56	9 November 2007	

5 Tables in earlier reprints

Name of table	Reprint No.
Changed citations and remade laws	2
Corrected minor errors	4
Obsolete and redundant provisions	2
Renumbered provisions	4

6 List of legislation

Environmental Protection Act 1994 No. 62

date of assent 1 December 1994

ss 1–2 commenced on date of assent

ss 42, 43(2), 45(1)(d), (2), 47(2)(d), 48(2) (so far as it relates to interested parties), 49(3)–(6), (8), (9)(b), (10)(b), (11) (so far as it related to interested parties), 64, 65(2) (so far as it relates to interested parties), 66 never proclaimed into force and om 2000 No. 64 s 8

ch 4, pt 4 (ss 147–155), s 222 sch 2 pt B (except so far as it relates to the Litter Act 1971 and the Litter Act Amendment Act 1978) commenced 1 December 1997 (1997 SL No. 343)
s 200(2)(a)–(b) never proclaimed into force and om 2000 No. 64 s 37(5)
s 222 sch 2 pt B (to the extent it relates to the Litter Act 1971 and the Litter Act Amendment Act 1978) commenced 1 July 2000 (2000 SL No. 182)
s 223 sch 3 (so far as it amends the Wet Tropics World Heritage Protection and Management Act 1993) commenced 1 November 1994 (see s 2(2))
s 226(8) never proclaimed into force and exp 1 March 1996 (see ss 224, 228)
s 227(2) never proclaimed into force and exp 1 March 1996 (see ss 224, 228)
s 233(5) never proclaimed into force and exp 1 March 1996 (see ss 224, 234)
s 236(4) never proclaimed into force and exp 1 March 1996 (see s 236(6))
sch 4 (paragraph (a) of definition "interested party") never proclaimed into force and om 2000 No. 64 s 65(2)
sch 4 (paragraph (f) of definition "standard criteria" (so far as it relates to interested parties for an environmental authority)) never proclaimed into force and om 2000 No. 64 s 56(7)
remaining provisions commenced 1 March 1995 (1995 SL No. 47)

amending legislation—

Environmental Legislation Amendment Act 1995 No. 40 pts 1–2
date of assent 27 October 1995
commenced on date of assent

Environmental Legislation Amendment Act (No. 2) 1995 No. 52 pts 1–2
date of assent 22 November 1995
ss 1–2 commenced on date of assent
remaining provisions commenced 2 February 1996 (1996 SL No. 16)

Environmental Protection Amendment Act 1996 No. 10
date of assent 23 May 1996
ss 13 and 24 commenced 1 June 1996 (see s 3)
remaining provisions commenced on date of assent

Environmental Protection Amendment Act 1997 No. 7
date of assent 15 May 1997
s 13 commenced 1 June 1997 (see s 2)
remaining provisions commenced on date of assent

Environmental and Other Legislation Amendment Act 1997 No. 80 pts 1–2 (this Act is amended, see amending legislation below)
date of assent 5 December 1997
ss 1–2 commenced on date of assent
ss 3–4, 29(2)–(3), 34, 39(2) (so far as it relates to the def "approved code of practice") commenced 12 December 1997 (1997 SL No. 432)
ss 5–11, 14–15, 18, 28(1), 37 (so far as it relates to the entry for ss 60A, 60C(2) and 60E(5)(b)), 39(1) and 39(2) (so far as it relates to the def "level 2 approval") commenced 1 July 1998 (1998 SL No. 52)
ss 12–13, 26, 31, 35 (so far as it relates to the om of s 220(2)(k) and the ins of new s 220(1)(k)) commenced 30 March 1998 (1998 SL No. 52)
s 20 never proclaimed into force and om 2001 No. 86 s 15

s 39(2) (to the extent it ins defs "approval" and "level 1 approval") never proclaimed into force and om 1998 No. 13 s 67
remaining provisions commenced 6 July 1998 (1998 SL No. 52)

amending legislation—

Building and Integrated Planning Amendment Act 1998 No. 13 pt 5 (amends 1997 No. 80 above)
date of assent 23 March 1998
remaining provisions commenced 1 July 1998 (see s 2(1) and 1998 SL No. 52)

Local Government and Other Legislation Amendment Act (No. 2) 1999 No. 59 pt 7 (amends 1997 No. 80 above)
date of assent 29 November 1999
commenced on date of assent

Environmental Protection Legislation Amendment Act 2001 No. 30 (amends 1997 No. 80 above)
date of assent 13 November 2001
commenced on date of assent

Environmental Protection Legislation Amendment Act (No. 2) 2001 No. 86 pts 1, 3 (amends 1997 No. 80 above)
date of assent 3 December 2001
commenced on date of assent

Building and Integrated Planning Amendment Act 1998 No. 13 ss 1, 2(3) pt 4
date of assent 23 March 1998
ss 1–2 commenced on date of assent
ss 35, 38–41, 61 commenced 30 March 1998 (1998 SL No. 55)
remaining provisions commenced 1 July 1998 (1998 SL No. 55)

Police and Other Legislation (Miscellaneous Provisions) Act 1998 No. 19 ss 1–2 pt 5
date of assent 26 March 1998
commenced on date of assent

Integrated Planning and Other Legislation Amendment Act 1998 No. 31 ss 1, 2(3)–(4) pt 5
date of assent 3 September 1998
ss 69, 76, 78–79 commenced 1 July 1998 (see s 2(4))
remaining provisions commenced on date of assent (see s 2(3))

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)

Statute Law (Miscellaneous Provisions) Act 1999 No. 19 ss 1–3 sch
date of assent 30 April 1999
commenced on date of assent

Radiation Safety Act 1999 No. 20 ss 1–2, 232
date of assent 30 April 1999

ss 1–2 commenced on date of assent
remaining provision commenced 1 January 2000 (1999 SL No. 329)

Police Powers and Responsibilities Act 2000 No. 5 ss 1–2, 461 (prev s 373) sch 3 (this Act is amended, see amending legislation below)
date of assent 23 March 2000
ss 1–2 commenced on date of assent
remaining provisions commenced 1 July 2000 (see s 2(1), (3) and 2000 SL No. 174)

amending legislation—

Police Powers and Responsibilities and Other Acts Amendment Act 2000 No. 22 ss 1, 28(4) (amends 2000 No. 5 above)
date of assent 23 June 2000
commenced on date of assent

Environmental Protection and Other Legislation Amendment Act 2000 No. 64 ss 1–2, pt 2, ss 3(2), 174 sch
date of assent 24 November 2000
ss 1–2, 46 (to the extent it ins the Environmental Protection Act 1994 s 219AA), 47, 56 commenced on date of assent
s 6 (to the extent it ins ss 34BZ definition "submission period", 34CB–34CH, 34CI(b)–(c), 34CJ(b)(iv), 34CO(a)(ii), 34CX(d), 34CZ(2), 34DD(2)(b)(iv), 34DH(2), 34DK, 34DL(b), 34DO(1)(d), 34DO(2) the words 'and any submitter', 34DP(c), 34EH), s 37(5) (to the extent it ins s 200(2)(a)–(b)), s 46 (to the extent that it ins the words 'and any submitters' in s 219AG(2)), s 53 (to the extent it ins sch 1, pt 2, div 1, entries for ss 34CF(1)–(2)), (3)(b)(i)) commenced 25 November 2001 (automatic commencement under AIA s 15DA(2))
remaining provisions commenced 1 January 2001 (2000 SL No. 350)

State Development and Other Legislation Amendment Act 2001 No. 46 ss 1, 2(2)–(4), pt 4 s 7(2) sch 2
date of assent 28 June 2001
ss 1–2 commenced on date of assent
remaining provisions commenced 28 June 2001 (2001 SL No. 101)

Environmental Protection Legislation Amendment Act (No. 2) 2001 No. 86 pts 1–2
date of assent 3 December 2001
commenced on date of assent

Environmental Protection and Another Act Amendment Act 2002 No. 10 pts 1–2
date of assent 19 April 2002
commenced on date of assent

Environmental Protection and Other Legislation Amendment Act 2002 No. 45 ss 1, 2(2), pt 2, s 3(2) sch
date of assent 24 September 2002
ss 1–2 commenced on date of assent
s 15 commenced 1 January 2003 (2002 SL No. 323) (amdt could not be given effect)
remaining provisions commenced 1 January 2003 (2002 SL No. 323)

Natural Resources and Other Legislation Amendment Act 2003 No. 10 pts 1–2
date of assent 28 March 2003
commenced on date of assent

Chemical, Biological and Radiological Emergency Powers Amendment Act 2003 No. 46 ss 1, 19 sch
date of assent 27 August 2003
commenced on date of assent

Disaster Management Act 2003 No. 91 ss 1–2, 175 sch 1
date of assent 18 November 2003
ss 1–2 commenced on date of assent
remaining provisions commenced 31 March 2004 (2004 SL No. 24)

Environmental Protection Legislation Amendment Act 2003 No. 95 pts 1–2, s 3 sch
date of assent 3 December 2003
ss 1–2, 42–44 commenced on date of assent (see s 2(1))
remaining provisions commenced 4 October 2004 (2004 SL No. 207)

Environmental Legislation Amendment Act 2003 No. 96 pt 1, s 28 sch
date of assent 3 December 2003
ss 1–2 commenced on date of assent
s 28 commenced 19 December 2003 (2003 SL No. 363)
remaining provisions commenced 3 October 2004 (2004 SL No. 206)

Aurukun Associates Agreement Repeal Act 2004 No. 5 ss 1, 8 sch
date of assent 13 May 2004
commenced on date of assent

Petroleum and Gas (Production and Safety) Act 2004 No. 25 ss 1, 2(2), ch 16 pt 7
date of assent 12 October 2004
ss 1–2 commenced on date of assent
remaining provisions commenced 31 December 2004 (2004 SL No. 308)

Petroleum and Other Legislation Amendment Act 2004 No. 26 ss 1, 2(2) pt 4
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)

Environmental Protection and Other Legislation Amendment Act 2004 No. 48 pts 1, 3
date of assent 18 November 2004
ss 1–2 commenced on date of assent
remaining provisions commenced 1 January 2005 (2004 SL No. 315)

Statute Law (Miscellaneous Provisions) Act 2004 No. 53
date of assent 29 November 2004
s 2 sch amdts 1, 17, 19 commenced on date of assent (amdts could not be given effect)
commenced on date of assent

Petroleum and Other Legislation Amendment Act 2005 No. 3 ss 1, 105 sch
date of assent 3 March 2005
commenced on date of assent

Wild Rivers Act 2005 No. 42 ss 1–2, 52 sch 1
date of assent 14 October 2005

ss 1–2 commenced on date of assent
remaining provisions commenced 2 December 2005 (2005 SL No. 287)

Environmental Protection and Other Legislation Amendment Act 2005 No. 53 pts 1, 4, s 159 sch
date of assent 18 November 2005
ss 1–2, 159 sch commenced on date of assent
remaining provisions commenced 1 January 2006 (2005 SL No. 318)

Integrated Planning and Other Legislation Amendment Act 2006 No. 11 s 1, pt 6
date of assent 30 March 2006
commenced on date of assent

Wild Rivers and Other Legislation Amendment Act 2006 No. 59 pts 1, 5
date of assent 7 December 2006
commenced on date of assent

Wild Rivers and Other Legislation Amendment Act 2007 No. 8 pts 1, 3
date of assent 28 February 2007
commenced on date of assent

Statute Law (Miscellaneous Provisions) Act 2007 No. 36
date of assent 29 August 2007
commenced on date of assent

Land Court and Other Legislation Amendment Act 2007 No. 39 ss 1–2, 41 sch
date of assent 29 August 2007
ss 1–2 commenced on date of assent
remaining provisions commenced 21 September 2007 (2007 SL No. 236)

Environmental Protection Amendment Act 2007 No. 44
date of assent 25 October 2007
ss 1–2 commenced on date of assent
remaining provisions not yet proclaimed into force (see s 2)

Mining and Other Legislation Amendment Act 2007 No. 46 s 1, pt 3A
date of assent 25 October 2007
commenced on date of assent

Environmental Protection and Other Legislation Amendment Act 2007 No. 56 pts 1, 3, s 6 sch
date of assent 9 November 2007
s 6 sch amdt 3 (amdt of ss 338, 358, 551) commenced on date of assent (amdt could not be given effect)
s 6 sch amdt 5 (amdt of s 73O) commenced on date of assent (amdt could not be given effect)
s 26 not yet proclaimed into force (see s 2)
remaining provisions commenced on date of assent

7 List of annotations

This reprint has been renumbered—see table of renumbered provisions in endnote 8.

CHAPTER 1—PRELIMINARY
PART 1—INTRODUCTORY PROVISIONS
Commencement
s 2 om 2002 No. 45 s 3(2) sch

PART 3—INTERPRETATION
Division 1—Dictionary
div hdg sub 2000 No. 64 s 3(2) sch

Notes in text
s 7A ins 2004 No. 48 s 29
om 2007 No. 36 s 2 sch

Division 2—Key concepts
div hdg sub 2000 No. 64 s 3(2) sch

Waste
s 13 sub 1995 No. 52 s 4
amd 2001 No. 86 s 3

Environmental harm
s 14 amd 1996 No. 10 s 4

Subdivision 4—Environmentally relevant activities
sdiv hdg ins 2000 No. 64 s 4

Meaning of "environmentally relevant activity"
s 18 ins 2000 No. 64 s 4

Environmentally relevant activity may be prescribed
s 19 ins 2000 No. 64 s 4

Levels for environmentally relevant activities
s 20 ins 2000 No. 64 s 4
amd 2004 No. 48 s 30

Relationship with other Acts
s 23 amd 1997 No. 80 s 4; 1999 No. 20 s 323
sub 2000 No. 64 s 5
amd 2003 No. 46 s 19 sch; 2003 No. 91 s 175 sch 1; 2003 No. 96 s 28 sch; 2007 No. 56 s 7

CHAPTER 2—ENVIRONMENTAL PROTECTION POLICIES
Minister may make policies
s 26 amd 1996 No. 10 s 5
sub 2005 No. 53 s 13

Notice of proposal to prepare draft policy
s 29 amd 2002 No. 45 s 3(2) sch
om 2005 No. 53 s 14

Preparation of draft policy
s 30 om 2005 No. 53 s 14

Notice of preparation of draft policy
s 31 amd 2002 No. 45 s 3(2) sch
om 2005 No. 53 s 14

Preparation of final policy
s 32 om 2005 No. 53 s 14

Policies are subordinate legislation
prov hdg sub 2005 No. 53 s 15(1)
s 33 amd 2005 No. 53 s 15(2)–(3)

Giving effect to policies
s 34 prev s 34 om 1999 No. 19 s 3 sch

Amendment and repeal of policies
s 35 prev s 35 amd 1996 No. 10 s 6
sub 1997 No. 7 s 4
amd 1997 No. 80 s 5
om 2000 No. 64 s 7
pres s 35 amd 2002 No. 45 s 29(2)
om 2005 No. 53 s 16

Review of policies
s 36 om 2005 No. 53 s 16

CHAPTER 3—ENVIRONMENTAL IMPACT STATEMENTS
ch hdg ins 2000 No. 64 s 6

PART 1—EIS PROCESS
pt hdg prev pt 1 hdg om 2000 No. 64 s 7
pres pt 1 hdg ins 2000 No. 64 s 6

Division 1—Preliminary
div hdg ins 2000 No. 64 s 6

Subdivision 1—Application
sdiv hdg ins 2000 No. 64 s 6

When EIS process applies
s 37 prev s 37 om 1999 No. 19 sch
pres s 37 ins 2000 No. 64 s 6
amd 2001 No. 46 s 8; 2004 No. 48 s 31

Subdivision 2—Definitions for pt 1
sdiv hdg ins 2000 No. 64 s 6

PART 3—ENVIRONMENTALLY RELEVANT ACTIVITIES
pt hdg om 2000 No. 64 s 8

Who is an "affected person" for a project
s 38 prev s 38 om 2000 No. 64 s 8
pres s 38 ins 2000 No. 64 s 6
amd 2003 No. 95 s 3 sch; 2004 No. 53 s 2 sch (amdt could not be given effect)

Other definitions
s 39 prev s 39 amd 1996 No. 10 s 7
sub 1997 No. 80 s 6
om 2000 No. 64 s 8
pres s 39 ins 2000 No. 64 s 6

Subdivision 3—Purposes of EIS and EIS process
sdiv hdg ins 2000 No. 64 s 6
amd 2001 No. 86 s 4

Purposes
s 40 prev s 40 amd 1997 No. 80 s 7
om 2000 No. 64 s 8
pres s 40 ins 2000 No. 64 s 6
amd 2001 No. 86 s 5

PART 4—ENVIRONMENTAL AUTHORITIES FOR ENVIRONMENTALLY RELEVANT ACTIVITIES WITHOUT DEVELOPMENT APPROVALS
pt hdg sub 1998 No. 13 s 37
om 2000 No. 64 s 8

Division 1A—Preliminary
div hdg ins 1998 No. 13 s 37
om 2000 No. 64 s 8

Application of pt 4
s 40A ins 1998 No. 13 s 37
amd 1998 No. 31 s 70
om 2000 No. 64 s 8

Division 2—Terms of reference stage
div hdg ins 2000 No. 64 s 6

Subdivision 1—Draft terms of reference
sdiv hdg ins 2000 No. 64 s 6

Submission
s 41 prev s 41 amd 1997 No. 80 s 8; 1998 No. 13 s 38
om 2000 No. 64 s 8
pres s 41 ins 2000 No. 64 s 6
amd 2001 No. 86 s 6; 2006 No. 59 s 34

Subdivision 2—Public notification of draft terms of reference
sdiv hdg ins 2000 No. 64 s 6

Preparation of TOR notice
s 42 prev s 42 amd 1995 No. 40 s 3
om 2000 No. 64 s 8
pres s 42 ins 2000 No. 64 s 6

Public notification
s 43 prev s 43 om 2000 No. 64 s 8
pres s 43 ins 2000 No. 64 s 6

Proponent to be given comments
s 44 prev s 44 sub 1996 No. 10 s 8
amd 1997 No. 80 s 9
om 2000 No. 64 s 8
pres s 44 ins 2000 No. 64 s 6

Advice to chief executive
s 45 prev s 45 amd 1997 No. 80 s 10; 1998 No. 13 s 39
om 2000 No. 64 s 8
pres s 45 ins 2000 No. 64 s 6

Subdivision 3—Final terms of reference
sdiv hdg ins 2000 No. 64 s 6

Finalising terms of reference
s 46 prev s 46 amd 1996 No. 10 s 9; 1997 No. 80 s 11
om 2000 No. 64 s 8
pres s 46 ins 2000 No. 64 s 6

Division 3—Submission stage
div hdg ins 2000 No. 64 s 6

When EIS may be submitted
s 47 prev s 47 om 2000 No. 64 s 8
pres s 47 ins 2000 No. 64 s 6

Provisional licensee may apply for new licence
s 47A ins 1996 No. 10 s 10
om 2000 No. 64 s 8

Chief executive may require copies of EIS
s 48 prev s 48 amd 1995 No. 40 s 4
om 2000 No. 64 s 8
pres s 48 ins 2000 No. 64 s 6

Division 2—Amendment of licences
div hdg om 2000 No. 64 s 8

Decision on whether EIS may proceed
s 49 prev s 49 amd 1996 No. 10 s 11, 1998 No. 13 s 40
om 2000 No. 64 s 8
pres s 49 ins 2000 No. 64 s 6
amd 2005 No. 53 s 17

Ministerial review of refusal to allow to proceed
s 50 prev s 50 amd 1997 No. 80 s 12
om 2000 No. 64 s 8
pres s 50 ins 2000 No. 64 s 6
amd 2005 No. 53 s 18

Division 4—Notification stage
div hdg ins 2000 No. 64 s 6

Subdivision 1—Public notice requirements
sdiv hdg ins 2000 No. 64 s 6

Public notification
s 51 prev s 51 amd 1998 No. 13 s 41
om 2000 No. 64 s 8
pres s 51 ins 2000 No. 64 s 6
amd 2005 No. 53 s 19

Division 3—Dealings with licences
div hdg om 2000 No. 64 s 8

Required content of EIS notice
s 52 prev s 52 om 2000 No. 64 s 8
pres s 52 ins 2000 No. 64 s 6
amd 2005 No. 53 s 20

Declaration of compliance
s 53 prev s 53 om 2000 No. 64 s 8
pres s 53 ins 2000 No. 64 s 6

Subdivision 2—Submissions
sdiv hdg ins 2000 No. 64 s 6

Right to make submission
s 54 prev s 54 om 2000 No. 64 s 8
pres s 54 ins 2000 No. 64 s 6

Acceptance of submissions
s 55 prev s 55 om 2000 No. 64 s 8
pres s 55 ins 2000 No. 64 s 6

Response to submissions
s 56 prev s 56 om 2000 No. 64 s 8
pres s 56 ins 2000 No. 64 s 6
amd 2005 No. 53 s 21

Assessment of adequacy of response to submission and submitted EIS
s 56A ins 2005 No. 53 s 22

Ministerial review of refusal to allow submitted EIS to proceed
s 56B ins 2005 No. 53 s 22

Division 5—EIS assessment report
div hdg ins 2000 No. 64 s 6

EIS assessment report
s 57 prev s 57 om 2000 No. 64 s 8
pres s 57 ins 2000 No. 64 s 6
sub 2005 No. 53 s 23

Criteria for preparing report
s 58 prev s 58 amd 1995 No. 40 s 5
om 2000 No. 64 s 8
pres s 58 ins 2000 No. 64 s 6

Division 4—Suspension and cancellation of licences
div hdg om 2000 No. 64 s 8

Required content of report
s 59 prev s 59 om 2000 No. 64 s 8
pres s 59 ins 2000 No. 64 s 6

Division 6—Completion of process
div hdg ins 2000 No. 64 s 6

When process is completed
s 60 prev s 60 amd 1997 No. 80 s 13
om 2000 No. 64 s 8
pres s 60 ins 2000 No. 64 s 6
amd 2001 No. 46 s 9; 2002 No. 45 s 3(2) sch

Division 4A—Amendment, suspension and cancellation of level 1 approvals
div hdg ins 1997 No. 80 s 14
om 2000 No. 64 s 8

Subdivision 1—Amendment of level 1 approvals
sdiv 1 (ss 60A–60C) ins 1997 No. 80 s 14
om 2000 No. 64 s 8

Subdivision 2—Suspension and cancellation of level 1 approvals
sdiv 2 (ss 60D–60E) ins 1997 No. 80 s 14
om 2000 No. 64 s 8

PART 4A—ENVIRONMENTAL AUTHORITIES FOR LEVEL 1 ENVIRONMENTALLY RELEVANT ACTIVITIES WITH DEVELOPMENT APPROVALS
pt hdg ins 1998 No. 13 s 42
om 2000 No. 64 s 8

Division 1—Preliminary
div hdg ins 1998 No. 13 s 42
om 2000 No. 64 s 8

Application of pt 4A
s 60F ins 1998 No. 13 s 42
amd 1998 No. 31 s 71
om 2000 No. 64 s 8

Division 2—Licences
div 2 (ss 60G–60N) ins 1998 No. 13 s 42
om 2000 No. 64 s 8

Division 3—Level 1 approvals
div 3 (60O–60V) ins 1998 No. 13 s 42
om 2000 No. 64 s 8

Division 4—Dealings with environmental authorities
div 4 (ss 60W–60Y) ins 1998 No. 13 s 42
om 2000 No. 64 s 8

PART 4B—DEVELOPMENT APPROVALS FOR CERTAIN ENVIRONMENTALLY RELEVANT ACTIVITIES

pt hdg ins 1998 No. 13 s 42
om 2000 No. 64 s 8

Division 1—Preliminary

div hdg ins 1998 No. 13 s 42
om 2000 No. 64 s 8

Application of pt 4B

s 60Z ins 1998 No. 13 s 42
amd 1998 No. 31 s 72
om 2000 No. 64 s 8

Division 2—Assessing development applications

div hdg ins 1998 No. 13 s 42
om 2000 No. 64 s 8

Assessing application

s 60ZA ins 1998 No. 13 s 42
amd 1998 No. 31 s 73
om 2000 No. 64 s 8

Conditions of development approval

s 60ZB ins 1998 No. 13 s 42
amd 1998 No. 13 s 74
om 2000 No. 64 s 8

Division 3—Effect of issue of certain development permits

div hdg ins 1998 No. 13 s 42
sub 1998 No. 31 s 75
om 2000 No. 64 s 8

Development permits continue to have effect

s 60ZC ins 1998 No. 13 s 42
sub 1998 No. 31 s 75
om 2000 No. 64 s 8

Cancellation of pt 4 environmental authority and issue of pt 4A environmental authority

s 60ZD ins 1998 No. 13 s 42
om 1998 No. 31 s 75

Issue of environmental authority on issue of development approval

s 60ZE ins 1998 No. 13 s 42
om 1998 No. 31 s 75

Division 4—Offences

div hdg ins 1998 No. 13 s 42
om 2000 No. 64 s 8

Offence to contravene development condition

s 60ZF ins 1998 No. 13 s 42
om 2000 No. 64 s 8

PART 4C—GENERAL PROVISIONS ABOUT ENVIRONMENTALLY RELEVANT ACTIVITIES

pt hdg sub 1998 No. 13 s 43
om 2000 No. 64 s 8

Division 7—Miscellaneous provisions

div hdg ins 2000 No. 64 s 6

Subdivision 1—Inquiries by chief executive

sdiv hdg ins 2000 No. 64 s 6

Application of sdiv 1

s 61 prev s 61 amd 1998 No. 13 s 44
om 2000 No. 64 s 8
pres s 61 ins 2000 No. 64 s 6

Special provisions for environmental authorities to carry out new environmentally relevant activities

s 61A ins 1996 No. 10 s 12
om 2000 No. 64 s 8

Chief executive may seek advice, comment or information

s 62 prev s 62 amd 1998 No. 31 s 76 (retro)
om 2000 No. 64 s 8
pres s 62 ins 2000 No. 64 s 6
amd 2005 No. 53 s 24

Disclosure of relevant documents or information

s 63 prev s 63 om 2000 No. 64 s 8
pres s 63 ins 2000 No. 64 s 6

Making of inquiry does not of itself alter EIS process

prov hdg sub 2005 No. 53 s 25(1)

s 64 prev s 64 amd 1998 No. 31 s 77
om 2000 No. 64 s 8
pres s 64 ins 2000 No. 64 s 6
amd 2005 No. 53 s 25(2)

Subdivision 2—Public inspection

sdiv hdg ins 2000 No. 64 s 6

Public access to draft terms of reference or submitted EIS

s 65 prev s 65 amd 1997 No. 7 s 5; 1998 No. 31 s 78 (retro)
om 2000 No. 64 s 8
pres s 65 ins 2000 No. 64 s 6

Subdivision 3—Amending EIS

sdiv hdg ins 2000 No. 64 s 6

Amending EIS

s 66 prev s 66 om 2000 No. 64 s 8
pres s 66 ins 2000 No. 64 s 6
amd 2005 No. 53 s 26

Subdivision 4—Effects of noncompliance with process
sdiv hdg ins 2000 No. 64 s 6

Process is suspended
s 67 prev s 67 amd 1998 No. 31 s 79 (retro)
om 2000 No. 64 s 8
pres s 67 ins 2000 No. 64 s 6
amd 2001 No. 46 ss 7, 29 sch 2

Substantial compliance with notice requirements may be accepted
s 68 prev s 68 amd 1996 No. 10 s 13, 1998 No. 13 s 45
om 2000 No. 64 s 8
pres s 68 ins 2000 No. 64 s 6

PART 2—VOLUNTARY PREPARATION OF EIS
pt hdg ins 2000 No. 64 s 6

Purpose of pt 2
s 69 prev s 69 om 2000 No. 64 s 8
pres s 69 ins 2000 No. 64 s 6
amd 2001 No. 46 ss 7, 29 sch 2

Projects that may be approved for EIS
s 70 prev s 70 sub 1997 No. 7 s 6
amd 1997 No. 80 s 15; 2001 No. 46 ss 7, 29 sch 2
om 2000 No. 64 s 8
pres s 70 ins 2000 No. 64 s 6

Material change of use for Integrated Planning Act
s 70A ins 1998 No. 13 s 46
om 2000 No. 64 s 8

Requirements for application
s 71 ins 2000 No. 64 s 6

Deciding application
s 72 ins 2000 No. 64 s 6

CHAPTER 4—DEVELOPMENT APPROVALS AND REGISTRATION (OTHER THAN FOR MINING OR PETROLEUM ACTIVITIES)
ch hdg ins 2000 No. 64 s 6
sub 2003 No. 95 s 4

PART 1—ASSESSING DEVELOPMENT APPLICATIONS
pt hdg ins 2000 No. 64 s 6
sub 2003 No. 95 s 4

Application of pt 1
s 73 ins 2000 No. 64 s 6
sub 2003 No. 95 s 4

Assessing development applications
s 73A ins 2003 SL No. 95 s 4
amd 2007 No. 56 s 6 sch

Development applications in relation to wild river areas
s 73AA ins 2005 No. 42 s 52 sch 1
amd 2006 No. 59 s 35; 2007 No. 8 s 19

Conditions of development approval that may and must be imposed
s 73B ins 2003 SL No. 95 s 4
amd 2007 No. 56 s 6 sch

Adding, changing or cancelling a development condition
s 73C ins 2003 SL No. 95 s 4
amd 2007 No. 56 s 8

PART 2—REGISTRATION
pt hdg ins 2000 No. 64 s 6
sub 2003 SL No. 95 s 4

Division 1—Assessable development use for Integrated Planning Act
div hdg ins 2000 No. 64 s 6
om 2003 No. 95 s 4

Division 2—Assessing development applications
div hdg ins 2000 No. 64 s 6
om 2003 No. 95 s 4

Division 3—Effect of issue of certain development approvals
div hdg ins 2000 No. 64 s 6
om 2003 No. 95 s 4

Application for registration to carry out chapter 4 activity
s 73D ins 2003 No. 95 s 4

Grounds for refusing application for registration
s 73E ins 2003 No. 95 s 4

Registration certificates
s 73F ins 2003 No. 95 s 4

When registration certificate takes effect
s 73G ins 2003 No. 95 s 4
amd 2005 No. 53 s 27

Registration certificate expires if new operator registered
s 73GA ins 2007 No. 56 s 9

PART 3—AMENDING REGISTRATION
pt hdg ins 2000 No. 64 s 6
sub 2003 No. 95 s 4; 2007 No. 56 s 10

Division 1—Grounds for amending registration certificates
div hdg prev div 1 hdg ins 2000 No. 64 s 6
om 2003 No. 95 s 4
pres div 1 hdg ins 2007 No. 56 s 10

Amendment to correct error
s 73H ins 2003 No. 95 s 4
sub 2007 No. 56 s 10

Amendment by agreement
s 73HA ins 2007 No. 56 s 10

Amendment to ensure consistency with code of environmental compliance
s 73HB ins 2007 No. 56 s 10

Amendment for registration of new activity
s 73HC ins 2007 No. 56 s 10

Amendment for removing registration of continuing chapter 4 activity
s 73HD ins 2007 No. 56 s 10

Division 2—Amendment of registration certificates
div hdg prev div 2 hdg ins 2000 No. 64 s 6
om 2003 No. 95 s 4
pres div 2 hdg ins 2007 No. 56 s 10

How a registration certificate is to be amended
s 73HE ins 2007 No. 56 s 10

PART 4—CANCELLING OR SUSPENDING REGISTRATION
pt hdg orig pt 4 hdg om 2000 No. 5 s 461 sch 3
prev pt 4 hdg ins 2000 No. 64 s 6
om 2003 No. 95 s 7
pres pt 4 hdg ins 2003 No. 95 s 4

Division 1—Conversion applications
div hdg ins 2000 No. 64 s 6
om 2003 No. 95 s 7

Division 2—Processing conversion applications
div hdg ins 2000 No. 64 s 6
om 2003 No. 95 s 7

Cancelling or suspending a registration certificate
s 73I ins 2003 No. 95 s 4

Notice of proposed action
s 73J ins 2003 No. 95 s 4

Considering representations
s 73K ins 2003 No. 95 s 4

Decision on proposed action
s 73L ins 2003 No. 95 s 4

Notice of proposed action decision
s 73M ins 2003 No. 95 s 4

Steps for cancelling or suspending a registration certificate
s 73N ins 2003 No. 95 s 4

PART 5—SURRENDERING REGISTRATION
pt hdg ins 2003 No. 95 s 4

Surrendering a registration certificate
s 73O ins 2003 No. 95 s 4
amd 2007 No. 56 ss 11, 6 sch amdt 1 (amdt 5 could not be given effect)

Steps for surrendering a registration certificate
s 73P ins 2003 No. 95 s 4

PART 6—MISCELLANEOUS
pt 6 (ss 73Q–73T) ins 2003 No. 95 s 4

CHAPTER 4A—ENVIRONMENTAL AUTHORITIES FOR PETROLEUM ACTIVITIES
ch hdg ins 2003 No. 95 s 4
sub 2004 No. 48 s 32

PART 1—PRELIMINARY
pt hdg ins 2003 No. 95 s 4
sub 2004 No. 48 s 32

Application of ch 4A
s 73U ins 2003 No. 95 s 4
om 2004 No. 48 s 32

Purpose of ch 4A
s 74 ins 2000 No. 64 s 6
amd 2002 No. 45 s 3(2) sch
sub 2003 No. 95 s 4; 2004 No. 48 s 32

Subdivision 1—General provisions for obtaining licence
sdiv hdg (orig located in ch 4, pt 3, div 2) ins 2000 No. 64 s 6
om 2004 No. 48 s 32

Types of environmental authority (petroleum activities)
s 75 prev s 75 ins 2000 No. 64 s 6
amd 2002 No. 10 s 3
om 2003 No. 95 s 4
pres s 75 ins 2004 No. 48 s 32

What is a "petroleum authority" and the "petroleum legislation"
s 76 prev s 76 ins 2000 No. 64 s 6
amd 2002 No. 10 s 4
om 2003 No. 95 s 4
pres s 76 ins 2004 No. 48 s 32

What is a "petroleum activity", a "level 1 petroleum activity" and a "level 2 petroleum activity"
s 77 prev s 77 ins 2000 No. 64 s 6
om 2003 No. 95 s 4
pres s 77 ins 2004 No. 48 s 32
amd 2005 No. 53 s 28

What is a "relevant petroleum authority"
s 78 prev s 78 ins 2000 No. 64 s 6
om 2003 No. 95 s 4

pres s 78 ins 2004 No. 48 s 32
amd 2005 No. 3 s 105 sch

What is a "relevant petroleum activity"
s 79 prev s 79 ins 2000 No. 64 s 6
om 2003 No. 95 s 4
pres s 79 ins 2004 No. 48 s 32

What is a "petroleum project"
s 80 prev s 80 ins 2000 No. 64 s 6
om 2003 No. 95 s 4
pres s 80 ins 2004 No. 48 s 32

PART 2—APPLYING FOR AND OBTAINING ENVIRONMENTAL AUTHORITY (PETROLEUM ACTIVITIES)
pt hdg ins 2003 No. 95 s 4
sub 2004 No. 48 s 32

Division 1—Preliminary
div hdg ins 2003 No. 95 s 4
sub 2004 No. 48 s 32

Definitions for pt 2
s 81 prev s 81 ins 2000 No. 64 s 6
om 2003 No. 95 s 4
pres s 81 ins 2004 No. 48 s 32

Division 2—General provisions for applications
div hdg (prev ch 4, pt 3, div 3 hdg) ins 2000 No. 64 s 6
renum 2003 No. 95 s 3 sch
sub 2004 No. 48 s 32

Subdivision 1—Restriction on who may apply
sdiv hdg ins 2004 No. 48 s 32

Restriction
s 82 prev s 82 ins 2000 No. 64 s 6
amd 2002 No. 45 s 3(2) sch
om 2003 No. 95 s 4
pres s 82 ins 2004 No. 48 s 32

Subdivision 2—Petroleum projects
sdiv hdg ins 2004 No. 48 s 32

Single application required for petroleum project
s 83 prev s 83 ins 2000 No. 64 s 6
amd 2002 No. 45 s 3(2) sch
om 2003 No. 95 s 4
pres s 83 ins 2004 No. 48 s 32

Single environmental authority (petroleum activities) required for petroleum project
s 84 prev s 84 ins 2000 No. 64 s 6
om 2003 No. 95 s 4
pres s 84 ins 2004 No. 48 s 32

Subdivision 3—Joint applications
sdiv hdg ins 2004 No. 48 s 32

Application of sdiv 3
s 85 prev s 85 ins 2000 No. 64 s 6
om 2003 No. 95 s 4
pres s 85 ins 2004 No. 48 s 32

Joint application may be made
s 86 orig s 86 om 2000 No. 64 s 13
prev s 86 ins 2000 No. 64 s 6
amd 2002 No. 45 s 3(2) sch
om 2003 No. 95 s 4
pres s 86 ins 2004 No. 48 s 32
amd 2005 No. 53 s 29

Appointment of principal applicant
s 87 ins 2000 No. 64 s 6
amd 2003 No. 95 s 5
sub 2004 No. 48 s 32

Effect of appointment
s 88 ins 2000 No. 64 s 6
def **"submission period"** amd 2000 No. 64 s 3(2) sch
sub 2004 No. 48 s 32

Division 3—Level 2 petroleum activities
div hdg (prev ch 4, pt 3, div 4 hdg) ins 2000 No. 64 s 6
renum 2003 No. 95 s 3 sch
sub 2004 No. 48 s 32

Subdivision 1—Code compliant authorities
sdiv hdg ins 2004 No. 48 s 32

Operation of sdiv 1
s 89 ins 2000 No. 64 s 6
amd 2002 No. 45 s 3(2) sch
sub 2004 No. 48 s 32

Public access to application
89D (prev s 34CB) ins 2000 No. 64 s 6
amd 2002 No. 45 s 3(2) sch
renum 2002 No. 45 s 3(2) sch
om 2004 No. 48 s 32

Public notice of application
s 89E (prev s 34CC) ins 2000 No. 64 s 6
amd 2002 No. 45 s 3(2) sch
renum 2002 No. 45 s 3(2) sch
om 2004 No. 48 s 32

Required content of application notice
s 89F (prev s 34CD) ins 2000 No. 64 s 6
amd 2002 No. 45 s 3(2) sch

renum 2002 No. 45 s 3(2) sch
om 2004 No. 48 s 32

Declaration of compliance
s 89G (prev s 34CE) ins 2000 No. 64 s 6
amd 2002 No. 45 s 3(2) sch
renum 2002 No. 45 s 3(2) sch
om 2004 No. 48 s 32

Substantial compliance may be accepted
s 89H (prev s 34CF) ins 2000 No. 64 s 6
amd 2002 No. 45 s 3(2) sch
renum 2002 No. 45 s 3(2) sch
om 2004 No. 48 s 32

Right to make submission
s 89I (prev s 34CG) ins 2000 No. 64 s 6
om 2004 No. 48 s 32

Acceptance of submissions
s 89J (prev s 34CH) ins 2000 No. 64 s 6
om 2004 No. 48 s 32

Requirements for application
s 90 ins 2000 No. 64 s 6
amd 2002 No. 45 s 3(2) sch
sub 2004 No. 48 s 32
amd 2005 No. 53 s 159 sch

Deciding application
s 91 ins 2000 No. 64 s 6
amd 2002 No. 45 s 3(2) sch
sub 2004 No. 48 s 32

Steps after granting application and the giving of financial assurance
s 92 ins 2000 No. 64 s 6
sub 2004 No. 48 s 32
amd 2005 No. 53 s 30

Code compliance condition
s 93 ins 2000 No. 64 s 6
amd 2002 No. 45 s 3(2) sch
sub 2004 No. 48 s 32
amd 2005 No. 42 s 52 sch 1

Subdivision 2—Non-code compliant authorities
sdiv hdg ins 2000 No. 64 s 6
sub 2004 No. 48 s 32

Operation of sdiv 2
s 94 ins 2000 No. 64 s 6
sub 2004 No. 48 s 32

Requirements for application
s 95 ins 2000 No. 64 s 6
amd 2002 No. 45 s 3(2) sch
sub 2004 No. 48 s 32

Conditions may be requested
s 95A ins 2005 No. 53 s 31

Deciding application
prov hdg amd 2005 No. 53 s 159 sch
s 96 prev s 96 om 2000 No. 64 s 15
pres s 96 ins 2000 No. 64 s 6
sub 2004 No. 48 s 32; 2005 No. 3 s 105 sch

Criteria for decision
s 97 ins 2000 No. 64 s 6
amd 2002 No. 45 s 3(2) sch
sub 2004 No. 48 s 32
amd 2005 No. 42 s 52 sch 1; 2005 No. 53 s 32; 2007 No. 56 s 6 sch

Conditions that may and must be imposed
s 98 ins 2000 No. 64 s 6
amd 2002 No. 45 s 3(2) sch
sub 2004 No. 48 s 32
amd 2005 No. 42 s 52 sch 1; 2005 No. 53 s 33; 2007 No. 56 s 6 sch

Steps after granting application and the giving of financial assurance
prov hdg amd 2003 No. 95 s 3 sch
s 99 ins 2000 No. 64 s 6
sub 2004 No. 48 s 32
amd 2005 No. 53 s 34

Information notice about particular decisions
s 100 ins 2000 No. 64 s 6
amd 2002 No. 45 s 3(2) sch
sub 2004 No. 48 s 32

Division 4—Level 1 petroleum activities
div hdg ins 2004 No. 48 s 32

Operation of div 4
s 101 ins 2000 No. 64 s 6
amd 2002 No. 45 s 3(2) sch
sub 2004 No. 48 s 32

Requirements for application
s 102 ins 2000 No. 64 s 6
sub 2004 No. 48 s 32

Environmental management plan
s 103 ins 2000 No. 64 s 6
amd 2001 No. 46 ss 7, 29 sch 2
sub 2004 No. 48 s 32
amd 2005 No. 53 s 35

EIS may be required
s 104 ins 2000 No. 64 s 6
amd 2002 No. 45 s 3(2) sch
sub 2004 No. 48 s 32

Public access to application
prov hdg amd 2003 No. 95 s 3 sch
s 105 ins 2000 No. 64 s 6
sub 2004 No. 48 s 32

Public notice of application
s 106 ins 2000 No. 64 s 6
amd 2002 No. 45 s 3(2) sch
sub 2003 No. 95 s 6; 2004 No. 48 s 32

Required contents of application notice
s 107 ins 2000 No. 64 s 6
amd 2002 No. 45 s 3(2) sch
sub 2004 No. 48 s 32

Declaration of compliance
s 108 prev s 108 ins 2000 No. 64 s 6
amd 2001 No. 46 ss 7, 29 sch 2
om 2003 No. 95 s 7
pres s 108 ins 2004 No. 48 s 32

Substantial compliance may be accepted
s 109 prev s 109 ins 2000 No. 64 s 6
amd 2002 No. 45 s 4
om 2003 No. 95 s 7
pres s 109 ins 2004 No. 48 s 32

Right to make submission
s 110 prev s 110 ins 2000 No. 64 s 6
amd 2002 No. 45 s 3(2) sch
om 2003 No. 95 s 7
pres s 110 ins 2004 No. 48 s 32

Acceptance of submission
s 111 prev s 111 ins 2000 No. 64 s 6
amd 2001 No. 46 ss 7, 29 sch 2; amd 2002 No. 45 s 5
om 2003 No. 95 s 7
pres s 111 ins 2004 No. 48 s 32

Deciding application
s 112 prev s 112 ins 2000 No. 64 s 6
om 2003 No. 95 s 7
pres s 112 ins 2004 No. 48 s 32

Criteria for decision
s 113 prev s 113 ins 2000 No. 64 s 6
amd 2002 No. 45 s 3(2) sch
om 2003 No. 95 s 7

pres s 113 ins 2004 No. 48 s 32
amd 2005 No. 42 s 52 sch 1; 2007 No. 56 s 6 sch

Conditions that may and must be imposed
s 114 prev s 114 ins 2000 No. 64 s 6
om 2003 No. 95 s 7
pres s 114 ins 2004 No. 48 s 32
amd 2005 No. 42 s 52 sch 1; 2007 No. 56 s 6 sch

Steps after granting application and the giving of financial assurance
s 115 prev s 115 ins 2000 No. 64 s 6
amd 2002 No. 45 ss 6, 3(2) sch
om 2003 No. 95 s 7
pres s 115 ins 2004 No. 48 s 32
amd 2005 No. 53 s 36

Information notice about particular decisions
s 116 ins 2000 No. 64 s 6
sub 2002 No. 45 s 7; 2004 No. 48 s 32

Division 5—Term of environmental authority (petroleum activities)
div hdg ins 2004 No. 48 s 32

Term
prov hdg amd 2003 No. 95 s 3 sch
s 117 ins 2000 No. 64 s 6
sub 2002 No. 45 s 7; 2004 No. 48 s 32

PART 3—AMENDING ENVIRONMENTAL AUTHORITIES (PETROLEUM ACTIVITIES) BY APPLICATION
pt hdg (prev ch 4, pt 5 hdg) ins 2000 No. 64 s 6
sub 2002 No. 45 s 7
renum 2003 No. 95 s 3 sch
sub 2004 No. 48 s 32

Division 1—Making amendment application
div hdg ins 2002 No. 45 s 7
sub 2004 No. 48 s 32

Public notice may be required for licence amendment
s 34DK ins 2000 No. 64 s 6
om 2002 No. 45 s 7

Who may apply for amendment
s 118 ins 2002 No. 45 s 7
sub 2004 No. 48 s 32

Meaning of "owner" for pt 9B
s 118D ins 1997 No. 80 s 21
om 2000 No. 64 s 22

Code compliance condition may be amended
s 119 ins 2000 No. 64 s 6
sub 2002 No. 45 s 7

amd 2003 No. 95 s 8
sub 2004 No. 48 s 32

Requirements for amendment application
s 120 ins 2000 No. 64 s 6
sub 2002 No. 45 s 7
amd 2003 No. 95 s 9
sub 2004 No. 48 s 32

Division 2—Processing amendment application
div hdg ins 2002 No. 45 s 7
sub 2004 No. 48 s 32

EIS may be required
s 121 ins 2000 No. 64 s 6
sub 2002 No. 45 s 7; 2004 No. 48 s 32

Public notice may be required if application is for level 1 petroleum activity
prov hdg sub 2005 No. 53 s 37(1)
s 122 ins 2000 No. 64 s 6
sub 2002 No. 45 s 7
amd 2003 No. 95 s 3 sch
sub 2004 No. 48 s 32
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Public notice process
s 123 ins 2000 No. 64 s 6
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Deciding application
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s 128 ins 2000 No. 64 s 6
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Transfer only by approval
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om 2004 No. 48 s 32

Requirements for transfer application
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om 2004 No. 48 s 32

Amendment application may accompany transfer application
s 128C ins 2002 No. 45 s 7
amd 2003 No. 95 s 3 sch
om 2004 No. 48 s 32

Audit statement may be required
s 128D ins 2002 No. 45 s 7
om 2004 No. 48 s 32

Deciding application
s 128E ins 2002 No. 45 s 7
om 2004 No. 48 s 32

Additional ground for refusal
s 128F ins 2002 No. 45 s 7
om 2004 No. 48 s 32

Steps after making decision
s 128G ins 2002 No. 45 s 7
om 2004 No. 48 s 32

Surrender only by approval
s 128H ins 2002 No. 45 s 7
om 2004 No. 48 s 32

Surrender application must be for whole authority
s 128I ins 2002 No. 45 s 7
om 2004 No. 48 s 32

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s 128J ins 2002 No. 45 s 7
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Notice by administering authority to make surrender application
s 128K ins 2002 No. 45 s 7
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Failure to comply with surrender notice
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Subdivision 2—Making surrender application
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om 2004 No. 48 s 32

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PART 4—TRANSFERS
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sdiv hdg ins 2002 No. 45 s 7
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Transfer only by approval
s 129 ins 2000 No. 64 s 6
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General requirements for transfer application
s 130 ins 2000 No. 64 s 6
amd 2002 No. 45 ss 8, 3(2) sch; 2003 No. 95 s 11
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s 131 ins 2000 No. 64 s 6
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Additional requirement for transfer application for code compliant authority if no amendment application made
s 132 ins 2000 No. 64 s 6
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Audit statement may be required
s 133 ins 2000 No. 64 s 6
amd 2002 No. 45 s 3(2) sch
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amd 2005 No. 53 s 39

Deciding application
s 134 ins 2000 No. 64 s 6
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amd 2005 No. 53 s 40

Additional ground for refusal
s 135 ins 2000 No. 64 s 6
amd 2003 No. 95 s 13
sub 2004 No. 48 s 32

Steps after making decision
s 136 ins 2000 No. 64 s 6
amd 2002 No. 45 s 3(2) sch
sub 2004 No. 48 s 32
amd 2005 No. 53 s 41

PART 5—SURRENDERS
pt hdg (prev ch 4, pt 7 hdg) ins 2000 No. 64 s 6
renum 2003 No. 95 s 3 sch
sub 2004 No. 48 s 32

Division 1—General provisions for surrenders
div hdg ins 2000 No. 64 s 6
sub 2004 No. 48 s 32

Subdivision 1—Amendments
sdiv hdg ins 2000 No. 64 s 6
om 2004 No. 48 s 32

Subdivision 2—Cancellation or suspension
sdiv hdg ins 2000 No. 64 s 6
om 2004 No. 48 s 32

Division 2—Procedure for amendment without agreement, cancellation or suspension
div hdg ins 2000 No. 64 s 6
om 2004 No. 48 s 32

Surrender only by approval
s 137 ins 2000 No. 64 s 6
amd 2002 No. 45 s 3(2) sch
sub 2004 No. 48 s 32

Surrender may be partial
s 138 ins 2000 No. 64 s 6
amd 2002 No. 45 s 3(2) sch
sub 2004 No. 48 s 32

When surrender application required
s 139 ins 2000 No. 64 s 6
amd 2002 No. 45 s 3(2) sch
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amd 2005 No. 53 s 42

Notice by administering authority to make surrender application
s 140 ins 2000 No. 64 s 6
amd 2003 No. 96 s 28 sch; 2003 No. 95 s 3 sch
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amd 2005 No. 53 s 159 sch

Administering authority may call conference
s 140A (prev s 34EH) ins 2000 No. 64 s 6
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om 2004 No. 48 s 32

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s 141 ins 2000 No. 64 s 6
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Amending report
s 144 prev s 144 ins 2000 No. 64 s 6
om 2002 No. 45 s 10
pres s 144 ins 2004 No. 48 s 32

FRR assessment report may be given
s 145 prev s 145 ins 2000 No. 64 s 6
amd 2002 No. 45 ss 11, 3(2) sch
om 2003 No. 95 s 3 sch
pres s 145 ins 2004 No. 48 s 32

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div hdg ins 2004 No. 48 s 32

Deciding application
s 145A ins 2004 No. 48 s 32

Criteria for decision
s 145B ins 2004 No. 48 s 32
amd 2007 No. 56 s 6 sch

Steps after making decision
s 145C ins 2004 No. 48 s 32

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pt hdg (prev ch 4, pt 8 hdg) ins 2000 No. 64 s 6
renum 2003 No. 95 s 3 sch
sub 2004 No. 48 s 32

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sdiv hdg ins 2004 No. 48 s 32

Corrections
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s 145F ins 2004 No. 48 s 32
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div hdg ins 2004 No. 48 s 32

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s 145O ins 2004 No. 48 s 32

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s 151 prev s 151 om 2000 No. 5 s 461 sch 3
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s 152 prev s 152 om 2000 No. 5 s 461 sch 3
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amd 2002 No. 45 s 3(2) sch; 2004 No. 48 s 38; 2005 No. 53 s 46; 2007 No. 56 s 13

Subdivision 2—Applications for mining projects
sdiv hdg ins 2000 No. 64 s 6

Single application required for mining project
s 155 prev s 155 om 2000 No. 5 s 461 sch 3
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amd 2001 No. 46 ss 7, 29 sch 2
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PART 3—PROCESSING OF APPLICATIONS FOR LEVEL 2 MINING PROJECTS
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s 165 ins 2000 No. 64 s 6
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s 167 prev s 167 om 2000 No. 5 s 461 sch 3
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Automatic issuing of code compliant authority in particular circumstances
s 168 prev s 168 om 2000 No. 5 s 461 sch 3
pres s 168 ins 2000 No. 64 s 6
sub 2004 No. 48 s 41; 2005 No. 53 s 50

Conditions of code compliant authority
s 168A ins 2005 No. 53 s 50

Provisions for grant of application if Minister's decision is to grant on different conditions
s 168B ins 2005 No. 53 s 50

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sdiv hdg ins 2004 No. 48 s 41

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s 169 ins 2000 No. 64 s 6
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EM plan required
s 169A ins 2005 No. 42 s 52 sch 1

Additional conditions may be imposed
s 170 ins 2000 No. 64 s 6
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amd 2005 No. 42 s 52 sch 1; 2007 No. 56 s 6 sch

Deciding application
s 171 ins 2000 No. 64 s 6
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amd 2005 No. 42 s 52 sch 1

Consequence of failure to decide
s 171A ins 2004 No. 48 s 41

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s 171B ins 2004 No. 48 s 41

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s 171C ins 2004 No. 48 s 41
amd 2005 No. 53 s 51

Subdivision 2—Process if there is a relevant mining claim or mining lease
sdiv hdg ins 2004 No. 48 s 41

Modified application of pt 6, divs 4 to 8
prov hdg sub 2005 No. 53 s 52(1)
s 171D ins 2004 No. 48 s 41
amd 2005 No. 42 s 52 sch 1; 2005 No. 53 s 52(2)

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s 171DA ins 2005 No. 53 s 53

PART 4—PROCESSING NON-CODE COMPLIANT APPLICATIONS FOR ENVIRONMENTAL AUTHORITY (MINING CLAIM) FOR LEVEL 1 MINING PROJECT
pt hdg ins 2000 No. 64 s 6
sub 2004 No. 48 s 42

Division 1—Preliminary
div hdg ins 2000 No. 64 s 6

Operation of pt 4
s 172 ins 2000 No. 64 s 6
amd 2004 No. 48 s 43

Division 2—Decision to refuse or to allow to proceed
div hdg ins 2000 No. 64 s 6

Administering authority may refuse application
s 173 ins 2000 No. 64 s 6
amd 2005 No. 42 s 52 sch 1

Notice of refusal
s 174 ins 2000 No. 64 s 6

Division 3—Draft environmental authority stage
div hdg ins 2000 No. 64 s 6

Obligation to prepare draft environmental authority
s 175 ins 2000 No. 64 s 6
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Additional conditions may be imposed
s 176 prev s 176 ins 2000 No. 64 s 6
om 2004 No. 48 s 44
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Division 4—Public notice, objection and decision stage
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Mining lease process under pt 6, divs 6–8 applies
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PART 5—PROCESSING NON-CODE COMPLIANT APPLICATIONS FOR ENVIRONMENTAL AUTHORITY (EXPLORATION) OR ENVIRONMENTAL AUTHORITY (MINERAL DEVELOPMENT) FOR LEVEL 1 MINING PROJECT
pt hdg ins 2000 No. 64 s 6
sub 2004 No. 48 s 45

Division 1—Preliminary
div hdg ins 2000 No. 64 s 6
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Operation of pt 5
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amd 2004 No. 48 s 47

Division 2—Standard applications
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om 2004 No. 48 s 48

Application of div 2
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om 2004 No. 48 s 48

Additional conditions may be imposed
s 180 ins 2000 No. 64 s 6
om 2004 No. 48 s 48

Deciding application
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om 2004 No. 48 s 48

Consequence of failure to decide
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om 2004 No. 48 s 48

Grant of application
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om 2004 No. 48 s 48

Division 3—Non-standard applications
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Subdivision 1—Preliminary
sdiv hdg ins 2000 No. 64 s 6
om 2004 No. 48 s 50

Application of div 3
s 185 ins 2000 No. 64 s 6
om 2005 No. 53 s 54

Subdivision 2—EIS stage
sdiv hdg ins 2000 No. 64 s 6
om 2004 No. 48 s 51

EIS process applies
s 186 ins 2000 No. 64 s 6
amd 2007 No. 56 s 6 sch

Subdivision 3—Environmental management document stage
sdiv hdg ins 2000 No. 64 s 6
om 2004 No. 48 s 52

Environmental management plan required
s 187 ins 2000 No. 64 s 6
amd 2004 No. 48 s 53

Purpose of submitted EM plan
prov hdg amd 2004 No. 48 s 54(1)
s 188 ins 2000 No. 64 s 6
amd 2004 No. 48 s 54(2)

Content requirements for submitted EM plan
prov hdg sub 2004 No. 48 s 55(1)
s 189 ins 2000 No. 64 s 6
amd 2004 No. 53 s 2 sch; 2004 No. 48 s 55(2)–(5); 2005 No. 42 s 52 sch 1

Submitted EM plan may be amended
prov hdg sub 2004 No. 48 s 56(1)
s 190 ins 2000 No. 64 s 6
amd 2004 No. 48 s 56

EM plan assessment report may be prepared
s 191 ins 2000 No. 64 s 6
amd 2004 No. 48 s 57

Requirements for EM plan assessment report
s 192 ins 2000 No. 64 s 6
amd 2004 No. 48 s 58; 2007 No. 56 s 6 sch

Subdivision 4—Decision stage
sdiv hdg ins 2000 No. 64 s 6
om 2004 No. 48 s 59

Deciding application
s 193 ins 2000 No. 64 s 6
amd 2005 No. 42 s 52 sch 1; 2007 No. 56 s 6 sch

Grant of application
s 194 ins 2000 No. 64 s 6
amd 2004 No. 53 s 2 sch

Information notice about refusal or condition decision
s 195 ins 2000 No. 64 s 6

PART 6—PROCESSING NON-CODE COMPLIANT APPLICATIONS FOR ENVIRONMENTAL AUTHORITY (MINING LEASE) FOR LEVEL 1 MINING PROJECT
pt hdg ins 2000 No. 64 s 6
sub 2004 No. 48 s 60

Division 1—Preliminary
div hdg ins 2000 No. 64 s 6

Operation of pt 6
s 196 ins 2000 No. 64 s 6
amd 2004 No. 48 s 61

Summary of pt 6 process
s 197 ins 2000 No. 64 s 6
sub 2004 No. 48 s 62
amd 2007 No. 39 s 41 sch

Division 2—EIS stage
div hdg ins 2000 No. 64 s 6
sub 2004 No. 48 s 63

Application of div 2
s 198 ins 2000 No. 64 s 6
amd 2004 No. 48 s 64

EIS process applies
s 199 ins 2000 No. 64 s 6
amd 2004 No. 48 s 65

Division 3—Environmental management plan stage
div hdg ins 2000 No. 64 s 6
sub 2004 No. 48 s 66

Application of div 3
s 200 ins 2000 No. 64 s 6
om 2004 No. 48 s 67

Environmental management plan required
s 201 ins 2000 No. 64 s 6
sub 2004 No. 48 s 68

Purpose of submitted EM plan
prov hdg amd 2004 No. 48 s 69(1)
s 202 ins 2000 No. 64 s 6
amd 2004 No. 48 s 69(2)

Content requirements for submitted EM plan
prov hdg sub 2004 No. 48 s 70(1)
s 203 ins 2000 No. 64 s 6
amd 2001 No. 46 s 13, ss 7, 29 sch 2; 2004 No. 53 s 2 sch; 2004 No. 48 s 70(2)–(5); 2005 No. 42 s 52 sch 1; 2005 No. 53 s 55

Submitted EM plan may be amended
prov hdg sub 2004 No. 48 s 71(1)
s 204 ins 2000 No. 64 s 6; 2004 No. 48 s 71(2)–(5)

EM plan assessment report may be prepared
prov hdg amd 2004 No. 48 s 72(1)
s 205 ins 2000 No. 64 s 6
amd 2001 No. 46 s 14; 2002 No. 45 s 3(2) sch; 2004 No. 48 s 72(2)–(4)

Requirements for EM plan assessment report
prov hdg amd 2004 No. 48 s 73(1)
s 206 ins 2000 No. 64 s 6
amd 2001 No. 46 s 15; 2004 No. 48 s 73(2)–(3); 2007 No. 56 s 6 sch

Division 4—Decision to refuse or to allow to proceed
div hdg ins 2000 No. 64 s 6

Administering authority may refuse application
s 207 ins 2000 No. 64 s 6
amd 2004 No. 48 s 74; 2005 No. 42 s 52 sch 1

Division 5—Draft environmental authority stage
div hdg ins 2000 No. 64 s 6

Obligation to prepare draft environmental authority
s 208 ins 2000 No. 64 s 6
amd 2004 No. 48 s 75

Conditions—standard applications
s 209 ins 2000 No. 64 s 6
amd 2001 No. 46 s 16
om 2004 No. 48 s 76

Conditions that may and must be included in draft environmental authority
prov hdg sub 2004 No. 48 s 77(1)
s 210 ins 2000 No. 64 s 6
amd 2001 No. 46 s 17; 2002 No. 45 s 3(2) sch; 2004 No. 48 s 77; 2005 No. 42 s 52 sch 1; 2005 No. 53 s 56; 2007 No. 56 s 6 sch

Division 6—Public notice and objections stage
div hdg ins 2000 No. 64 s 6
amd 2004 No. 48 s 78

Public notice of application
s 211 ins 2000 No. 64 s 6

Required content of application notice
s 212 ins 2000 No. 64 s 6

Public access to application documents
s 213 ins 2000 No. 64 s 6
amd 2004 No. 48 s 79

Declaration of compliance
s 214 ins 2000 No. 64 s 6

Substantial compliance may be accepted
s 215 ins 2000 No. 64 s 6

Right to make objection
s 216 ins 2000 No. 64 s 6
amd 2001 No. 46 s 18; 2002 No. 45 s 3(2) sch; 2004 No. 48 s 80

Acceptance of objections
s 217 ins 2000 No. 64 s 6
amd 2001 No. 46 ss 7, 29 sch 2

Amendment or withdrawal of objection
s 218 ins 2000 No. 64 s 6
amd 2007 No. 39 s 41 sch

Division 7—Decision stage
div hdg ins 2000 No. 64 s 6

Subdivision 1—Referral to Land Court if current objection
sdiv hdg ins 2000 No. 64 s 6
amd 2007 No. 39 s 41 sch

Referral to Land Court
s 219 ins 2000 No. 64 s 6
amd 2004 No. 53 s 2 sch; 2007 No. 39 s 41 sch

Objections decision hearing
s 220 ins 2000 No. 64 s 6
amd 2007 No. 39 s 41 sch

Land Court mediation of objections
prov hdg amd 2007 No. 39 s 41 sch
s 221 ins 2000 No. 64 s 6
amd 2007 No. 39 s 41 sch

Nature of objections decision
s 222 prev s 222 om 2000 No. 64 s 49
pres s 222 ins 2000 No. 64 s 6
amd 2001 No. 46 s 19; 2002 No. 45 s 3(2) sch; 2004 No. 48 s 81; 2007 No. 39 s 41 sch

Matters to be considered for objections decision
s 223 prev s 223 om R1 (see RA s 40)
pres s 223 ins 2000 No. 64 s 6
amd 2004 No. 48 s 82; 2005 No. 42 s 52 sch 1; 2007 No. 39 s 41 sch; 2007 No. 56 s 6 sch

Advice from MRA and State Development Ministers about objections decision
s 224 prev s 224 amd 1996 No. 10 s 22
exp 1 March 1997 (see ss 224, 225)
pres s 224 ins 2000 No. 64 s 6
sub 2001 No. 46 s 20

EPA Minister's decision on application
s 225 prev s 225 exp 1 March 1997 (see ss 224, 225)
pres s 225 ins 2000 No. 64 s 6
amd 2001 No. 46 s 21; 2004 No. 48 s 83; 2005 No. 42 s 52 sch 1

Grant of application
s 226 prev s 226 exp 1 March 1996 (see ss 224, 228)
pres s 226 ins 2000 No. 64 s 6
amd 2004 No. 53 s 2 sch; 2005 No. 53 s 57

Submitted EM plan may be amended if conditions of environmental authority are different to draft
s 226A ins 2005 No. 53 s 58

Subdivision 2—Grant if no current objection at end of objection period or before objections decision
sdiv hdg ins 2000 No. 64 s 6

Application of sdiv 2
s 227 prev s 227 exp 1 March 1996 (see ss 224, 228)
pres s 227 ins 2000 No. 64 s 6
amd 2004 No. 53 s 2 sch

Grant of application on basis of draft environmental authority
s 228 prev s 228 exp 1 March 1996 (see ss 224, 228)
pres s 228 ins 2000 No. 64 s 6
amd 2004 No. 53 s 2 sch

Division 8—Miscellaneous provisions
div hdg ins 2000 No. 64 s 6

Withdrawing an application
s 229 prev s 229 exp 1 March 1995 (see ss 224, 230)
pres s 229 ins 2000 No. 64 s 6

Certain objections apply for later applications
s 230 prev s 230 exp 1 March 1995 (see ss 224, 230)
pres s 230 ins 2000 No. 64 s 6

Effects of noncompliance with application process
s 231 prev s 231 exp 1 March 1996 (see ss 224, 232)
pres s 231 ins 2000 No. 64 s 6
amd 2007 No. 39 s 41 sch

PART 7—PLAN OF OPERATIONS FOR ENVIRONMENTAL AUTHORITY (MINING LEASE)
pt hdg ins 2000 No. 64 s 6

Application of pt 7
s 232 prev s 232 exp 1 March 1996 (see ss 224, 232)
pres s 232 ins 2000 No. 64 s 6

Plan of operations required before acting under relevant mining lease
s 233 prev s 233 exp 1 March 1996 (see ss 224, 234)
pres s 233 ins 2000 No. 64 s 6

Division 5—Savings and transitional provisions (Health Act 1937)
div hdg exp 1 March 1996 (see ss 224, 234)

Orders and approvals under Health Act
s 233A ins 1995 No. 52 s 8
exp 2 February 1996 (see s 233A(3))

Content requirements
s 234 prev s 234 amd 1995 No. 52 s 9
exp 1 March 1996 (see ss 224, 234)

pres s 234 ins 2000 No. 64 s 6
amd 2004 No. 53 s 2 sch; 2004 No. 48 s 84

Amending or replacing plan
s 235 orig s 235 exp 1 March 1997 (see ss 224, 241)
prev s 235 ins 1997 No. 7 s 12
om 2000 No. 64 s 51
pres s 235 ins 2000 No. 64 s 6

Division 6—Miscellaneous transitional provisions
div hdg exp 1 March 1997 (see ss 224, 241)

Environmental authority overrides plan
s 236 orig s 236 exp 1 March 1996 (see ss 224, 236(6))
prev s 236 ins 1996 No. 10 s 23
exp 1 March 1997 (see ss 224, 241)
prev s 236 ins 1997 No. 7 s 12
om 2000 No. 64 s 51
pres s 236 ins 2000 No. 64 s 6

Postponement of requirement for environmental authorities to carry out certain existing environmentally relevant activities
s 236A ins 1996 No. 10 s 23
exp 1 March 1997 (see ss 224, 241)

PART 8—AMENDMENT OF AUTHORITIES BY APPLICATION
pt hdg ins 2000 No. 64 s 6

Division 1—Preliminary
div hdg ins 2000 No. 64 s 6

Exclusions from amendment under pt 8
s 237 orig s 237 exp 1 March 1996 (see ss 224, 237(2))
prev s 237 ins 1996 No. 10 s 23
exp 1 March 1997 (see s 241)
pres s 237 ins 2000 No. 64 s 6

Division 2—General provisions for amendment applications
div hdg ins 2000 No. 64 s 6

Who may apply
s 238 prev s 238 amd 1996 No. 10 s 25
exp 1 September 1997 (see s 241(2))
pres s 238 ins 2000 No. 64 s 6
amd 2005 No. 53 s 59

Conditions of code compliant authority may be amended
s 239 prev s 239 exp 1 March 1997 (see ss 224, 241)
pres s 239 ins 2000 No. 64 s 6
sub 2004 No. 48 s 85

Requirements for application
s 240 orig s 240 exp 1 March 1996 (see ss 224, 240(3))
prev s 240 ins 1996 No. 10 s 24
exp 1 March 1997 (see ss 224, 241

pres s 240 ins 2000 No. 64 s 6
amd 2004 No. 48 s 86

Division 3—Processing amendment applications for standard authorities
div hdg ins 2000 No. 64 s 6
om 2004 No. 48 s 87

Application of div 3
s 241 prev s 241 sub 1996 No. 10 s 26
exp 1 March 1997 (see ss 224, 241)
pres s 241 ins 2000 No. 64 s 6
om 2004 No. 48 s 87

Deciding application
s 242 prev s 242 ins 1996 No. 10 s 27
exp 1 March 1997 (see s 252)
pres s 242 ins 2000 No. 64 s 6
om 2004 No. 48 s 87

Division 2—Validations
div hdg ins 1996 No. 10 s 27
exp 1 March 1997 (see s 252)

Consequence of failure to decide
s 243 prev s 243 ins 1996 No. 10 s 27
exp 23 May 1996 (see s 243)
pres s 243 ins 2000 No. 64 s 6
om 2004 No. 48 s 87

Steps after making decision
s 244 prev s 244 ins 1996 No. 10 s 27
exp 1 March 1997 (see s 252)
pres s 244 ins 2000 No. 64 s 6
om 2004 No. 48 s 87

Division 3—Processing application
div hdg prev div 3 hdg ins 1996 No. 10 s 27
exp 1 March 1997 (see s 252)
pres div 3 hdg (prev div 4 hdg) ins 2000 No. 64 s 6
sub 2004 No. 48 s 88

Subdivision 1—Assessment level decision
sdiv hdg prev sdiv 1 hdg ins 2000 No. 64 s 6
om 2004 No. 48 s 89
pres sdiv 1 hdg (prev s div 2 hdg) ins 2000 No. 64 s 6
renum 2004 No. 48 s 90

Application of div 4
s 245 prev s 245 ins 1996 No. 10 s 27
exp 1 March 1997 (see s 252)
pres s 245 ins 2000 No. 64 s 6
om 2004 No. 48 s 89

Assessment level and EIS decisions for application
s 246 prev s 246 ins 1996 No. 10 s 27
exp 1 March 1997 (see s 252)
pres s 246 ins 2000 No. 64 s 6
amd 2005 No. 53 s 60

Ministerial decision about assessment level and EIS decisions
s 247 prev s 247 ins 1996 No. 10 s 27
exp 1 March 1997 (see s 252)
pres s 247 ins 2000 No. 64 s 6
amd 2005 No. 53 s 61

Significant increase must be decided in particular cases
s 247A ins 2004 No. 48 s 91
sub 2005 No. 53 s 62

Notice of EIS requirement
s 248 prev s 248 ins 1996 No. 10 s 27
exp 1 March 1997 (see s 252)
pres s 248 ins 2000 No. 64 s 6
sub 2004 No. 48 s 92
amd 2007 No. 56 s 14

Notice of assessment level decision
s 249 prev s 249 ins 1996 No. 10 s 27
exp 1 March 1997 (see s 252)
pres s 249 ins 2000 No. 64 s 6

Subdivision 2—Process if decision is significant increase in environmental harm likely and EIS not required
sdiv hdg (prev sdiv 3 hdg) ins 2000 No. 64 s 6
renum 2004 No. 48 s 93

Application of sdiv 2
prov hdg amd 2004 No. 48 s 94
s 250 prev s 250 ins 1996 No. 10 s 27
exp 1 March 1997 (see s 252)
pres s 250 ins 2000 No. 64 s 6

Relevant application process applies
s 251 prev s 251 ins 1996 No. 10 s 27
exp 1 March 1997 (see s 252)
pres s 251 ins 2000 No. 64 s 6
amd 2004 No. 48 s 95; 2005 No. 53 s 63; 2007 No. 39 s 41 sch

Refusal on ground that replacement environmental authority needed
s 252 prev s 252 ins 1996 No. 10 s 27
exp 1 March 1997 (see s 252)
pres s 252 ins 2000 No. 64 s 6

Submitted EM plan may be amended
s 253 ins 2000 No. 64 s 6
sub 2004 No. 48 s 96

Public notice of application
s 254 ins 2000 No. 64 s 6
amd 2005 No. 53 s 64

Objection period
s 255 ins 2000 No. 64 s 6
amd 2005 No. 53 s 65

Subdivision 3—Process if decision is significant environmental harm increase unlikely
sdiv hdg (prev sdiv 4 hdg) ins 2000 No. 64 s 6
renum 2004 No. 48 s 97

Application of sdiv 3
prov hdg amd 2004 No. 48 s 98
s 256 ins 2000 No. 64 s 6

Deciding application
s 257 ins 2000 No. 64 s 6
amd 2007 No. 56 s 6 sch

Steps after making decision
s 258 ins 2000 No. 64 s 6

Submitted EM plan may be amended
s 258A ins 2004 No. 48 s 99

PART 9—TRANSFER OF AUTHORITIES
pt hdg ins 2000 No. 64 s 6

Division 1—Transfer applications
div hdg ins 2000 No. 64 s 6

Transfer only by approval
s 259 ins 2000 No. 64 s 6
amd 2004 No. 48 s 100
sub 2005 No. 53 s 66

General requirements for transfer application
prov hdg amd 2004 No. 48 s 101(1)
s 260 ins 2000 No. 64 s 6
amd 2004 No. 48 s 101(2); 2005 No. 53 s 67

Additional requirement for transfer application for code compliant authority if no amendment application made
s 260A ins 2004 No. 48 s 102
amd 2007 No. 56 s 15

Audit statement may be required
s 261 ins 2000 No. 64 s 6
amd 2005 No. 53 s 68

Division 2—Processing transfer applications
div hdg ins 2000 No. 64 s 6

Deciding application
s 262 ins 2000 No. 64 s 6
amd 2004 No. 48 s 103

Refusal on ground that amendment required
s 263 ins 2000 No. 64 s 6
amd 2002 No. 45 s 3(2) sch

Steps after making decision
s 264 ins 2000 No. 64 s 6
amd 2005 No. 53 s 69

Effect of plan of operations and environmental management documents after transfer
s 265 ins 2000 No. 64 s 6
amd 2004 No. 48 s 104

Notice to owners of transfer
s 266 ins 2000 No. 64 s 6

PART 9A—PROGRESSIVE REHABILITATION
pt hdg ins 2005 No. 53 s 70

Division 1—Certification of progressive rehabilitation for level 1 mining projects
div hdg ins 2005 No. 53 s 70

Subdivision 1—Progressive certification and its effects
sdiv hdg ins 2005 No. 53 s 70

What is progressive certification
s 266A ins 2005 No. 53 s 70

Effect of progressive certification
s 266B ins 2005 No. 53 s 70

Continuing responsibility of environmental authority holder relating to certified rehabilitated area
s 266C ins 2005 No. 53 s 70

Subdivision 2—Applying for progressive certification
sdiv hdg ins 2005 No. 53 s 70

Who may apply for progressive certification
s 266D ins 2005 No. 53 s 70

Requirements for application
s 266E ins 2005 No. 53 s 70

Amending application
s 266F ins 2005 No. 53 s 70

Subdivision 3—Progressive rehabilitation report
sdiv hdg ins 2005 No. 53 s 70

Requirements for progressive rehabilitation report
s 266G ins 2005 No. 53 s 70

Amending report
s 266H ins 2005 No. 53 s 70

Assessment report may be given
s 266I ins 2005 No. 53 s 70

Subdivision 4—Processing application
sdiv hdg ins 2005 No. 53 s 70

Deciding application
s 266J ins 2005 No. 53 s 70

Criteria for decision
s 266K ins 2005 No. 53 s 70
amd 2007 No. 56 s 6 sch

Steps after making decision
s 266L ins 2005 No. 53 s 70

Division 2—Payment for residual risks of rehabilitation
div hdg ins 2005 No. 53 s 70

Application of div 2
s 266M ins 2005 No. 53 s 70

Payment may be required for residual risks
s 266N ins 2005 No. 53 s 70

Criteria for decision to make requirement
s 266O ins 2005 No. 53 s 70
amd 2007 No. 36 s 2

Amount and form of payment
s 266P ins 2005 No. 53 s 70

PART 10—SURRENDER OF AUTHORITIES
pt hdg ins 2000 No. 64 s 6

Division 1—General provisions for surrender
div hdg ins 2000 No. 64 s 6

Prospecting permit can not be surrendered
s 267 ins 2000 No. 64 s 6

Surrender only by approval
s 268 ins 2000 No. 64 s 6
amd 2005 No. 53 s 71

Partial surrenders
s 269 ins 2000 No. 64 s 6
sub 2005 No. 53 s 72

Conditional surrender of environmental authority (mining activities)
s 269A ins 2005 No. 53 s 72

When surrender application required
s 270 ins 2000 No. 64 s 6
amd 2004 No. 53 s 2 sch

Notice by administering authority to make surrender application
s 271 prev s 271 exp 2 January 2001 (see s 271(2))
pres s 271 ins 2000 No. 64 s 6
amd 2004 No. 53 s 2 sch

Failure to comply with surrender notice
s 272 ins 2000 No. 64 s 6

Division 2—Surrender applications
div hdg ins 2000 No. 64 s 6

Subdivision 1—Requirements for surrender applications
sdiv hdg ins 2000 No. 64 s 6

Requirements
s 273 ins 2000 No. 64 s 6

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Content requirements for report
s 274 ins 2000 No. 64 s 6
amd 2004 No. 48 s 105; 2005 No. 53 s 73

Amending report
s 275 ins 2000 No. 64 s 6

FRR assessment report may be given
s 276 ins 2000 No. 64 s 6

Subdivision 3—Processing surrender applications
sdiv hdg ins 2000 No. 64 s 6

Deciding application
s 277 ins 2000 No. 64 s 6

Criteria for decisions
prov hdg sub 2005 No. 53 s 74(1)
s 278 ins 2000 No. 64 s 6
amd 2005 No. 53 s 74(2)–(4); 2007 No. 56 s 6 sch

Directions to carry out rehabilitation may be given if surrender refused
s 278A ins 2005 No. 53 s 75

Payment may be required for residual risks of rehabilitation
s 278B ins 2005 No. 53 s 75

Steps after making decision
s 279 ins 2000 No. 64 s 6
amd 2002 No. 45 s 3(2) sch; 2005 No. 53 s 76

Restriction on surrender taking effect if payment required for residual risks
s 279A ins 2005 No. 53 s 77
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PART 11—ENVIRONMENTAL AUDITS FOR MINING ACTIVITIES
pt hdg ins 2000 No. 64 s 6

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div hdg ins 2000 No. 64 s 6

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s 280 ins 2000 No. 64 s 6
amd 2004 No. 48 s 106

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s 281 ins 2000 No. 64 s 6

Costs of complying with audit notice
s 282 ins 2000 No. 64 s 6

Division 2—Audits by administering authority
div hdg ins 2000 No. 64 s 6

Administering authority may conduct environmental audit
s 283 ins 2000 No. 64 s 6

Administering authority's costs of environmental audit or report
s 284 ins 2000 No. 64 s 6

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s 285 ins 2000 No. 64 s 6

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s 286 ins 2000 No. 64 s 6

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s 287 ins 2000 No. 64 s 6

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s 288 ins 2000 No. 64 s 6

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div hdg ins 2000 No. 64 s 6

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s 289 ins 2000 No. 64 s 6
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pt hdg ins 2000 No. 64 s 6

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Subdivision 1—Amendments
sdiv hdg ins 2000 No. 64 s 6

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s 290 ins 2000 No. 64 s 6

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s 290A ins 2003 No. 10 s 3

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s 291 ins 2000 No. 64 s 6
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Other amendments
prov hdg sub 2004 No. 48 s 108(1)
s 292 ins 2000 No. 64 s 6
amd 2002 No. 45 s 3(2) sch; 2004 No. 53 s 2 sch; 2004 No. 48 s 108(2)–(5)

Subdivision 2—Cancellation or suspension
sdiv hdg ins 2000 No. 64 s 6

Conditions for cancellation or suspension
prov hdg sub 2004 No. 48 s 109(1)
s 293 ins 2000 No. 64 s 6
amd 2004 No. 53 s 2 sch; 2004 No. 48 s 109(2)

Division 2—Procedure for amendment without agreement or for cancellation or suspension
sdiv hdg ins 2000 No. 64 s 6

Application of div 2
s 294 ins 2000 No. 64 s 6
amd 2003 No. 10 s 4

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s 295 ins 2000 No. 64 s 6

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s 296 ins 2000 No. 64 s 6

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s 302A ins 2004 No. 48 s 111

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s 303 ins 2000 No. 64 s 6
amd 2003 No. 96 s 28 sch
amd 2004 No. 53 s 2 sch (amdt could not be given effect)

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div hdg ins 2000 No. 64 s 6

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s 306A ins 2001 No. 46 s 23

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div hdg ins 2000 No. 64 s 6

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s 307 ins 2000 No. 64 s 6

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s 308 ins 2000 No. 64 s 6

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s 310 ins 2000 No. 64 s 6
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CHAPTER 6—GENERAL PROVISIONS ABOUT ENVIRONMENTAL AUTHORITIES AND REGISTRATION CERTIFICATES
ch hdg ins 2000 No. 64 s 6
amd 2003 No. 95 s 16

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pt hdg ins 2000 No. 64 s 6
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s 311 ins 2000 No. 64 s 6
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s 312 ins 2000 No. 64 s 6
sub 2002 No. 45 s 12
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om 2004 No. 48 s 112

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s 313 ins 2000 No. 64 s 6
sub 2002 No. 45 s 12
om 2004 No. 48 s 112

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s 314 ins 2000 No. 64 s 6
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om 2004 No. 48 s 112

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om 2004 No. 48 s 112

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s 315A ins 2002 No. 45 s 12
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s 315B ins 2002 No. 45 s 12
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om 2004 No. 48 s 112

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s 317 ins 2000 No. 64 s 6

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amd 2004 No. 48 s 114

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s 318B ins 2002 No. 45 s 13
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s 320 amd 1998 No. 13 s 36; 2003 No. 95 s 20, s 3 sch; 2007 No. 56 s 6 sch

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s 321 amd 2007 No. 56 s 6 sch

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s 322 amd 1998 No. 13 s 47; 1999 No. 19 sch; 2000 No. 64 s 9; 2002 No. 45 ss 14, 3(2) sch; 2007 No. 56 s 17

When environmental investigation required
s 323 amd 2000 No. 64 s 10; 2002 No. 45 ss 15 (amdt could not be given effect), 3(2) sch

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s 325 amd 2000 No. 64 s 3(2) sch

Administering authority to consider and act on environmental reports
s 326 amd 1998 No. 13 s 48; 2000 No. 64 s 11, s 3(2) sch; 2002 No. 45 s 3(2) sch; 2003 No. 95 s 21; 2007 No. 56 s 6 sch

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s 328 amd 2000 No. 64 s 3(2) sch

PART 3—TRANSITIONAL ENVIRONMENTAL PROGRAMS
pt hdg sub 2007 No. 56 s 6 sch

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div hdg ins 1997 No. 7 s 7

What is a transitional environmental program
prov hdg amd 2007 No. 56 s 6 sch
s 330 amd 2007 No. 56 s 6 sch

Content of program
s 331 amd 1997 No. 7 s 8; 2007 No. 56 s 6 sch

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div hdg ins 1997 No. 7 s 9
amd 2007 No. 56 s 6 sch

Administering authority may require draft program
s 332 amd 1998 No. 13 s 49; 2000 No. 64 s 12; 2002 No. 45 s 16; 2003 No. 95 ss 22, s 3 sch; 2007 No. 56 s 6 sch

Voluntary submission of draft program
s 333 amd 2007 No. 56 s 6 sch

Fee for consideration of draft program
s 334 amd 2007 No. 56 s 6 sch

Public notice of submission for approval of certain draft programs
s 335 amd 2007 No. 36 s 2 sch; 2007 No. 56 s 6 sch

Authority may call conference
s 336 amd 2000 No. 64 s 3(2) sch; 2007 No. 56 s 6 sch

Administering authority to consider draft programs
s 337 amd 1996 No. 10 s 14; 2002 No. 45 s 3(2) sch; 2007 No. 56 s 6 sch

Criteria for deciding draft program
s 338 sub 1996 No. 10 s 15
amd 1998 No. 13 s 50; 2007 No. 56 ss 18, 6 sch (amdt could not be given effect)

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s 339 amd 2002 No. 45 s 3(2) sch; 2007 No. 56 s 6 sch

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s 340 sub 2000 No. 64 s 3(2) sch
amd 2003 No. 95 s 3 sch; 2007 No. 56 s 6 sch

Extensions of time for decisions on submission of draft programs
s 341 amd 1996 No. 10 s 16; 2000 No. 64 s 3(2) sch
om 2002 No. 45 s 17

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s 342 amd 2007 No. 56 s 6 sch

Failure to approve draft program taken to be refusal
s 343 amd 2007 No. 56 s 6 sch

Division 3—Amendment of approval for transitional environmental programs
div hdg ins 1997 No. 7 s 10
amd 2007 No. 56 s 6 sch

Application
s 344 ins 1997 No. 7 s 10
amd 2000 No. 64 s 14; 2007 No. 56 s 6 sch

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div hdg ins 1997 No. 7 s 11

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s 345 amd 2002 No. 45 s 3(2) sch; 2007 No. 56 s 6 sch

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s 346 amd 1998 No. 13 s 51; 2000 No. 64 s 16; 2002 No. 45 s 18; 2003 No. 95 s 23; 2007 No. 56 s 19

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s 347 amd 2002 No. 45 s 3(2) sch; 2007 No. 56 s 6 sch

Notice of ceasing activity by holder of program approval
s 348 amd 2002 No. 45 s 3(2) sch; 2007 No. 56 s 6 sch

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s 349 amd 2007 No. 56 s 6 sch

PART 4—SPECIAL PROVISIONS ABOUT VOLUNTARY SUBMISSION OF TRANSITIONAL ENVIRONMENTAL PROGRAMS
pt hdg amd 2007 No. 56 s 6 sch

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s 350 amd 2007 No. 56 s 6 sch

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s 352 amd 2002 No. 45 s 3(2) sch; 2007 No. 56 s 6 sch

Effect of program notice
s 353 amd 2000 No. 64 s 3(2) sch; 2007 No. 56 s 6 sch

Effect of failure to comply with program
s 354 amd 2000 No. 64 s 3(2) sch; 2007 No. 56 s 6 sch

Authority may apply to Court for order setting aside immunity from prosecution
s 355 amd 1995 No. 40 s 6; 2002 No. 45 s 3(2) sch

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s 356 amd 2007 No. 56 s 6 sch

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s 358 amd 1998 No. 13 s 52; 2000 No. 64 s 17; 2003 No. 95 s 24; 2005 No. 53 s 80; 2007 No. 56 ss 20, 6 sch (amdt could not be given effect)

Form and content of order
s 360 amd 2000 No. 64 s 3(2) sch

Notice of disposal by recipient
s 362 amd 2000 No. 64 s 3(2) sch

Notice of ceasing to carry out activity
s 363 amd 2000 No. 64 s 3(2) sch

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When financial assurance may be required
s 364 amd 1997 No. 80 s 16; 2000 No. 64 s 18; 2003 No. 95 ss 25, 3 sch; 2004 No. 48 s 115; 2005 No. 53 s 81; 2007 No. 56 s 6 sch

Person may show cause why financial assurance should not be required for transitional environmental program or site management plan
prov hdg amd 2004 No. 48 s 116(1); 2007 No. 56 s 6 sch
s 365 amd 1997 No. 80 s 17; 2000 No. 64 s 19; 2002 No. 45 s 3(2) sch; 2002 No. 45 s 3(2) sch; 2003 No. 95 s 3 sch; 2004 No. 48 s 116(2)–(5); 2007 No. 56 s 6 sch

Application for amendment or discharge of financial assurance
s 366 amd 1997 No. 80 s 18; 2000 No. 64 s 20; 2002 No. 45 s 3(2) sch; 2003 No. 95 s 3 sch; 2005 No. 53 s 82; 2007 No. 56 s 6 sch

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s 367 sub 1997 No. 80 s 19
amd 2000 No. 64 s 21; 2003 No. 95 s 26; 2004 No. 53 s 2 sch (amdt could not be given effect); 2004 No. 48 s 117; 2007 No. 56 s 6 sch

PART 7—SPECIAL PROVISIONS ABOUT WASTE MANAGEMENT
pt hdg ins 1995 No. 52 s 5

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s 368 ins 1995 No. 52 s 5

Restrictions on performing waste management works
s 369 ins 1995 No. 52 s 5
sub 2001 No. 86 s 7

Obtaining approval to perform waste management works
s 369A ins 2001 No. 86 s 7
amd 2002 No. 45 s 3(2) sch

Amendment or cancellation of approval
s 369B ins 2001 No. 86 s 7
amd 2002 No. 45 s 3(2) sch

PART 8—CONTAMINATED LAND
pt hdg ins 1997 No. 80 s 21

Division 1—Interpretation
div hdg ins 1997 No. 80 s 21

Definitions for pt 8
s 370 ins 1997 No. 80 s 21
amd 2000 No. 64 s 3(2) sch

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div hdg ins 1997 No. 80 s 21

Owner or occupier of land to notify administering authority
s 371 ins 1997 No. 80 s 21
amd 2000 No. 64 s 3(2) sch

Local government to notify administering authority
s 372 ins 1997 No. 80 s 21
amd 2000 No. 64 s 3(2) sch

Notice to be given to owner of land
s 373 ins 1997 No. 80 s 21
amd 2002 No. 45 s 3(2) sch

Decision about including land in environmental management register
s 374 ins 1997 No. 80 s 21
amd 2000 No. 64 s 3(2) sch; 2002 No. 45 s 3(2) sch

Division 3—Investigation of land on environmental management register
div hdg ins 1997 No. 80 s 21

Voluntary submission of report about investigation
s 375 ins 1997 No. 80 s 21

Administering authority may require site investigation
s 376 ins 1997 No. 80 s 21
amd 2000 No. 64 s 3(2) sch

Notice to conduct or commission site investigation
s 377 ins 1997 No. 80 s 21
amd 2000 No. 64 s 3(2) sch

Waiver of requirement to conduct or commission site investigation
s 378 ins 1997 No. 80 s 21
amd 2000 No. 64 s 3(2) sch; 2002 No. 45 s 3(2) sch

Failure to make decision on waiver of site investigation taken to be refusal
s 379 ins 1997 No. 80 s 21

Procedure to be followed if recipient is not owner
s 380 ins 1997 No. 80 s 21
amd 2002 No. 45 s 3(2) sch

Who must conduct site investigation
s 381 ins 1997 No. 80 s 21

Fee for consideration of report about site investigation
s 382 ins 1997 No. 80 s 21

Declarations to accompany report
s 383 ins 1997 No. 80 s 21

Administering authority to consider and act on site investigation report
s 384 ins 1997 No. 80 s 21
amd 2000 No. 64 s 3(2) sch; 2002 No. 45 s 3(2) sch

Administering authority may require another report or additional information
s 385 ins 1997 No. 80 s 21
amd 2000 No. 64 s 3(2) sch

Owner of land to be given copy of report
s 386 ins 1997 No. 80 s 21
amd 2002 No. 45 s 3(2) sch

Cost of site investigation and report
s 387 ins 1997 No. 80 s 21

Extensions of time for decisions on submission of site investigation report
s 388 ins 1997 No. 80 s 21
amd 2000 No. 64 s 3(2) sch

Failure to make decision on site investigation report taken to be refusal
s 389 ins 1997 No. 80 s 21

Division 4—Remediation of land
div hdg ins 1997 No. 80 s 21

Voluntary remediation of contaminated land
s 390 ins 1997 No. 80 s 21

Administering authority may require remediation of contaminated land
s 391 ins 1997 No. 80 s 21
amd 2000 No. 64 s 3(2) sch

Waiver of requirement to remediate land
s 392 ins 1997 No. 80 s 21
amd 2000 No. 64 s 3(2) sch; 2002 No. 45 s 3(2) sch

Failure to make decision on remediation taken to be refusal
s 393 ins 1997 No. 80 s 21

Procedure to be followed if recipient is not owner
s 394 ins 1997 No. 80 s 21
amd 2002 No. 45 s 3(2) sch

Who must prepare validation report
s 395 ins 1997 No. 80 s 21

Administering authority to consider and act on validation report
s 396 ins 1997 No. 80 s 21
amd 2002 No. 45 s 3(2) sch

Notice to be given of decision made about validation report
s 397 ins 1997 No. 80 s 21
amd 1999 No. 19 sch; 2000 No. 64 s 3(2) sch; 2002 No. 45 s 3(2) sch

Administering authority may require another report or additional information
s 398 ins 1997 No. 80 s 21
amd 2000 No. 64 s 3(2) sch

Extensions of time for consideration of validation report
s 399 ins 1997 No. 80 s 21
amd 2000 No. 64 s 3(2) sch

Failure to make a decision on validation report taken to be refusal
s 400 ins 1997 No. 80 s 21

Division 5—Site management plans
div hdg ins 1997 No. 80 s 21

Subdivision 1—Preliminary
sdiv 1 (ss 401–402) ins 1997 No. 80 s 21

Subdivision 2—Procedure for approval of site management plan
sdiv hdg ins 1997 No. 80 s 21

Voluntary submission of draft site management plan
s 403 ins 1997 No. 80 s 21

Application for approval of site management plan
s 404 ins 1997 No. 80 s 21

Administering authority may prepare or require site management plan
s 405 ins 1997 No. 80 s 21
amd 2000 No. 64 s 3(2) sch

Requirement to prepare draft site management plan
s 406 ins 1997 No. 80 s 21
amd 2000 No. 64 s 3(2) sch

Waiver of requirement to prepare or commission site management plan
s 407 ins 1997 No. 80 s 21
amd 2000 No. 64 s 3(2) sch; 2002 No. 45 s 3(2) sch

Failure to make decision on waiver of site management plan taken to be refusal
s 408 ins 1997 No. 80 s 21

Procedure to be followed if recipient is not owner
s 409 ins 1997 No. 80 s 21
amd 2002 No. 45 s 3(2) sch

Who must prepare draft site management plan
s 410 ins 1997 No. 80 s 21

Administering authority may require another site management plan or additional information
s 411 ins 1997 No. 80 s 21
amd 2000 No. 64 s 3(2) sch

Administering authority to consider draft site management plan
s 412 ins 1997 No. 80 s 21
amd 2002 No. 45 s 3(2) sch

Approval of draft site management plan
s 413 ins 1997 No. 80 s 21
amd 1999 No. 19 sch; 2000 No. 64 s 3(2) sch; 2002 No. 45 s 3(2) sch

Refusal to approve draft site management plan
s 414 ins 1997 No. 80 s 21
amd 2000 No. 64 s 3(2) sch; 2002 No. 45 s 3(2) sch

Extensions of time for decisions on submission of draft site management plans
s 415 ins 1997 No. 80 s 21
amd 2000 No. 64 s 3(2) sch

Failure to approve draft site management plan taken to be refusal
s 416 ins 1997 No. 80 s 21

Subdivision 3—Restriction on local government approvals and authorities
sdiv 3 (s 417) ins 1997 No. 80 s 21
sub 2000 No. 64 s 23

Subdivision 4—Amendment of site management plan
sdiv hdg ins 1997 No. 80 s 21

Voluntary amendment of site management plans
s 418 ins 1997 No. 80 s 21

Administering authority may amend or require amendment of site management plan
s 419 ins 1997 No. 80 s 21
amd 2000 No. 64 s 3(2) sch

Division 6—Notices to be given about land recorded in registers
div hdg ins 1997 No. 80 s 21

Notice to be given about recording of land in contaminated land register
s 420 ins 1997 No. 80 s 21
amd 2002 No. 45 s 3(2) sch

Notice to be given to proposed purchaser of land
s 421 ins 1997 No. 80 s 21

Division 7—Miscellaneous
div hdg ins 1997 No. 80 s 21

Registrar to maintain records about contaminated land
s 422 ins 1997 No. 80 s 21
amd 2002 No. 45 s 3(2) sch

Offence to destroy etc. signs
s 423 ins 1997 No. 80 s 21
amd 2000 No. 64 s 3(2) sch

Removal and treatment or disposal of contaminated soil
s 424 ins 1997 No. 80 s 21
amd 2000 No. 64 s 24, s 3(2) sch

Failure to comply with disposal permit
s 425 ins 2000 No. 64 s 25

PART 4—ENVIRONMENTAL OFFENCES
pt hdg om 2000 No. 64 s 26

CHAPTER 8—GENERAL ENVIRONMENTAL OFFENCES
ch hdg ins 2000 No. 64 s 26

PART 1—OFFENCES RELATING TO ENVIRONMENTALLY RELEVANT ACTIVITIES
pt hdg ins 2000 No. 64 s 26

Division 1—Offences
div hdg ins 2000 No. 64 s 26

Environmental authority required for mining or petroleum activity
s 426 ins 2000 No. 64 s 26
sub 2003 No. 95 s 27
amd 2004 No. 48 s 118; 2005 No. 53 s 159 sch

Only registered operators may carry out chapter 4 activities
s 427 ins 2000 No. 64 s 26
sub 2003 No. 95 s 27

New approval required for certain activities if significant change
s 428 ins 2000 No. 64 s 26
om 2004 No. 48 s 119

Division 2—Exemptions
div hdg ins 2000 No. 64 s 26

Special provisions for interstate transporters of controlled waste
s 429 ins 2000 No. 64 s 26
amd 2003 No. 95 s 28; 2004 No. 48 s 120

PART 2—OFFENCES RELATING TO ENVIRONMENTAL REQUIREMENTS
pt hdg ins 2000 No. 64 s 26
amd 2003 No. 95 s 3 sch

Division 1—Environmental authorities
div hdg prev div 1 hdg exp 1 March 1997 (see ss 224– 225)
pres div 1 hdg ins 2000 No. 64 s 26

Contravention of condition of environmental authority
s 430 ins 2000 No. 64 s 26
amd 2003 No. 95 s 3 sch; 2004 No. 48 s 121; 2007 No. 56 s 21

Environmental authority holder responsible for ensuring conditions complied with
s 431 ins 2000 No. 64 s 26
amd 2002 No. 45 s 3(2) sch

Division 2—Transitional environmental programs
div hdg prev div 2 hdg exp 1 March 1996 (ss 224, 228)
pres div 2 hdg ins 2000 No. 64 s 26
sub 2007 No. 56 s 6 sch

Contravention of program
s 432 ins 2000 No. 64 s 26
amd 2007 No. 56 s 6 sch

Approval holder responsible for ensuring program complied with
s 433 ins 2000 No. 64 s 26
amd 2007 No. 56 s 6 sch

Division 3—Site management plans
div 3 (s 434) ins 2000 No. 64 s 26

PART 2A—OFFENCES RELATING TO CONDITIONS
pt hdg (prev ch 8, pt 2, div 4 hdg) ins 2000 No. 64 s 26
sub 2003 No. 95 s 3 sch

Offence to contravene development condition
s 435 ins 2000 No. 64 s 26

Offence to contravene standard environmental conditions
s 435A ins 2003 No. 95 s 29

Registered operator responsible for ensuring conditions complied with
s 435B ins 2003 No. 95 s 29

PART 3—OFFENCES RELATING TO ENVIRONMENTAL HARM
pt hdg prev pt 3 hdg ins 1996 No. 10 s 27
exp 1 March 1997 (see s 252)
pres pt 3 hdg ins 2000 No. 64 s 26

Division 1—Interpretation
div hdg ins 1996 No. 10 s 27
exp 1 March 1997 (see s 252)

Unlawful environmental harm
s 436 amd 1998 No. 13 s 53; 2000 No. 64 s 27; 2003 No. 95 s 30; 2005 No. 53 s 83; 2007 No. 56 s 6 sch

PART 4—OTHER OFFENCES
pt hdg ins 2000 No. 64 s 28

Offences of contravention of environmental protection policy or regulation
prov hdg amd 2007 No. 56 s 22(1)
s 441 amd 2007 No. 56 s 22(2)–(3)

Offence of releasing prescribed contaminant
s 442 amd 2007 No. 56 s 23

Offence of interfering with monitoring equipment
s 444 amd 1998 No. 13 s 54

Offence not to notify chapter 4 activity has stopped
s 444A ins 2003 No. 95 s 31

CHAPTER 9—INVESTIGATION AND ENFORCEMENT
PART 1—ADMINISTRATION GENERALLY
Appointment of authorised persons
s 445 amd 2000 No. 64 s 3(2) sch

Terms of appointment of authorised persons
s 446 amd 2000 No. 64 s 3(2) sch

Production of identity card
s 449 amd 2000 No. 5 s 461 sch 3 (as amd by 2000 No. 22 s 28)

Administering authority may require relevant information
s 451 amd 2000 No. 64 s 3(2) sch

PART 2—POWERS OF AUTHORISED PERSONS FOR PLACES AND VEHICLES
Entry of place—general
prov hdg sub 2000 No. 64 s 29(1)
s 452 amd 1997 No. 80 s 22; 1998 No. 13 s 55; 2000 No. 64 s 29(2)–(5); 2003 No. 95 s 32

Entry of land—preliminary investigation
s 454 ins 1997 No. 80 s 23
amd 1999 No. 19 sch; 2000 No. 64 s 30; 2002 No. 45 s 3(2) sch

Entry of land for access
s 455 ins 2000 No. 64 s 31
amd 2002 No. 45 s 3(2) sch

Order to enter land to conduct investigation or conduct work
s 458 ins 1997 No. 80 s 24
amd 2000 No. 64 s 32; 2003 No. 95 s 33; 2007 No. 56 s 6 sch

General powers for places and vehicles
s 460 amd 1997 No. 80 s 25

PART 3—OTHER ENFORCEMENT POWERS OF AUTHORISED PERSONS
pt hdg sub 1995 No. 40 s 7
amd 2000 No. 5 s 461 sch 3

Power to require name and address
s 464 amd 1995 No. 40 s 8; 1998 No. 19 s 25; 2000 No. 5 s 461 sch 3

Power to require production of documents
s 466 amd 1998 No. 13 s 56

Emergency powers
s 467 amd 2004 No. 53 s 2 sch

PART 5—OFFENCES
Failure to help authorised person—emergency
s 473 amd 1998 No. 13 s 57; 2002 No. 45 s 29(2)

Failure to help authorised person—other cases
s 474 amd 1998 No. 13 s 58

Failure to answer questions
s 476 amd 1999 No. 19 sch

False, misleading or incomplete documents
s 480 amd 2004 No. 48 s 122; 2005 No. 53 s 84

False or misleading information
s 481 amd 2005 No. 53 s 85

PART 6—GENERAL
Costs of investigation or remediation to be paid by recipient
s 489 ins 1997 No. 80 s 27

CHAPTER 10—LEGAL PROCEEDINGS
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Evidentiary provisions
s 490 amd 1997 No. 80 s 28; 2000 No. 64 s 33; 2003 No. 95 s 34

Special evidentiary provision—environmental nuisance
s 491 amd 2000 No. 64 s 34

Responsibility for acts or omissions of representatives
s 492 amd 2005 No. 53 s 86

PART 3—LEGAL PROCEEDINGS
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s 494 amd 2003 No. 96 s 28 sch

Proceedings for indictable offences
s 495 amd 2004 No. 48 s 123

Notice of defence
s 498 amd 2000 No. 64 s 35; 2002 No. 45 s 3(2) sch; 2007 No. 56 s 24

Proof of authority
s 499 amd 2003 No. 95 s 35

Fines payable to local government
s 500 amd 2002 No. 45 s 19

Recovery of costs of investigation
s 503 amd 2002 No. 45 s 20; 2007 No. 56 s 25

PART 4—RESTRAINT ORDERS
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s 504 ins 1998 No. 13 s 59

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CHAPTER 11—ADMINISTRATION
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s 514 amd 1996 No. 10 s 17; 1997 No. 80 s 29; 1998 No. 13 s 61

PART 2—DELEGATIONS
Delegation by Minister
s 515 amd 2000 No. 64 s 3(2) sch

Delegation by chief executive
s 516 sub 2000 No. 64 s 36; 2002 No. 45 s 21

Delegation by administering executive or local government chief executive officer
s 517 ins 2000 No. 64 s 36
sub 2002 No. 45 s 21

Delegation by administering authority
s 518 amd 2000 No. 64 s 3(2) sch
sub 2002 No. 45 s 21

PART 3—REVIEW OF DECISIONS AND APPEALS
Division 1—Interpretation
Original decisions
s 519 (prev s 520) renum and reloc 2000 No. 64 s 3(2) sch

Dissatisfied person
s 520 (prev s 521) amd 1995 No. 52 s 6; 1996 No. 10 s 18; 1997 No. 80 s 30; 1999 No. 19 sch; 2000 No. 64 s 37
renum and reloc 2000 No. 64 s 3(2) sch
amd 2001 No. 46 ss 7, 29 sch 2; 2001 No. 86 s 8; 2002 No. 45 ss 22, 3(2) sch; 2003 No. 95 ss 36, 3 sch; 2004 No. 48 s 124; 2007 No. 56 ss 27, 6 sch

Division 2—Internal review of decisions
Procedure for review
s 521 amd 1996 No. 10 s 19; 2002 No. 45 s 3(2) sch

Stay of operation of original decisions
s 522 amd 2000 No. 64 s 38; 2007 No. 39 s 41 sch

Division 3—Appeals
div hdg sub 2000 No. 64 s 39

Subdivision 1—Appeals to Land Court
sdiv hdg ins 2000 No. 64 s 39
amd 2007 No. 39 s 41 sch

Review decisions subject to Land Court appeal
prov hdg amd 2007 No. 39 s 41 sch
s 523 ins 2000 No. 64 s 39

Right of appeal
s 524 ins 2000 No. 64 s 39
amd 2007 No. 39 s 41 sch

Appeal period
s 525 ins 2000 No. 64 s 39
amd 2002 No. 45 s 3(2) sch; 2007 No. 39 s 41 sch

Land Court mediation
prov hdg amd 2007 No. 39 s 41 sch
s 526 ins 2000 No. 64 s 39
amd 2007 No. 39 s 41 sch

Nature of appeal
s 527 ins 2000 No. 64 s 39

Land Court's powers for appeal
prov hdg amd 2007 No. 39 s 41 sch
s 528 ins 2000 No. 64 s 39
amd 2007 No. 39 s 41 sch

Decision for appeals against refusals under s 207
s 529 ins 2000 No. 64 s 39
amd 2004 No. 48 s 125; 2007 No. 39 s 41 sch

Decision for other appeals
s 530 ins 2000 No. 64 s 39
amd 2004 No. 53 s 2 sch; 2007 No. 39 s 41 sch

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sdiv hdg ins 2000 No. 64 s 39

Who may appeal
s 531 amd 2000 No. 64 s 40

How to start appeal
s 532 amd 2002 No. 45 s 3(2) sch

Appellant to give notice of appeal to other parties
s 533 amd 2000 No. 64 s 3(2) sch

Appeals to be heard with planning appeals
s 538 amd 1997 No. 80 s 31; 2000 No. 64 s 3(2) sch; 2003 No. 95 s 37

PART 4—GENERAL
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prov hdg sub 1997 No. 80 s 32(1)
s 540 amd 1997 No. 80 s 32(2); 1998 No. 13 s 62
sub 2000 No. 64 s 41
amd 2002 No. 45 s 23; 2003 No. 95 ss 38, 3 sch; 2004 No. 48 s 126; 2005 No. 53 s 87; 2007 No. 56 s 6 sch

Keeping of registers
s 541 ins 2000 No. 64 s 41

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s 542 amd 1997 No. 80 s 33; 2000 No. 64 s 42

Appropriate fee for copies
s 543 ins 2000 No. 64 s 43

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s 544 amd 2000 No. 64 s 44

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s 546 amd 2002 No. 45 s 24

CHAPTER 12—MISCELLANEOUS
PART 1—APPROVAL OF CODES OF PRACTICE AND STANDARD ENVIRONMENTAL CONDITIONS
pt hdg ins 2000 No. 64 s 45

Codes of practice
s 548 amd 1997 No. 80 s 34

Minister may approve standard environmental conditions
s 549 ins 2000 No. 64 s 46
amd 2004 No. 48 s 127; 2005 No. 53 s 88

When standard environmental conditions must be complied with
s 549A ins 2003 No. 95 s 39; 2005 No. 53 s 89

Effect of changes to standard environmental conditions
s 550 ins 2000 No. 64 s 46
sub 2004 No. 48 s 128

Effect of changes to standard environmental conditions (chapter 4 activities)
s 550A ins 2003 No. 95 s 40
om 2004 No. 48 s 128

PART 2—GENERAL PROVISIONS ABOUT APPLICATIONS AND SUBMISSIONS
pt hdg ins 2000 No. 64 s 46

Division 1—Preliminary
div hdg ins 2000 No. 64 s 46

Definitions for pt 2
s 551 ins 2000 No. 64 s 46
def **"EMP submission"** om 2007 No. 56 s 28(2)
amd 2007 No. 56 s 6 sch (amdt could not be given effect)
def **"TEP submission"** ins 2007 No. 56 s 28(2)

Division 2—General provisions
div hdg ins 2000 No. 64 s 46

What is the "application date" for application or TEP submission
prov hdg amd 2007 No. 56 s 6 sch
s 552 ins 2000 No. 64 s 46
amd 2002 No. 45 ss 25, 3(2) sch; 2007 No. 56 s 6 sch

Electronic applications and submissions
s 553 ins 2000 No. 64 s 46

Electronic notices about applications and submissions
s 554 ins 2000 No. 64 s 46

Extension of decision period
s 555 ins 2000 No. 64 s 46
amd 2004 No. 53 s 2 sch; 2007 No. 56 s 6 sch

Administering authority may seek advice, comment or information
s 556 ins 2000 No. 64 s 46
amd 2007 No. 56 s 6 sch

Decision criteria are not exhaustive
s 557 ins 2000 No. 64 s 46
amd 2007 No. 56 s 6 sch

Publication of decision or document by administering authority
s 558 ins 2000 No. 64 s 46
amd 2001 No. 86 s 9

Division 3—Investigating suitability
div hdg ins 2000 No. 64 s 46

Investigation of applicant suitability or disqualifying events
s 559 ins 2000 No. 64 s 46
amd 2003 No. 95 s 41

Use of information in suitability report
s 560 ins 2000 No. 64 s 46
amd 2002 No. 45 s 3(2) sch

Notice of use of information in suitability report
s 561 ins 2000 No. 64 s 46

Confidentiality of suitability reports
s 562 ins 2000 No. 64 s 46
amd 2007 No. 39 s 41 sch

Destruction of suitability reports
s 563 ins 2000 No. 64 s 46

PART 3—EXEMPTION FROM DISCLOSURE
pt hdg ins 2000 No. 64 s 46

Division 1—Obtaining disclosure exemption
div 1 (ss 564–569) ins 2000 No. 64 s 46

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div hdg ins 2000 No. 64 s 46

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sdiv hdg ins 2000 No. 64 s 46

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s 570 ins 2000 No. 64 s 46

Meaning of "exempted material" for div 2
s 571 ins 2000 No. 64 s 46

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sdiv hdg ins 2000 No. 64 s 46

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s 572 ins 2000 No. 64 s 46
amd 2007 No. 39 s 41 sch

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s 574 ins 2000 No. 64 s 46

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pt hdg ins 2000 No. 64 s 46

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s 575 ins 2000 No. 64 s 46
amd 2004 No. 48 s 129

Procedure for entry under entry order
s 576 ins 2000 No. 64 s 46

Duty to avoid damage
s 577 ins 2000 No. 64 s 46

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s 578 ins 2000 No. 64 s 46

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s 579 ins 2000 No. 64 s 46
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pt 4A (s 579A) ins 2007 No. 46 s 43B

PART 5—REGULATIONS
pt hdg ins 2000 No. 64 s 46

Regulation-making power
prov hdg sub 1996 No. 10 s 20(1)
s 580 amd 1995 No. 52 s 7; 1996 No. 10 s 20(2); 1997 No. 80 s 35; 1998 No. 13 s 63; 1999 No. 19 sch; 2000 No. 64 s 47; 2001 No. 86 s 10; 2007 No. 56 s 29

CHAPTER 13—SAVINGS, TRANSITIONAL AND RELATED PROVISIONS
ch hdg amd R1 (see RA s 7(1)(k)); 1996 No. 10 s 21
sub 2000 No. 64 s 48

PART 1—TRANSITIONAL PROVISIONS FOR ENVIRONMENTAL PROTECTION AND OTHER LEGISLATION AMENDMENT ACT 1997
pt hdg prev pt 1 hdg amd R1 (see RA s 7(1)(k))
pres pt 1 hdg ins 2000 No. 64 s 50
amd 2002 No. 45 s 3(2) sch

Transfer of certain land on contaminated sites register to environmental management register
s 582 ins 1997 No. 80 s 36

Transfer of certain land on contaminated sites register to contaminated land register
s 583 ins 1997 No. 80 s 36

PART 2—TRANSITIONAL PROVISIONS FOR ENVIRONMENTAL PROTECTION AND OTHER LEGISLATION AMENDMENT ACT 2000
pt hdg ins 2000 No. 64 s 52
amd 2002 No. 45 s 3(2) sch

Division 1—Preliminary
div hdg ins 2000 No. 64 s 52

Definitions for pt 2
s 584 ins 2000 No. 64 s 52
amd 2004 No. 48 s 131

Division 2—Existing environmental authorities and mining activities
div hdg ins 2000 No. 64 s 52

Subdivision 1—Preliminary
sdiv hdg ins 2000 No. 64 s 52

What is a "condition" of a mining tenement for div 2
s 585 ins 2000 No. 64 s 52
amd 2003 No. 96 s 28 sch; 2004 No. 48 s 132

Subdivision 2—Existing authorities for mining activities
sdiv hdg ins 2000 No. 64 s 52

Existing authority becomes an environmental authority (mining activities)
s 586 ins 2000 No. 64 s 52

Existing authority becomes an environmental authority (mining activities)
s 586A ins 2003 No. 95 s 42

Conditions of environmental authority
s 587 ins 2000 No. 64 s 52
amd 2003 No. 95 s 43

Subdivision 3—Existing mining activities without environmental authority
sdiv hdg ins 2000 No. 64 s 52

New environmental authority (mining activities) for existing activities
s 588 ins 2000 No. 64 s 52

Conditions of environmental authority
s 589 ins 2000 No. 64 s 52
amd 2007 No. 36 s 2 sch

Division 3—Unfinished applications
div 3 (ss 590–591) ins 2000 No. 64 s 52

Division 4—Transitional authorities for mining activities
div hdg ins 2000 No. 64 s 52

Subdivision 1—Preliminary
sdiv hdg ins 2000 No. 64 s 52

Meaning of "transitional authority" for div 4
s 592 ins 2000 No. 64 s 52
amd 2003 No. 95 s 44

Subdivision 2—Special provisions for transitional authorities
sdiv hdg ins 2000 No. 64 s 52

Transitional authority taken to be non-code compliant
s 593 ins 2000 No. 64 s 52
sub 2004 No. 48 s 133

Limited application of s 426 for transitional authority
prov hdg amd 2005 No. 53 s 159 sch
s 594 ins 2000 No. 64 s 52
amd 2004 No. 53 s 2 sch; 2005 No. 53 s 159 sch

Requirement to apply to amend, surrender or transfer transitional authority
prov hdg amd 2002 No. 45 s 3(2) sch
s 595 ins 2000 No. 64 s 52

Notice by administering authority to amend, surrender or transfer transitional authority
prov hdg amd 2002 No. 45 s 3(2) sch
s 596 ins 2000 No. 64 s 52

Consequences of failure to comply with reminder notice
s 597 ins 2000 No. 64 s 52

Financial assurance for transitional authority
s 598 ins 2000 No. 64 s 52

Effect of financial assurance on security
s 599 ins 2000 No. 64 s 52

Plan of operations
s 600 ins 2000 No. 64 s 52
amd 2002 No. 45 s 3(2) sch

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s 601 ins 2000 No. 64 s 52

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s 602 ins 2000 No. 64 s 52

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sdiv hdg ins 2000 No. 64 s 52

Application to convert transitional authority to environmental authority for a level 2 mining project
s 603 ins 2000 No. 64 s 52
sub 2004 No. 48 s 134

Requirements for conversion application
s 603A ins 2004 No. 48 s 134

Automatic conversion for particular applications
s 603B ins 2004 No. 48 s 134

Deciding application if additional conditions requested
s 603C ins 2004 No. 48 s 134

Other amendment applications
s 604 ins 2000 No. 64 s 52

Additional grounds for amendment by administering authority
s 605 ins 2000 No. 64 s 52

Ministerial power to amend
s 606 ins 2000 No. 64 s 52

Consolidation of conditions for same mining project
s 607 ins 2000 No. 64 s 52

Subdivision 4—Environmental management plan requirements
sdiv hdg ins 2000 No. 64 s 52
amd 2004 No. 48 s 135

Environmental management plan may be required
prov hdg amd 2004 No. 48 s 136(1)
s 608 ins 2000 No. 64 s 52
amd 2004 No. 48 s 136(2)–(3)

Consequence of failure to comply with requirement
s 609 ins 2000 No. 64 s 52

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div 5 (ss 610–612) ins 2000 No. 64 s 52

Division 6—Miscellaneous provisions
div hdg ins 2000 No. 64 s 52

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s 613 ins 2000 No. 64 s 52

Existing Act continues to apply for special agreement Acts
s 614 ins 2000 No. 64 s 52
amd 2004 No. 5 s 8 sch

Transitional regulation-making power for pt 2
s 615 ins 2000 No. 64 s 52
exp 1 January 2006 (see s 615(4))

Reference to renumbered provision
prov hdg sub 2002 No. 45 s 3(2) sch
s 616 ins 2000 No. 64 s 52
amd 2002 No. 45 s 3(2) sch

PART 3—VALIDATION PROVISION FOR ENVIRONMENTAL PROTECTION AND ANOTHER ACT AMENDMENT ACT 2002
pt hdg ins 2002 No. 10 s 5

Validation of particular environmental authorities
s 617 ins 2002 No. 10 s 5
amd 2003 No. 95 s 3 sch

PART 4—TRANSITIONAL PROVISION FOR ENVIRONMENTAL PROTECTION AND OTHER LEGISLATION AMENDMENT ACT 2002
pt 4 (s 618) ins 2002 No. 45 s 26

PART 5—TRANSITIONAL PROVISIONS FOR ENVIRONMENTAL PROTECTION LEGISLATION AMENDMENT ACT 2003
pt hdg ins 2003 No. 95 s 45

Continuing effect of particular environmental authorities
s 619 ins 2003 No. 95 s 45
amd 2005 No. 53 s 90

Additional ground for changing or cancelling development conditions
s 620 ins 2003 No. 95 s 45

Administering authority may issue replacement documents
s 621 ins 2003 No. 95 s 45

Effect of commencement on particular integrated authorities
s 622 ins 2003 No. 95 s 45
om 2004 No. 48 s 137

Effect of commencement on level 1 approvals for particular environmentally relevant activities
s 623 ins 2003 No. 95 s 45

Effect of commencement on particular approvals
s 624 ins 2003 No. 95 s 45
amd 2005 No. 53 s 91

Effect of commencement on applications for development approvals for level 2 environmentally relevant activities
s 625 ins 2003 No. 95 s 45

Effect of commencement on particular applications in progress
s 626 ins 2003 No. 95 s 45

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s 627 ins 2003 No. 95 s 45

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s 628 ins 2003 No. 95 s 45

Continuing operation of s 594 (Limited application of s 427 for transitional authority)
s 629 ins 2003 No. 95 s 45
om 2005 No. 53 s 92

Continuing operation of s 611 (Unfinished applications under existing Act)
s 630 ins 2003 No. 95 s 45

PART 6—TRANSITIONAL PROVISIONS FOR PETROLEUM AND OTHER LEGISLATION AMENDMENT ACT 2004
pt hdg ins 2004 No. 26 s 270

Financial assurance if security for related petroleum authority is monetary
s 631 ins 2004 No. 26 s 270
amd 2005 No. 53 s 93

Financial assurance if security for related petroleum authority is non-monetary
s 632 ins 2004 No. 26 s 270
amd 2005 No. 53 s 94

Effect of financial assurance on the security
s 633 ins 2004 No. 26 s 270

Amendment of financial assurance condition under this part
s 634 ins 2004 No. 26 s 270
amd 2005 No. 53 s 95

PART 7—TRANSITIONAL PROVISIONS FOR ENVIRONMENTAL PROTECTION AND OTHER LEGISLATION AMENDMENT ACT 2004
pt 7 (ss 635–641) ins 2004 No. 48 s 138

Division 4—Provisions inserted under Environmental Protection and Other Legislation Amendment Act 2007
div 4 (ss 641A–641C) ins 2007 No. 56 s 30

PART 8—TRANSITIONAL PROVISION FOR ENVIRONMENTAL PROTECTION AND OTHER LEGISLATION AMENDMENT ACT 2005
pt 8 (ss 642–643) ins 2005 No. 53 s 96

PART 9—TRANSITIONAL PROVISIONS FOR ENVIRONMENTAL PROTECTION AND OTHER LEGISLATION AMENDMENT ACT 2007
pt 9 (s 644) ins 2007 No. 56 s 31

SCHEDULE 1—ORIGINAL DECISIONS
sch hdg amd 2001 No. 46 ss 7, 29 sch 2
amd 1995 No. 52 s 10; 1997 No. 7 s 13; 1997 No. 80 s 37; 1998 No. 13 s 64; 1998 No. 31 s 80
sub 2000 No. 64 s 53
amd 2001 No. 86 s 11; 2002 No. 45 ss 27, 3(2) sch; 2003 No. 96 s 28 sch; 2003 No. 95 s 46; 2004 No. 48 s 139; 2005 No. 53 s 97; 2006 No. 11 s 93; 2007 No. 56 s 6 sch

PART 1—ORIGINAL DECISIONS FOR LAND COURT APPEALS
pt hdg amd 2007 No. 39 s 41 sch

SCHEDULE 2—NOTIFIABLE ACTIVITIES
prev sch 2 amd R1 (see RA s 40)
om 2000 No. 64 s 54
pres sch 2 ins 1997 No. 80 s 38
amd 1999 No. 15 sch 1; 1999 No. 19 sch; 2000 No. 64 s 55

SCHEDULE 3—DICTIONARY
prev sch 3 om R1 (see RA s 40)

def **"abate"** om 2000 No. 64 s 56(1)
def **"additional condition"** ins 2000 No. 64 s 56(2)
sub 2004 No. 48 s 140(1)–(2)
def **"advice agency"** ins 1998 No. 13 s 65(2)
def **"affected person"** ins 2000 No. 64 s 56(2)
def **"amendment application"** ins 2000 No. 64 s 56(2)
sub 2002 No. 45 s 28(1)–(2)
amd 2003 No. 95 s 3 sch; 2004 No. 48 s 140(3); 2005 No. 53 s 98(3)
def **"anniversary day"** ins 2000 No. 64 s 56(2)
sub 2002 No. 45 s 28(1)–(2); 2003 No. 95 s 47(1)–(2)
amd 2004 No. 48 s 140(4)–(5)
def **"annual notice"** ins 2000 No. 64 s 56(2)
def **"applicable code"** ins 2005 No. 42 s 52 sch 1
amd 2007 No. 36 s 2 sch
def **"applicant"** ins 2000 No. 64 s 56(2)
def **"applicants"** ins 2000 No. 64 s 56(2)
sub 2002 No. 45 s 28(1)–(2)
amd 2003 No. 95 s 3 sch; 2004 No. 48 s 140(6); 2007 No. 36 s 2 sch
def **"application date"** sub 2000 No. 64 s 56(1)–(2)
def **"application documents"** ins 2000 No. 64 s 56(2)
def **"application notice"** ins 2000 No. 64 s 56(2)
amd 2002 No. 45 s 3(2) sch; 2003 No. 95 s 3 sch; 2004 No. 48 s 140(7)
def **"application requirements"** ins 2000 No. 64 s 56(2)
sub 2004 No. 48 s 140(1)–(2)
def **"appropriately qualified"** ins 2000 No. 64 s 56(2)
sub 2002 No. 45 s 28(1)–(2)
def **"approval"** sub 1995 No. 40 s 9(1)
om 1997 No. 80 s 39(1)
ins 1998 No. 13 s 65(2)
amd 2002 No. 45 s 3(2) sch
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def **"audit notice"** ins 2000 No. 64 s 56(2)
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34KV	310
34KW	311
ch 2D hdg	ch 6 hdg
34KX	312
34KY	313
34KZ	314
34LA	315
34LB	316
34LC	317
34LD	318
ch 3 hdg	ch 7 hdg
pt 2 hdg	pt 1 hdg
36	319
37	320
pt 5 hdg	pt 2 hdg
71	321
72	322
72(1A)	322(2)
72(2)	322(3)
73	323
73(1A)	323(2)
73(2)	323(3)
73(3)	323(4)
73(4)	323(5)
74	324
75	325
76	326
77	327
78	328
79	329
pt 6 hdg	pt 3 hdg
80	330
81	331
82	332
83	333
84	334
85	335
87	336
88	337
89	338
90	339
91	340
92	341
93	342
94	343
94A	344
95	345

Previous	Renumbered as
97	346
98	347
99	348
100	349
pt 7 hdg	pt 4 hdg
101	350
102	351
103	352
104	353
105	354
106	355
107	356
108	357
pt 8 hdg	pt 5 hdg
109	358
109(d)(vi)	358(d)(vii)
110	359
111	360
112	361
113	362
114	363
pt 9 hdg	pt 6 hdg
115	364
116	365
117	366
117(1A)	366(2)
117(2)	366(3)
117(2A)	366(4)
117(2B)	366(5)
117(3)	366(6)
118	367
pt 9A hdg	pt 7 hdg
118A	368
118B	369
pt 9B hdg	pt 8 hdg
118C	370
118E	371
118F	372
118G	373
118H	374
118I	375
118J	376
118K	377
118L	378
118M	379
118N	380
118O	381
118P	382

Previous	Renumbered as
118Q	383
118R	384
118S	385
118T	386
118U	387
118V	388
118W	389
118X	390
118Y	391
118Z	392
118ZA	393
118ZB	394
118ZC	395
118ZD	396
118ZE	397
118ZF	398
118ZG	399
118ZH	400
118ZI	401
118ZJ	402
118ZK	403
118ZL	404
118ZM	405
118ZN	406
118ZO	407
118ZP	408
118ZQ	409
118ZR	410
118ZS	411
118ZT	412
118ZU	413
118ZV	414
118ZW	415
118ZX	416
118ZY	417
118ZZ	418
118ZZA	419
118ZZB	420
118ZZC	421
118ZZD	422
118ZZE	423
118ZZE(4)	423(3)
118ZZE(5)	423(4)
118ZZE(6)	423(5)
118ZZF	424
118ZZG	425
ch 3A hdg	ch 8 hdg
118ZZH	426

Previous	Renumbered as
118ZZI	427
118ZZJ	428
118ZZK	429
118ZZL	430
118ZZM	431
118ZZN	432
118ZZO	433
118ZZP	434
118ZZQ	435
119	436
120	437
121	438
122	439
123	440
124	441
125	442
126	443
127	444
ch 4 hdg	ch 9 hdg
128	445
129	446
130	447
131	448
132	449
132(3)	449(2)
133	450
134	451
135	452
135(1A)	452(2)
135(2)	452(3)
136	453
136A	454
136B	455
137	456
137	456
138	457
138A	458
138A(1)(ab)	458(1)(b)
138A(1)(b)	458(1)(c)
138A(5)(aa)	458(5)(a)
138A(5)(a)	458(5)(b)
138A(5)(b)	458(5)(c)
139	459
140	460
140(1A)	460(2)
140(2)	460(3)
140(3)	460(4)
140(4)	460(5)

Previous	Renumbered as
140(5)	460(6)
140(6)	460(7)
140(7)	460(8)
141	461
142	462
143	463
144	464
145	465
146	466
156	467
157	468
158	469
159	470
160	471
161	472
162	473
163	474
164	475
165	476
166	477
169	478
170	479
171	480
172	481
173	482
174	483
175	484
176	485
177	486
178	487
179	488
179A	489
ch 5 hdg	ch 10 hdg
180	490
181	491
182	492
183	493
184	494
185	495
186	496
187	497
188	498
189	499
190	500
191	501
192	502
193	503
193A	504

Previous	Renumbered as
194	505
195	506
pt 4A hdg	pt 5 hdg
195A	507
195B	508
195C	509
195D	510
195E	511
195F	512
195G	513
ch 6 hdg	ch 11 hdg
196	514
196(1A)	514(2)
196(2)	514(3)
196(2A)	514(4)
196(3)	514(5)
196(4)	514(6)
196(5)	514(7)
197	515
198	516
198A	517
199	518
200	519
201	520
201(1)(aa)	520(1)(a)
201(1)(a)	520(1)(b)
201(1)(ab)	520(1)(c)
201(1)(ac)	520(1)(d)
201(1)(b)	520(1)(e)
201(1)(c)	520(1)(f)
201(1)(d)	520(1)(g)
201(1)(e)	520(1)(h)
201(1)(f)	520(1)(i)
201(1)(g)	520(1)(j)
201(1)(h)	520(1)(k)
201(1)(ha)	520(1)(l)
201(1)(i)	520(1)(m)
201(1)(j)	520(1)(n)
201(1)(k)	520(1)(o)
201(1)(l)	520(1)(p)
201(1)(m)	520(1)(q)
202	521
203	522
203A	523
203B	524
203C	525
203D	526
203E	527

Previous	Renumbered as
203F	528
203G	529
203H	530
204	531
205	532
206	533
207	534
208	535
209	536
210	537
211	538
212	539
213	540
213A	541
214	542
214A	543
215	544
216	545
217	546
218	547
ch 7 hdg	ch 12 hdg
219	548
219AA	549
219AB	550
219AC	551
219AD	552
219AE	553
219AF	554
219AG	555
219AH	556
219AI	557
219AJ	558
219AK	559
219AL	560
219AM	561
219AN	562
219AO	563
219AP	564
219AQ	565
219AR	566
219AS	567
219AT	568
219AU	569
219AV	570
219AW	571
219AX	572
219AY	573
219AZ	574

Previous	Renumbered as
219BA	575
219BB	576
219BC	577
219BD	578
219BE	579
220	580
220(2)(ja)	580(2)(k)
220(2)(k)	580(2)(l)
220(2)(l)	580(2)(m)
220(2)(m)	580(2)(n)
220(2)(n)	580(2)(o)
220(2)(o)	580(2)(p)
220(2)(p)	580(2)(q)
220(2)(q)	580(2)(r)
220(2)(r)	580(2)(s)
220(3A)	580(4)
220(3B)	580(5)
220(4)	580(6)
221	581
ch 8 hdg	ch 13 hdg
237	582
238	583
239	584
240	585
241	586
242	587
243	588
244	589
245	590
246	591
247	592
248	593
249	594
250	595
251	596
252	597
253	598
254	599
255	600
256	601
257	602
258	603
259	604
260	605
261	606
262	607
263	608
264	609

Previous	Renumbered as
265	610
266	611
267	612
268	613
269	614
270	615
272	616
sch 3	sch 2
sch 4	sch 3
sch 4, def "standard criteria", para (ja)	sch 3, def "standard criteria", para (k)
sch 4, def "standard criteria", para (k)	sch 3, def "standard criteria", para (l)

9 Information about retrospectivity

Retrospective amendments that have been consolidated are noted in the list of legislation and list of annotations. Any retrospective amendment that has not been consolidated is noted in footnotes to the text.

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