



# **Greenhouse Gas Storage Act 2009**

**Reprinted as in force on 29 August 2012**

**Reprint No. 2A**

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

**Also see endnotes for information about—**

- **when provisions commenced**
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Queensland

# Greenhouse Gas Storage Act 2009

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# Greenhouse Gas Storage Act 2009

[as amended by all amendments that commenced on or before 29 August 2012]

## An Act to facilitate greenhouse gas geological storage

### Chapter 1 Preliminary

#### Part 1 Introduction

##### 1 Short title

This Act may be cited as the *Greenhouse Gas Storage Act 2009*.

##### 2 Commencement

Chapters 2 and 3 commence on a day to be fixed by proclamation.

#### Part 2 Purposes and application of Act

##### 3 Purposes of Act and their achievement

- (1) The main purpose of this Act is to help reduce the impact of greenhouse gas emissions on the environment.
- (2) The main purpose is achieved principally by facilitating the

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process called greenhouse gas geological storage, also called greenhouse gas storage (*GHG storage*).

- (3) This Act facilitates GHG storage by—
  - (a) providing for the granting of authorities (called ‘GHG authorities’) to explore for or use underground geological formations or structures to store carbon dioxide, or carry out related activities; and
  - (b) creating a regulatory system for the carrying out of activities relating to GHG authorities.
- (4) Other purposes of this Act are to ensure the following for the carrying out of the activities—
  - (a) minimisation of conflict with other land uses;
  - (b) constructive consultation with people affected by the activities;
  - (c) appropriate compensation for owners or occupiers adversely affected by the activities;
  - (d) responsible land and resource management.

#### **4 Facilitation of Act by Petroleum and Gas (Production and Safety) Act 2004**

The *Petroleum and Gas (Production and Safety) Act 2004* (the *P&G Act*) also facilitates the operation of this Act by—

- (a) providing for survey licences under that Act to be able to be granted for potential GHG stream pipelines; and
- (b) providing for pipeline licences under that Act to be able to be granted for GHG streams; and
- (c) applying chapter 9 of that Act (the *P&G Act safety provisions*) to particular authorised activities for GHG authorities; and
- (d) applying its provisions about investigations and some of its provisions about enforcement to authorised activities for GHG authorities.



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## **5 Act binds all persons**

- (1) This Act binds all persons, including the State, and to the extent the legislative power of the Parliament permits, the Commonwealth and the other States.
- (2) However, the Commonwealth or a State can not be prosecuted for an offence against this Act.

## **6 Application of Act to coastal waters of the State**

- (1) This Act applies to the coastal waters of the State as if the coastal waters of the State were part of the State.
- (2) However, this Act does not apply to the adjacent area under the *Petroleum (Submerged Lands) Act 1982*.

*Note—*

The definition of *the adjacent area* in the *Petroleum (Submerged Lands) Act 1982*, section 4(1) is extended for pipelines under that Act, part 3, division 4. The provisions effectively cover pipelines in the coastal waters of the State.

## **7 Relationship with Nature Conservation Act 1992**

This Act is subject to the *Nature Conservation Act 1992*, sections 27 and 70QA.

*Editor's note—*

*Nature Conservation Act 1992*, sections 27 (Prohibition on mining, geothermal activities and GHG storage activities) and 70QA (Prohibition on mining, geothermal activities and GHG storage activities in forest reserves)

## **8 Relationship with Geothermal Act and principal mining and petroleum Acts**

The relationship between this Act and the following Acts is provided for under chapter 4, parts 2 to 8 and—

- (a) for the Geothermal Act—chapter 5, parts 2 to 8 of that Act;

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- (b) for the Mineral Resources Act—part 7AAC of that Act;
- (c) for the 1923 Act—section 40(1A) and part 6FA of that Act;
- (d) for the P&G Act—chapter 3A of that Act.

## **8A Declaration for Commonwealth Act**

A GHG authority is declared not to be personal property under the *Personal Property Securities Act 2009* (Cwlth).

## **9 Act does not affect other rights or remedies**

- (1) Subject to sections 269, 338A and 425 this Act does not affect or limit a civil right or remedy that exists apart from this Act, whether at common law or otherwise.

*Editor's note—*

sections 269 (Responsibility for well after decommissioning), 338A (Limitation of owner's or occupier's tortious liability for authorised activities) and 425 (Protection from liability for particular persons)

- (2) Without limiting subsection (1), compliance with this Act does not necessarily show that a civil obligation that exists apart from this Act has been satisfied or has not been breached.
- (3) In addition, a breach of an obligation under this Act does not of itself give rise to an action for breach of statutory duty or another civil right or remedy.
- (4) This Act does not limit a court's powers under the *Penalties and Sentences Act 1992* or another law.

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## Part 3 Interpretation

### Division 1 Dictionary

#### 11 Definitions

The dictionary in schedule 2 defines particular words used in this Act.

### Division 2 Key definitions

#### 12 What is a *GHG stream*

- (1) A *GHG stream* is a stream of carbon dioxide or a substance that overwhelmingly consists of carbon dioxide.
- (2) The stream may be in a gaseous or liquid state.

*Note—*

The lawful use by a GHG tenure holder of any particular GHG stream for injection or GHG stream storage is subject to requirements under chapters 2 and 3 and to approval of the relevant work program or development plan.

#### 13 What is a *GHG stream storage site*

A *GHG stream storage site* is—

- (a) the spatial extent of an underground geological formation or structure that is suitable to store a GHG stream (a *GHG storage reservoir*); and
- (b) the site at which a GHG stream is or may be injected into the GHG storage reservoir.

#### 14 What is *GHG stream storage*

- (1) *GHG stream storage* is—

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- (a) the process of injecting a GHG stream into a GHG storage reservoir for the purpose of storing the injected GHG stream in the reservoir; and
  - (b) monitoring the behaviour of the injected GHG stream in the reservoir.
- (2) To remove any doubt, it is declared that injecting a GHG stream for the purpose of enhanced petroleum recovery authorised under the 1923 Act or the P&G Act is not GHG stream storage.

## 15 What is *GHG storage exploration*

*GHG storage exploration* is carrying out an activity for the purpose of finding GHG stream storage sites.

## 16 What is *GHG storage injection testing*

*GHG storage injection testing* is the evaluation or testing of an underground geological formation or structure for GHG stream storage by injecting carbon dioxide or water into it.

## 17 What is a *GHG stream pipeline*

- (1) A *GHG stream pipeline* is a pipe or system of pipes for transporting a GHG stream for GHG stream storage.
- (2) A reference to a *GHG stream pipeline* includes—
  - (a) a part of the pipeline; and
  - (b) a thing connected to or associated with the pipeline that is necessary for its operation.

*Examples of things that may be included in a reference to a pipeline—*

- meter stations, scraper stations, valve stations, pumping stations or compressor stations
- plant and equipment, machinery and tanks
- corrosion protection apparatus
- communications equipment and towers

## 18 Types of authority under Act

- (1) The types of authority under this Act are—
  - (a) a ***GHG exploration permit*** (also called a ***GHG permit***)—
    - (i) granted under section 40; or  
*Note—*  
See also sections 431 (Conversion of Zerogen’s P&G Act ATPs) and 432 (New GHG permit for Zerogen).
    - (ii) continued in force under section 95 or 116; or
    - (iii) renewed under section 96; and
  - (b) a ***GHG injection and storage lease*** (also called a ***GHG lease***) granted under section 117 or 130; and
  - (c) a ***GHG injection and storage data acquisition authority*** (also called a ***GHG data acquisition authority***) granted under section 235.
- (2) GHG permits and GHG leases are collectively referred to as a ***GHG tenure***.
- (3) All authorities under this Act are collectively referred to as a ***GHG authority***.

## 19 Who is an *eligible person*

An *eligible person* is—

- (a) an adult; or
- (b) a company or a registered body under the Corporations Act; or
- (c) a government owned corporation.

## 20 What are the *conditions* of a GHG authority

- (1) The *conditions* of a GHG authority are—
  - (a) the conditions stated in it from time to time; and

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- (b) the GHG authority holder's obligations under chapters 2 to 5; and
- (c) any condition of the GHG authority under chapters 2 to 5; and
- (d) a condition that the holder must ensure each person acting for the holder who carries out an authorised activity for the GHG authority complies with its conditions to the extent they apply to the carrying out of the activity.

*Note—*

For who may carry out an authorised activity for the holder, see section 338 (Who may carry out authorised activity for GHG authority holder).

- (2) A condition mentioned in subsection (1)(b) or (c) is a ***mandatory condition*** of the GHG authority.

## **21 What are the *provisions* of a GHG authority**

- (1) A reference in this Act to a GHG authority includes a reference to its provisions.
- (2) A reference in this Act to the provisions of a GHG authority is a reference to its mandatory or other conditions and anything written in it.

## **22 What is an *authorised activity* for a GHG authority**

An ***authorised activity***, for a GHG authority, is an activity that its holder is under this Act or the authority, entitled to carry out in relation to the authority.

*Notes—*

- 1 The provisions of the GHG authority may restrict the carrying out of authorised activities. See sections 41, 97, 120, 236 and 379(3).
- 2 The carrying out of authorised activities is subject to the restrictions and the holder's rights and obligations under chapters 2 to 5. See section 337.

- 3 The carrying out of particular activities on particular land in a GHG authority's area may not be authorised following the taking of the land under a resumption law. See section 369B.

## 23 What is a *GHG storage activity*

A *GHG storage activity* is any authorised activity for any GHG authority, whether or not a GHG authority has been granted for the activity.

## 24 What is a *work program* for a GHG permit

- (1) The *work program* for a GHG permit is its current initial or later work program approved under chapter 2, part 4 as amended from time to time under that part.
- (2) For subsection (1), the work program is current if the period to which the program applies has started and not ended.

## 25 What is a *development plan* for a GHG lease

- (1) The *development plan* for a GHG lease is its current initial or later development plan approved under chapter 3, part 5 as amended from time to time under that part.
- (2) For subsection (1), the development plan is current if the period to which the plan applies has started and has not ended.

## 26 Graticulation of earth's surface into *blocks* and *sub-blocks*

- (1) A *block* is the land resulting from a notional division of the earth's surface—
  - (a) by 2 meridians of longitude 5 minutes apart, each meridian being a multiple of 5 minutes of longitude from the meridian of Greenwich; and
  - (b) by 2 parallels of latitude 5 minutes apart, each parallel being a multiple of 5 minutes of latitude from the equator.

[s 26A]

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- (2) A **sub-block** is the land resulting from a notional division of a block into 25 areas, each sub-block being bounded by 2 meridians 1 minute of longitude apart and 2 parallels of latitude 1 minute of latitude apart.
- (3) Each block and sub-block must be identified in the way approved by the chief executive.

## **26A What is a *resource Act***

A *resource Act* is any of the following—

- this Act;
- the Geothermal Act;
- the Mineral Resources Act;
- the 1923 Act;
- the P&G Act.

# **Part 4 State ownership of GHG storage reservoirs**

## **27 GHG storage reservoirs the property of the State**

- (1) All GHG storage reservoirs in land in the State are and are taken always to have been the property of the State.
- (2) To remove any doubt, it is declared that—
  - (a) a person does not acquire any property in a GHG storage reservoir or petroleum in it only because the person creates or discovers the reservoir; and

*Note—*

For other provisions about the ownership of petroleum, see the P&G Act, sections 26 to 28 and chapter 2, part 6, division 3.



- 
- (b) subsection (1) applies whether or not the land is freehold or other land.
  - (3) This section applies despite any other Act, grant, title or other document in force from the commencement of this section.
  - (4) In this section—  
*the State* does not include any of the adjacent area under the *Petroleum (Submerged Lands) Act 1982*.

## 28 Reservation in land grants

- (1) This section applies to each grant under another Act of a right relating to land.
- (2) This section applies whether the grant was made before or after the commencement of this section.
- (3) The grant is taken to contain a reservation to the State of—
  - (a) all GHG storage reservoirs in the land, whenever created; and
  - (b) the exclusive right to do the following in relation to the land—
    - (i) to enter and carry out any GHG storage activity;
    - (ii) to authorise under the provisions of this Act or another Act others to carry out any GHG storage activity;
    - (iii) to regulate under the provisions of this Act or another Act GHG storage activities carried out by others.

*Note—*

See however, section 420 (Provision for entry by State to carry out GHG storage activity).

- (4) In this section—  
*grant*, of a right, includes an authority, lease, licence, permit or other instrument of tenure, however called.

## Chapter 2 GHG exploration permits

### *Notes—*

- 1 For the requirement to have a GHG tenure, see section 386.
- 2 Chapter 4 imposes requirements for and restrictions on the granting of, and restrictions on authorised activities that may be carried out under, particular GHG tenures. See section 182.

## Part 1 Key authorised activities

### 29 Operation of pt 1

This part provides for the key authorised activities for a GHG permit.

### *Notes—*

- 1 For other authorised activities, see chapter 5, part 7, division 2 (Access to private land outside area of GHG authority) and part 12 (General provisions for conditions and authorised activities).
- 2 For general restrictions on authorised activities, their relationship with owners' and occupiers' rights and who may carry out authorised activities for a GHG authority holder, see chapter 5, part 12, division 3.
- 3 The carrying out of particular activities on particular land in a GHG permit's area may not be authorised following the taking of the land under a resumption law. See section 369B.

### 30 Principal authorised activities

The GHG permit holder may carry out the following activities in the permit's area—

- (a) GHG storage exploration;
- (b) evaluating the feasibility of GHG stream storage, including for example, by GHG storage injection testing.

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### **31 Incidental activities**

- (1) The GHG permit holder may carry out any other activity (an *incidental activity*) in the permit's area if carrying it out is reasonably necessary for or is incidental to GHG storage exploration.

*Examples of incidental activities—*

- 1 constructing or operating facilities, plant or works, including for example, communication systems, compressors, powerlines, pumping stations, reservoirs, roads, evaporation or storage ponds and tanks
  - 2 constructing or using temporary structures or structures of an industrial or technical nature, including for example, mobile and temporary camps
- (2) However, constructing or using a structure other than a temporary structure, for office or residential accommodation is not an incidental activity.

## **Part 2 Obtaining GHG permits**

### **Division 1 Preliminary**

#### **32 Operation of pt 2**

- (1) This part provides for a process for the granting of GHG permits by competitive tender.
- (2) To remove any doubt, it is declared that a GHG permit can only be granted under this part.

## **Division 2                      Competitive tenders**

### **33            Call for tenders**

- (1) The Minister may by gazette notice invite tenders for a GHG permit (a *call for tenders*).
- (2) The call must state—
  - (a) the day and time by which tenders in response to it must be made (the *closing time* for the call); and
  - (b) any criteria (*special criteria*) other than the work program criteria and capability criteria proposed to be used to decide whether to grant the GHG permit or to decide its provisions.
- (3) The call may state other relevant matters, including for example, matters relevant to the work program criteria and capability criteria.

### **34            Right to tender**

- (1) An eligible person may by a tender made under section 35, tender for a proposed GHG permit the subject of a call for tenders.
- (2) However, a tender can not be made—
  - (a) after the closing time for the call; or
  - (b) for only part of the proposed GHG permit's area.

### **35            Requirements for making tender**

A tender for a GHG permit must—

- (a) be made to the Minister in the approved form; and
- (b) include—
  - (i) a statement about how and when the tenderer proposes to consult with and keep informed each owner and occupier of private or public land on

- 
- which authorised activities for the proposed GHG permit are or are likely to be carried out; and
- (ii) a proposed work program that complies with the initial work program requirements; and
  - (iii) a statement about the extent to which the tenderer has—
    - (A) the financial and technical resources to carry out authorised activities for the proposed GHG permit; and
    - (B) the ability to manage GHG storage exploration; and
  - (c) state that the applicant agrees to, as soon as practicable after the grant of the GHG permit to the applicant, give each of the owners or occupiers a notice—
    - (i) describing the activities proposed to be carried out on the land; and
    - (ii) stating where and when the activities will be carried out; and
  - (d) be accompanied by the fee prescribed under a regulation.

### **37 Right to terminate call for tenders**

- (1) The Minister may by gazette notice terminate a call for tenders at any time before deciding whether to grant a GHG permit to a person who has made a tender in response to the call.
- (2) All tenders in response to the call lapse when the call is terminated.
- (3) No amount, whether by way of compensation, reimbursement or otherwise, is payable by the State to any person for or in connection with the termination.

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## **Division 3                      Deciding tenders**

### **38            Process for deciding tenders**

Subject to section 42, any process the Minister considers appropriate may be used to decide a call for tenders, including for example, by a process appointing a preferred tenderer on the tenders made in response to the call.

### **39            Provisions for preferred tenderers**

(1) The Minister may require a preferred tenderer for the call for tenders to—

- (a) pay any amounts necessarily incurred or to be incurred to enable the GHG permit to be granted; and
- (b) to do all or any of the following within a stated reasonable period—
  - (i) pay the annual rent for the first year of the GHG permit;
  - (ii) give under section 271, security for the GHG permit.

(2) If a preferred tenderer does not—

- (a) comply with a requirement under subsection (1); or
- (b) do all things reasonably necessary to allow a GHG permit to be granted to the tenderer;

the Minister may appoint another tenderer to be the preferred tenderer.

### **40            Deciding whether to grant GHG permit**

(1) The Minister may, after the closing time for the call for tenders—

- (a) grant a GHG permit to 1 tenderer; or
- (b) refuse to grant any GHG permit.

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- (2) However—
- (a) before deciding to grant the GHG permit, the Minister must decide whether to approve the applicant's proposed initial work program for the permit; and
  - (b) the Minister can not grant the GHG permit unless—
    - (i) the tenderer is an eligible person; and
    - (ii) the proposed program has been approved; and
    - (iii) a relevant environmental authority has been issued.

*Note—*

If a tender relates to acquired land, see also section 369C.

#### **41 Provisions of GHG permit**

- (1) Each GHG permit must state its term and area.
- (2) The term—
  - (a) must be for at least the required program period for the initial work program for the GHG permit under the call for tenders; but
  - (b) must end no later than 12 years after the GHG permit takes effect.
- (3) The GHG permit may also state—
  - (a) conditions or other provisions of the GHG permit other than conditions or provisions that are—
    - (i) inconsistent with the mandatory conditions for GHG permits; or
    - (ii) the same as or substantially the same as or inconsistent with any relevant environmental condition; and
  - (b) the day it takes effect; and
  - (c) GHG permit's relinquishment days.

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- (4) However, the provisions of the GHG permit may exclude or restrict the carrying out of an authorised activity for the permit.
- (5) The day of effect must not be before the day the GHG permit is granted.
- (6) If no day of effect is stated, the GHG permit takes effect on the day it is granted.
- (7) The first relinquishment day must not be later than 4 years after the day the GHG permit is to take effect.
- (8) The second and any later relinquishment days must not be later than 4 years after the previous relinquishment day.
- (9) If relinquishment days are not stated, they are taken to be—
  - (a) the day that is the fourth anniversary of the GHG permit's day of effect; and
  - (b) each day during its term that is the end of a 4 yearly interval after the day of effect.

## 42 Criteria for decisions

- (1) In deciding whether to grant a GHG permit or deciding its provisions the Minister must consider—
  - (a) any special criteria; and
  - (b) the applicant's proposed initial work program; and
  - (c) the extent to which the Minister is of the opinion that the tenderer is capable of carrying out authorised activities for the GHG permit, having regard to the tenderer's—
    - (i) financial and technical resources; and
    - (ii) ability to manage GHG storage exploration.
- (2) The matters mentioned in subsection (1)(c) are the *capability criteria*.
- (3) A person *satisfies* the capability criteria if the Minister forms the opinion mentioned in subsection (1)(c).



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**43 Notice to unsuccessful tenderers**

After a call for tenders has been decided, the Minister must give each tenderer not granted the GHG permit notice of the decision.

## **Part 3 Area provisions**

**44 Area of GHG permit**

- (1) This section provides for the area of a GHG permit.
- (2) The area does not include excluded land for the GHG permit.

*Note—*

See also section 369B(3) if land in the GHG permit's area is taken under a resumption law.

- (3) Unless the Minister otherwise decides, the area must form a single parcel of land.
- (4) The area must not include any of the following (*unavailable land*)—
  - (a) land in the area of another GHG tenure;
  - (b) excluded land for a GHG tenure;
  - (c) land that a regulation prescribes as land over which a GHG permit can not be granted.
- (5) The area may include a part of a block only if the part is all areas within the block that are left after taking away all unavailable land within the block (a *residual block*).

*Note—*

See also section 369B(3) if land in the GHG permit's area is taken under a resumption law.

- (6) The area must be no more than 100 blocks or residual blocks, in any combination.

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#### **45 References to sub-blocks of GHG permit**

- (1) This section applies if a GHG permit states that its area includes land within a block without including or excluding any particular sub-block.
- (2) The reference to the block is a reference to all sub-blocks within the block to the extent they do not consist of unavailable land.

*Note—*

See also section 369B(3) if land in the GHG permit's area is taken under a resumption law.

- (3) To remove any doubt, it is declared that if land within any of the sub-blocks ceases to be unavailable land, the cessation itself does not cause the land to be within the permit's area.

#### **46 Minister's power to decide excluded land**

- (1) The Minister may decide excluded land for a GHG permit or proposed GHG permit.
- (2) However, the power under subsection (1) may be exercised only when the Minister is deciding whether to—
  - (a) grant or renew the GHG permit; or
  - (b) approve any later work program for the GHG permit.
- (3) However, excluded land can not be a whole block.
- (4) Excluded land may be described in a way the Minister considers appropriate, including for example, by area or by reference to a stated type of land.
- (5) Land ceases to be excluded land for a GHG permit if—
  - (a) the block in which the land is located is relinquished or for any other reason ceases to be in the permit's area; or
  - (b) a GHG lease is granted over any of the GHG permit's area and the land is excluded land for the lease.

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**47 Minister may add excluded land**

- (1) The Minister may amend a GHG permit by adding excluded land for the GHG permit to its area only if—
  - (a) the GHG permit as amended complies with section 44; and
  - (b) the GHG permit holder consents.
- (2) If land mentioned in subsection (1) is added to the GHG permit's area the land ceases to be excluded land for the permit.
- (3) The Minister may amend the provisions of the GHG permit in a way that reflects the inclusion of the excluded land.
- (4) Also, the Minister may give the GHG permit holder a notice—
  - (a) withdrawing from a stated day, the approval of the work program for the GHG permit; and
  - (b) directing the holder to give the Minister a proposed later work program for the GHG permit that—
    - (i) complies with the later work program requirements; and
    - (ii) changes the work program for the GHG permit to reflect the inclusion of the excluded land.
- (5) The amended provisions of the GHG permit or the proposed later work program must not be—
  - (a) inconsistent with the mandatory conditions for GHG permits; or
  - (b) the same as or substantially the same as or inconsistent with any relevant environmental condition.

**48 Area of GHG permit reduced on grant of GHG lease**

- (1) Land ceases to be included in the area of a GHG permit if a GHG lease is granted to the permit holder over the land.

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- (2) If a GHG lease is granted to the GHG permit holder over all of the area of a GHG permit, the permit ends.

#### **49 Effect of ending of declaration of potential storage area**

- (1) This section applies if—
  - (a) all or part of the area of a GHG permit is a potential storage area; and
  - (b) the declaration of the potential storage area ends more than 12 years after the GHG permit originally took effect.
- (2) If the declaration applied to a part of the GHG permit's area, the part ceases to be included in the area.
- (3) If the declaration applies to all of the GHG permit's area, the permit ends.

## **Part 4 Work programs**

### **Division 1 Function and purpose**

#### **50 Function and purpose**

- (1) The work program for a GHG permit gives detailed information about the nature and extent of activities to be carried out under the permit.
- (2) The purposes of giving the information are to—
  - (a) allow resource management decisions to be made; and
  - (b) ensure appropriate development of the GHG permit.

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## **Division 2                      Requirements for proposed initial work programs**

### **51            Operation of div 2**

This division provides for requirements (the *initial work program requirements*) for a proposed work program for a proposed GHG permit.

### **52            Program period**

- (1) The proposed program must state its period.
- (2) The period must be the same as the required period under the relevant call for tenders.

### **53            General requirements**

- (1) The proposed program must provide for all of the following—
  - (a) an overview of the activities proposed to be carried out under the proposed GHG permit during all of its term;
  - (b) for each year of the program period—
    - (i) the extent and nature of GHG storage exploration proposed to be carried out during the year; and
    - (ii) generally where the activities are proposed to be carried out; and
    - (iii) the estimated cost of the activities;
  - (c) maps that show where the activities are proposed to be carried out;
  - (d) the composition of GHG streams proposed to be injected under the GHG permit;
  - (e) a description of any pipeline land for the GHG permit;
  - (f) reasons why the program is considered appropriate;
  - (g) another matter prescribed under a regulation.

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- (2) The proposed program may include any other information relevant to the work program criteria.
- (3) The composition of GHG streams to be injected under the proposed GHG permit must comply with section 83.
- (4) A regulation may impose requirements about the form of the work program.
- (5) In this section—  
*year*, of the program period, means—
  - (a) the period starting on the day the program period starts and ending on the first anniversary of that day; and
  - (b) each subsequent period of 12 months or less during the program period starting on each anniversary of that day and ending on—
    - (i) the next anniversary of that day; or
    - (ii) if the program period ends before the next anniversary—the day the program period ends.

## **54 Water issues**

- (1) In preparing the proposed work program, the proposed GHG permit holder must have regard to potential groundwater issues.
- (2) The proposed work program must include a plan for the treatment and disposal of any water taken or that may be taken because of the carrying out of authorised activities for the proposed GHG permit.

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## Division 3                      **Approval of proposed initial work programs**

*Note—*

For the requirement for approval of an initial work program, see section 40 (Deciding whether to grant GHG permit).

### **55            Criteria**

- (1) In deciding whether to approve a proposed initial work program the Minister must consider—
  - (a) the potential of the proposed area of the GHG permit for GHG storage exploration; and
  - (b) the extent and nature of and when and where the tenderer proposes to carry out the proposed GHG storage exploration; and
  - (c) any relevant authorisation required under the Water Act.
- (2) The matters mentioned in subsection (1) are the *work program criteria*.

### **56            Verification may be required**

- (1) The Minister may by notice require the applicant to give the Minister within a stated reasonable period a document made by an appropriately qualified independent person that verifies—
  - (a) an assessment of data supplied in the proposed initial work program; or
  - (b) the source of the data; or
  - (c) the work done for the proposed program; or
  - (d) that, in the person's opinion, the applicant has—

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- (i) the financial and technical resources to carry out authorised activities for the proposed GHG permit; and
  - (ii) the ability to manage GHG storage exploration.
- (2) If the applicant does not comply with the requirement, the Minister may refuse to approve the proposed program.
- (3) The applicant must pay any costs incurred in complying with the requirement.

## 57 Referral to Water Act Minister

The Minister can not approve the proposed work program unless—

- (a) the Minister has given the Water Act Minister a copy of the proposed work program; and
- (b) the Water Act Minister has approved the proposed work program to the extent it relates to potential groundwater issues.

## Division 4 Requirements for proposed later work programs

### 58 Operation of div 4

This division provides for requirements (the *later work program requirements*) for a proposed later work program for a GHG permit.

*Note—*

For the requirements to give a proposed later work program, see sections 91 (Obligation to give proposed later work program), 138 (Minister may add excluded land) and 379 (Types of noncompliance action that may be taken).



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## 59 General requirements

The proposed program must—

- (a) other than for the program period, comply with the initial work program requirements; and
- (b) state the extent to which the current work program for the GHG permit has been complied with; and
- (c) if there have been any amendments to the GHG permit or the current work program, state—
  - (i) whether the changes have been incorporated in the proposed program; and
  - (ii) any effect the changes have on the proposed program; and
- (d) state the effect of the discovery of any GHG stream storage site on the proposed program.

## 60 Program period

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

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**61 Implementation of evaluation program for potential storage area**

If under section 103, an evaluation program is taken to be an additional part of the existing work program for the GHG permit, the proposed program must include work necessary to implement the evaluation program for the period of that program.

**Division 5 Approval of proposed later work programs**

**62 Application of div 5**

This division applies if, under this Act, a proposed later work program is given to the Minister for approval.

**63 GHG permit taken to have work program until decision on whether to approve proposed work program**

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

**64 Deciding whether to approve proposed program**

- (1) The Minister may approve or refuse to approve the proposed program.

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- (2) In deciding whether to approve the proposed program the Minister must consider each of the following—
    - (a) the work program criteria and capability criteria and any special criteria that applied for deciding the application for the GHG permit;
    - (b) the extent to which the current work program has been complied with;
    - (c) any amendments made to the GHG permit or its current work program and the reasons for the changes;
    - (d) any GHG storage viability report or independent viability assessment for the GHG permit.
  - (3) Also, if the GHG permit was granted in response to a tender, any other work program proposed by other tenderers for the permit must be considered.
  - (4) However, subsection (3) applies only to the extent the other program includes the period of the proposed plan.

## **65 Steps after, and taking effect of, decision**

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

## Division 6                      Amending work programs

### 66        Restrictions on amending work program

- (1) A GHG permit holder may amend the work program for the permit only if—
  - (a) an application for approval of the amendment has been made under this division and the amendment has been approved under this division; and
  - (b) if the amendment is to extend the period of the work program—the requirements under subsection (2) have been complied with.
- (2) For subsection (1)(b), the requirements are each of the following—
  - (a) if the work program is the initial work program for the GHG permit—the Minister must be satisfied the work program needs to be amended for a reason beyond the holder's control;
  - (b) the period of the work program, or any earlier work program for the GHG permit, must not have previously been extended;
  - (c) the extension can not be for a term that ends later than—
    - (i) 1 year after the current period of the work program; or
    - (ii) 12 years after the GHG permit originally took effect;
  - (d) within 3 months before the making of the application—
    - (i) a person (the *designated person*) became a holder of the GHG permit; or
    - (ii) a person (also the *designated person*) obtained registration of a transfer of a share in the GHG permit;

- (e) the share or proposed share of the designated person in the GHG permit is at least 50%;
- (f) the designated person is not under the Corporations Act, section 64B, an entity connected with another person who is a holder of the GHG permit.

### **67 Applying for approval to amend**

- (1) A GHG permit holder may apply for approval to amend the work program for the permit.
- (2) However, the application can not be made less than 20 business days before the end of the period stated in the work program for carrying out work under the program.
- (3) Subsection (2) does not apply if the Minister is satisfied the work program needs to be amended for a reason beyond the holder's control.

### **68 Requirements for making application**

The application must be—

- (a) made to the Minister in the approved form; and
- (b) accompanied by the fee prescribed under a regulation.

### **69 Deciding application**

- (1) If the proposed amendment—
  - (a) does not relate to the initial work program for the GHG permit; and
  - (b) is to substitute the carrying out of an authorised activity (the *original activity*) with another authorised activity;the Minister may approve the amendment only if satisfied the other activity is at least of an equivalent use for GHG storage exploration as the original activity.

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- (2) If the application is to extend the period of the work program for the GHG permit, the Minister may approve the amendment only if satisfied—
- (a) the requirements under section 66(2) have been complied with; and
  - (b) the designated person mentioned in section 66(2) is likely to provide additional financial or technical resources for the GHG permit; and
  - (c) the work program will be finished within the period of the extension.

*Note—*

For additional provisions about relinquishment if the period is extended, see sections 72(1)(c) and 90.

- (3) Otherwise, the Minister may approve the amendment only if satisfied it is necessary because of a circumstance—
- (a) not related to—
    - (i) the applicant's financial or technical resources or ability to manage GHG storage exploration; or
    - (ii) the results of exploration; and
  - (b) the happening of which is or was beyond the applicant's control; and
  - (c) that could not have been prevented by a reasonable person in the applicant's position.
- (4) Also, if the amendment is approved under subsection (3), any relinquishment day for the GHG permit may be deferred for a period relating to a circumstance mentioned in subsection (3).
- (5) A deferral under subsection (4)—
- (a) can not be for longer than 12 years after the GHG permit took effect; and
  - (b) does not defer any later relinquishment day for the GHG permit.

- (6) If under this section an amendment is approved, a condition may be imposed on the GHG permit requiring its holder to relinquish by a notice to the chief executive at least a stated percentage of the permit's area on or before a stated day.

## **70 Steps after, and taking effect of, decision**

- (1) If the Minister decides to approve the proposed amendment, the Minister must give the holder notice of the decision.
- (2) If the Minister decides to refuse to approve the proposed amendment, the Minister must give the applicant an information notice about the decision.
- (3) The refusal takes effect when the holder is given the notice or if the notice states a later day of effect, on that later day.

# **Part 5 Key mandatory conditions**

## **Division 1 Preliminary**

### **71 Operation of pt 5**

This part provides for particular mandatory conditions for GHG permits.

## **Division 2 Standard relinquishment condition and related provisions**

### **72 Standard relinquishment condition**

- (1) It is a condition (the *relinquishment condition*) of each GHG permit that its holder must relinquish part of its area as provided for under this division—

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- (a) on or before each of its relinquishment days; and
  - (b) if section 76(3) applies—on the day provided for under that subsection; and
  - (c) if under part 4, division 6, the period of the work program for the GHG permit has been extended—the day on which the extended period ends.
- (2) However, if under section 69(4), a relinquishment day for the GHG permit (the *original day*) is deferred for a stated period, for the relinquishment condition—
- (a) the relinquishment that was required on or before the original day is taken to have been deferred until the end of the stated period; but
  - (b) the relinquishments required under the relinquishment condition on any later relinquishment days for the GHG permit must be made as if the deferral has not been granted.
- (3) A relinquishment required under the relinquishment condition—
- (a) must be made by notice to the chief executive (a *relinquishment notice*); and
  - (b) takes effect on the day after the notice is given.
- (4) This section does not prevent the holder from relinquishing by relinquishment notice more than the part provided for under this division.

### **73 Consequence of failure to comply with relinquishment condition**

- (1) If the holder of a GHG permit does not comply with the relinquishment condition, the Minister must give the holder a notice requiring the holder to comply with the condition within 20 business days after the giving of the notice.
- (2) If the holder does not comply with the requirement, the GHG permit is cancelled.



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**74 Part usually required to be relinquished**

- (1) This section applies for the relinquishment for—
  - (a) each relinquishment day for the GHG permit; and
  - (b) any other day mentioned in section 72(1)(b) or (c) that applies to the GHG permit.
- (2) The relinquishment must have the effect that by the day at least 8.33% of the original sub-blocks of the permit have been relinquished for each year that has passed since the GHG permit originally took effect.
- (3) This section is subject to sections 76 and 77.

**75 Sub-blocks that can not be counted towards relinquishment**

- (1) The following can not be counted as sub-blocks relinquished for the relinquishment condition—
  - (a) sub-blocks relinquished under a condition imposed under section 69(6);
  - (b) sub-blocks in an area that under section 48, have ceased to be included in the GHG permit;
  - (c) the mere declaration of the sub-blocks as a potential storage area for the GHG permit;
  - (d) sub-blocks the subject of an application for a GHG lease or potential storage area;
  - (e) sub-blocks relinquished under a penalty relinquishment.
- (2) To remove any doubt, it is declared that a potential storage area can be relinquished and can be counted as an area relinquished for the relinquishment condition.
- (3) In this section—

***penalty relinquishment*** means a relinquishment that is—

  - (a) made under section 90 or under a requirement under section 379(1)(b); and

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- (b) more than the sub-blocks required to be relinquished under the relinquishment condition.

## **76 Adjustments for sub-blocks that can not be counted**

- (1) This section applies for a relinquishment day if after taking away all sub-blocks that under section 75 can not be counted for the relinquishment condition, the balance of the sub-blocks of the GHG permit is less than the sub-blocks required to be relinquished under section 74.
- (2) The relinquishment condition is taken to have been complied with if the GHG permit holder gives a relinquishment notice for all of the balance.
- (3) However, if—
  - (a) a sub-block not counted for the relinquishment condition was the subject of an application for a GHG lease or potential storage area; and
  - (b) the result of the application is that it is refused;the GHG permit holder must within 20 business days after the appeal period for the decision to refuse give a relinquishment notice for that sub-block.

## **77 Adjustment for particular potential storage areas**

If the only way to comply with the relinquishment condition is to relinquish all or part of a potential storage area for the GHG permit, the relinquishment condition is taken to be complied with if all remaining original sub-blocks of the permit are relinquished.

## **78 Relinquishment must be by blocks**

- (1) A relinquishment under the relinquishment condition can only be by blocks.
- (2) However, if a block contains an area that, under section 75 can not be counted as a relinquishment, subsection (1) is complied

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with if all of the rest of the land within the block is relinquished.

**79 Ending of GHG permit if all of its area relinquished**

If all of the area of a GHG permit is relinquished, the permit ends.

**Division 3 Other mandatory conditions**

**80 Compliance with test plan for GHG storage injection testing**

- (1) A GHG permit holder may carry out GHG storage injection testing only in accordance with the following—
  - (a) a test plan for that purpose approved by the Minister;
  - (b) all conditions of the approval.
- (2) The holder may ask the Minister to approve a test plan proposed by the holder.
- (3) The proposed test plan must comply with any requirements prescribed under a regulation.
- (4) The Minister may impose conditions on the granting of the approval.
- (5) If the Minister decides to refuse to approve the proposed test plan or to impose conditions on the granting of the approval, the Minister must give the holder an information notice about the decision.

**81 Restriction on substances that may be used for GHG storage injection testing**

A GHG permit holder can not use a substance other than a GHG stream or water for injection for GHG storage.

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**82 Restriction on substances that may be used for GHG stream storage**

A GHG permit holder can not use a substance other than a GHG stream for GHG stream storage.

**83 Restriction on GHG streams that may be used**

A GHG permit holder may use a GHG stream for GHG storage injection testing or GHG stream storage only if it consists only of carbon dioxide and—

- (a) a substance incidentally derived from—
  - (i) the process called carbon dioxide capture, transport and geological storage, also called carbon capture and storage; or
  - (ii) GHG storage; or
- (b) a detection agent prescribed under a regulation at the rate or concentration prescribed under a regulation.

*Note—*

A stream is a GHG stream only if it is a stream of carbon dioxide or a substance that overwhelmingly consists of carbon dioxide. See section 12 (What is a *GHG stream*).

**84 Water Act authorisation required for taking or interference with water**

A GHG permit holder can not take or interfere with water as defined under the Water Act unless the taking or interference is authorised under that Act.

*Note—*

For relevant Water Act provisions, see sections 19 and 808 of that Act.

**85 Obligation to consult with particular owners and occupiers**

- (1) A GHG permit holder must consult or use reasonable endeavours to consult with each owner and occupier of private

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or public land on which authorised activities for the permit are proposed to be carried out or are being carried out.

- (2) The consultation must be about—
  - (a) access; and
  - (b) the carrying out of authorised activities for the GHG permit (including, for example, crossing access land for the permit) to the extent they relate to the owners and occupiers; and
  - (c) the GHG permit holder's compensation liability to the owners or occupiers.

## **86 Annual rent**

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

## **87 Civil penalty for nonpayment of annual rent**

- (1) If a GHG permit holder does not pay the annual rent as required under section 86, the holder must also pay the State a civil penalty.
- (2) The amount of the penalty is 15% of the rent.
- (3) The penalty—
  - (a) must be paid on the day after the last day for payment of the rent; and
  - (b) is still payable even if the holder later pays the rent.

*Note—*

See also section 372 (Interest on amounts owing to the State).

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**88 Requirement to have work program**

The holder of a GHG permit must have a work program for the permit.

**89 Compliance with GHG storage exploration activities in work program**

A GHG permit holder must carry out the GHG storage exploration activities proposed in the permit's work program.

**90 Penalty relinquishment if work program not finished within extended period**

- (1) If—
  - (a) under part 4, division 6, the period of the work program for a GHG permit has been extended; and
  - (b) the work program is not finished on or before the day on which the extended period ends;its holder must relinquish a part of the original sub-blocks of the GHG permit that the Minister is satisfied corresponds to the amount of the work under the work program that was not finished.
- (2) The holder must give the chief executive written notice of the relinquishment within 20 business days after the end of the extended period.
- (3) If the holder does not comply with subsection (2), the Minister may take action under section 379(1)(b).

**91 Obligation to give proposed later work program**

- (1) This section imposes an obligation on a GHG permit holder to give the Minister a proposed later work program for the permit.

*Notes—*

- 1 For approval of the proposed program, see part 4, division 5.

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- 2 If the holder wishes to renew the GHG permit, a proposed later work program must be included in the renewal application. See section 94(1).
- (2) The obligation is complied with only if the proposed later work program—
- (a) complies with the later work program requirements; and
  - (b) is accompanied by the relevant fee.
- (3) A proposed later work program must be given to the Minister at least 40 but no more than 100 business days before the end of the program period for the current work program for the GHG permit (the *current work program period*).
- (4) However, if before the end of the current work program period a decision is made to refuse to approve a proposed later work program given under subsection (3), the holder may within the period give another proposed later work program.
- (5) If the holder does not give the Minister any proposed later work program before the end of the current work program period or if subsection (4) applies and the holder has not given the Minister another proposed later work program within the current work program period—
- (a) the Minister must give the holder a notice requiring the holder to give the Minister a proposed later work program for the GHG permit within 40 business days after the giving of the notice; and
  - (b) the holder must comply with the requirement.
- (6) In this section—
- relevant fee*, for the giving of the proposed program, means—
- (a) if the proposed program is given within the time required under subsection (3)—the fee prescribed under a regulation; or
  - (b) if the proposed program is given after the time required under subsection (3)—
    - (i) if it is given under subsection (4)—nil; or

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- (ii) if it is not given under subsection (4)—an amount that is 10 times the prescribed fee.

## **92 Consequence of failure to comply with notice to give proposed later work program**

- (1) If a GHG permit holder does not comply with a requirement under section 91(5)(a), the permit is cancelled.
- (2) However, the cancellation does not take effect until the Minister gives the holder a notice stating that the GHG permit has been cancelled because of the operation of subsection (1).

## **Part 6 Renewals**

### **93 Conditions for renewal application**

- (1) A GHG permit holder may apply to renew the permit only if none of the following is outstanding—
  - (a) annual rent for the GHG permit;
  - (b) a civil penalty under section 87 for nonpayment of annual rent;
  - (c) security required for the GHG permit, as required under section 271;
  - (d) interest payable under section 372 on annual rent or a civil penalty.
- (2) Also, the application can not be made—
  - (a) more than 60 business days before the end of the GHG permit's term; or
  - (b) after the GHG permit has ended.



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## **94 Requirements for making application**

- (1) The application must—
  - (a) be made to the Minister in the approved form; and
  - (b) include a statement about how and when the applicant proposes to consult with and keep informed each owner and occupier of private or public land on which authorised activities for the renewed GHG permit are or are likely to be carried out; and
  - (c) include a proposed later work program for the renewed GHG permit; and
  - (d) be accompanied by—
    - (i) the application fee prescribed under a regulation; and
    - (ii) if the application is made less than 20 business days before end of the GHG permit's term—an amount that is 10 times the application fee.
- (2) The proposed work program must comply with the later work program requirements.

## **95 Continuing effect of GHG permit for renewal application**

- (1) This section applies if before the application is decided the GHG permit's term ends.
- (2) Despite the ending of the term, the GHG permit continues in force until the earlier of the following to happen—
  - (a) the start of any renewed term of the GHG permit;
  - (b) a refusal of the application takes effect;
  - (c) the application is withdrawn;
  - (d) the GHG permit is cancelled under this Act.
- (3) Also, if the applicant has applied for a declaration of a potential storage area for the GHG permit, it continues in force until the declaration application is decided but only for

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the area of the proposed GHG potential storage area applied for.

- (4) If the GHG permit is continued in force under subsection (3), the evaluation program included in the declaration application is taken to be the work program for the permit.
- (5) If the GHG permit is renewed, subsections (2) and (3) are taken never to have applied for the period from the end of the term of the GHG permit being renewed as stated in that permit.

## **96 Deciding application**

- (1) The Minister may grant or refuse the renewal.
- (2) However—
  - (a) before deciding to grant the renewal, the Minister must decide whether to approve the applicant's proposed later work program for the renewed GHG permit; and
  - (b) the renewal can not be granted unless—
    - (i) the proposed program has been approved; and
    - (ii) the applicant satisfies the capability criteria; and
    - (iii) the Minister is satisfied the applicant—
      - (A) continues to satisfy any special criteria that applied for deciding the application for the GHG permit being renewed; and
      - (B) has substantially complied with the GHG permit being renewed; and
    - (iv) a relevant environmental authority has been issued.

*Note—*

If the application relates to acquired land, see also section 369C.

- (3) Also, if the applicant has been given a notice under section 107 to apply for a GHG lease, the application must not be decided until the issue of whether a GHG lease will be granted is decided.

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- (4) Subsection (3) does not limit the power under section 108 to take a proposed action as stated in the notice.
  - (5) The Minister may as a condition of deciding to grant the application require the applicant to do all or any of the following within a stated reasonable period—
    - (a) pay the annual rent for the first year of the renewed GHG permit;
    - (b) give under section 271, security for the renewed GHG permit.
  - (6) If the applicant does not comply with the requirement, the application may be refused.

## **97 Provisions and term of renewed GHG permit**

- (1) Subject to this section, section 41 applies to the renewed GHG permit as if it were a GHG permit granted under part 2.
- (2) To remove any doubt, it is declared that the conditions of the renewed GHG permit may be different from the conditions or other provisions of the GHG permit being renewed.
- (3) The area of the renewed GHG permit must not be more than the area of the GHG permit being renewed immediately before the renewed GHG permit is to take effect.

*Note—*

See, however, section 369C in relation to acquired land that was previously in the area of the GHG permit being renewed.

- (4) The first relinquishment day for the renewed GHG permit must not be later than 4 years after the day the renewed GHG permit is to take effect.
- (5) If the renewed GHG permit is decided before the end of the term of the GHG permit being renewed as stated in that GHG permit (the *previous term*), the term of the renewed GHG permit is taken to start from the end of the previous term.

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- (6) If the renewed GHG permit is decided after the previous term, the term of the renewed GHG permit starts immediately after the end of the previous term, but—
  - (a) the conditions of the renewed GHG permit do not start until its holder is given notice of them; and
  - (b) until the notice is given, the conditions of the GHG permit being renewed apply to the renewed GHG permit as if they were its conditions.
- (7) The term of the renewed GHG permit must not end more than 12 years from when it originally took effect.
- (8) However, if any part of the renewed GHG permit's area is a potential storage area, the term of the renewed GHG permit for that part may be for a longer period that—
  - (a) ends no later than when the declaration ends; and
  - (b) is no more than the last term of the GHG permit being renewed.
- (9) To remove any doubt, it is declared that subsection (8)(b) does not prevent a renewal of the renewed GHG permit.

## **98 Criteria for decisions**

In deciding whether to grant the renewal or deciding the provisions of the renewed GHG permit the Minister must consider—

- (a) the work program criteria; and
- (b) whether the applicant continues to satisfy the capability criteria and any special criteria.

## **99 Information notice about refusal**

If the Minister decides to refuse the application, the Minister must give the applicant an information notice about the decision.

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**100 When refusal takes effect**

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

## **Part 7 Potential storage areas**

**101 Applying for potential storage area**

- (1) The holder of a GHG permit may apply for a declaration by the Minister that all or a stated part of its area is a potential storage area for the permit.
- (2) The application must be—
  - (a) made to the Minister in the approved form; and
  - (b) accompanied by the fee prescribed under a regulation.
- (3) The application may be made—
  - (a) for more than 1 part of the GHG permit's area; and
  - (b) even if another part of the GHG permit's area is already a potential storage area.
- (4) The application must include—
  - (a) a report for or that includes the proposed potential storage area that—
    - (i) meets the requirements under section 246 for a GHG storage viability report; and
    - (ii) is still relevant to the circumstances of the proposed potential storage area; and
  - (b) an evaluation program for—
    - (i) potential GHG stream storage in the proposed potential storage area; and

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- (ii) market opportunities for potential GHG stream storage.
- (5) However, subsection (4)(a) does not apply if—
- (a) a GHG storage viability report or an independent viability assessment relates to or includes the proposed potential storage area; and
  - (b) the report or assessment is still relevant to the circumstances of the proposed potential storage area.

## **102 Deciding potential storage area application**

- (1) The Minister may declare an area the subject of the application to be a potential storage area only if satisfied—
- (a) the area is no more than is needed to cover the maximum extent of a GHG stream storage site identified in the report; and
  - (b) the applicant does not and will not soon have an available GHG stream for GHG stream storage in the area to be declared, but a GHG stream is likely to become available for GHG stream storage in the area.
- (2) The area declared must form a single parcel of land.
- (3) In deciding the application, regard must be had to whether the conditions of the relevant GHG permit have been substantially complied with.
- (4) To remove any doubt, it is declared that the declaration may be made even if the GHG permit has been continued in force under section 95 or 116.
- (5) If the Minister decides to refuse the application, the Minister must give the applicant an information notice about the decision.

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**103 Inclusion of evaluation program in work program**

- (1) If the declaration is made, the evaluation program that accompanied the application is taken to be an additional part of the existing work program for the GHG permit.
- (2) If there is an inconsistency between the evaluation program and the rest of the work program, the evaluation program prevails to the extent of the inconsistency.

**104 Term of declaration**

- (1) A declaration of a potential storage area continues in force for the period stated in the declaration.
- (2) The period can not be more than 10 years.
- (3) In deciding a shorter period the Minister must consider—
  - (a) when any discovery of a GHG stream storage site was made; and
  - (b) any GHG storage viability report or independent viability assessment for or that includes the proposed potential storage area.
- (4) Despite subsection (1), the declaration ceases if the GHG permit holder gives the chief executive a notice stating that the holder no longer wishes the area to be a potential storage area.

**105 Potential storage area still part of GHG permit**

A declaration of a potential storage area does not change the land the subject of the declaration from being—

- (a) part of the area of the GHG permit the subject of the application for the declaration; and
- (b) subject to the GHG permit.

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## Part 8 Provisions to facilitate transition to GHG lease

### 106 Application of pt 8

This part applies if the Minister reasonably considers the holder of a GHG permit should apply for a GHG lease for all or part of the permit's area because a GHG stream is or soon will be available for GHG stream storage in the area.

### 107 Ministerial direction to apply for GHG lease

- (1) The Minister may give the GHG permit holder a notice stating each of the following—
  - (a) that the Minister proposes to do either of the following, (the *proposed action*) unless the holder has made an appropriate lease application—
    - (i) excise a stated area from the area of the GHG permit;
    - (ii) cancel the GHG permit;
  - (b) the grounds for the proposed action;
  - (c) the facts and circumstances forming the basis for the grounds;
  - (d) that the holder may within a stated period, make submissions to the Minister about why the holder should not make a GHG lease application for the stated area.
- (2) The stated period must be reasonable but must not be more than 6 months.
- (3) In this section—

*appropriate lease application* means a GHG lease application for—

- (a) the stated area or an area that is substantially the same as the stated area; or



- (b) another area the Minister reasonably considers will effectively allow the holder to carry out authorised activities for a GHG lease in relation to the stated area.

## **108 Taking proposed action**

- (1) Proposed action under section 107 may be taken only if—
  - (a) the stated period under that section has ended; and
  - (b) either—
    - (i) the holder has not made an appropriate GHG lease application under that section; or
    - (ii) any appropriate lease application under that section made by the holder has been refused; and
  - (c) the Minister has considered any submissions made by the holder within the period.
- (2) The decision does not take effect until the holder is given an information notice about the decision.
- (3) A refusal of the application takes effect at end of the appeal period for the decision to refuse.

## **Chapter 3            GHG injection and storage leases**

*Notes—*

- 1 For the requirement to have a GHG tenure, see section 386.
- 2 Chapter 4 imposes requirements for and restrictions on the granting of, and restrictions on authorised activities that may be carried out under, particular GHG tenures. See section 182.

### **Part 1                            Key authorised activities**

#### **109    Operation of pt 1**

This part provides for the key authorised activities for a GHG lease.

*Notes—*

- 1 For other authorised activities, see chapter 5, part 7, division 2 (Access to private land outside area of GHG authority) and part 12 (General provisions for conditions and authorised activities).
- 2 For general restrictions on authorised activities, their relationship with owners' and occupiers' rights and who may carry out authorised activities for a GHG authority holder, see chapter 5, part 12, division 3.
- 3 The carrying out of particular activities on particular land in the GHG lease's area may not be authorised following the taking of the land under a resumption law. See section 369B.

#### **110    Principal authorised activities**

The GHG lease holder may carry out the following activities in the lease's area—

- (a) GHG storage exploration;

- (b) evaluating the feasibility of GHG stream storage, including for example, by GHG storage injection testing;
- (c) compressing or otherwise processing a GHG stream for GHG stream storage;
- (d) GHG stream storage;
- (e) monitoring and verifying the behaviour of the GHG streams.

## **111 GHG stream pipeline and water pipeline construction and operation**

- (1) The GHG lease holder may construct and operate GHG stream pipelines and water pipelines in the lease's area.

*Note—*

The P&G Act provides for the granting of licences that will allow the investigation and surveying for, and the construction and operation of, GHG stream pipelines outside the area of a GHG lease. See sections 16, 394 and 402 of that Act.

- (2) However, if a GHG stream pipeline or water pipeline extends beyond the area of the GHG lease, subsection (1) applies only if the pipeline is completely within—
- (a) the GHG lease's area; and
  - (b) the area of 1 or more other GHG leases that are—
    - (i) contiguous to the GHG lease; and
    - (ii) also held by the holder or are subject to a GHG coordination arrangement to which the holder is a party.
- (3) Also, if the pipeline is a water pipeline, the pipeline may only be operated to transport water for the carrying out of an authorised activity for the GHG lease or another GHG lease mentioned in subsection (2)(b) on an area mentioned in subsection (2).

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- (4) Subsection (3) does not prevent the GHG lease holder from constructing or operating a water pipeline if the holder can otherwise lawfully do so.
- (5) In this section—
- operate*, a GHG stream pipeline, includes use, inspect, test, maintain, repair, alter, add to and replace the pipeline.
- water pipeline* means—
- (a) a pipe or system of pipes for transporting water; and
  - (b) a thing connected to or associated with the pipeline that is necessary for its operation, including for example, a thing mentioned in the examples to section 17(2)(b).

## 112 Incidental activities

- (1) The GHG lease holder may carry out an activity (an *incidental activity*) in the lease's area if carrying out the activity is reasonably necessary for or is incidental to another authorised activity for the lease.

*Examples of incidental activities—*

- 1 constructing or operating facilities, plant or works, including for example, communication systems, compressors, powerlines, pumping stations, reservoirs, roads, evaporation or storage ponds and tanks
  - 2 constructing or using temporary structures or structures of an industrial or technical nature, including for example, mobile and temporary camps
- (2) However, constructing or using a structure other than a temporary structure, for office or residential accommodation is not an incidental activity.

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## Part 2                      Transition from GHG permit to GHG lease

### Division 1                Applying for GHG lease

#### 113      Who may apply

- (1) A GHG permit holder may apply for a GHG lease over all or part of the permit's area.

*Note—*

For inclusion of acquired land that was previously in the GHG permit's area, see section 369C(3).

- (2) Also, a person other than the holder may apply for the GHG lease—
  - (a) jointly with the holder; or
  - (b) with the holder's consent.
- (3) An application under this section is a *permit-related application*.

#### 114      Requirements for making permit-related application

A permit-related application must—

- (a) be made to the Minister in the approved form; and
- (b) address the capability criteria; and
- (c) include—
  - (i) a statement about how and when the applicant proposes to consult with and keep informed each owner and occupier of private or public land on which authorised activities for the proposed GHG lease are or are likely to be carried out; and
  - (ii) a proposed development plan that complies with the initial development plan requirements; and

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- (iii) a statement about the extent to which the applicant has—
  - (A) the financial and technical resources to carry out authorised activities for the proposed GHG lease; and
  - (B) the ability to manage GHG stream storage; and
- (d) be accompanied by the fee prescribed under a regulation.

**116 Continuing effect of GHG permit for permit-related application**

- (1) This section applies if other than for subsection (2), the relevant GHG permit would other than by cancellation under this Act, end before the permit-related application is decided.
- (2) The GHG permit continues in force for the area the subject of the application until the earlier of the following to happen—
  - (a) the start of the term of the GHG lease;
  - (b) a refusal of the application takes effect;
  - (c) the application is withdrawn.
- (3) Despite any ending of the program period for the current work program for the GHG permit—
  - (a) the GHG permit is taken to have a work program; and
  - (b) the holder may carry out any authorised activity for the GHG permit.

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## **Division 2                      Deciding permit-related applications**

### **117      Deciding whether to grant GHG lease**

- (1) Subject to sections 119 and 121, the Minister may grant a GHG lease applied for under a permit-related application only if the Minister is satisfied the requirements mentioned in section 118 (the *requirements for grant*) have been complied with.

*Note—*

If the application relates to acquired land that was previously in the relevant GHG permit's area, see also section 369C.

- (2) The application must be refused if the Minister is not satisfied any requirement for grant other than the requirement mentioned section 118(1)(c) has been complied with.
- (3) If the Minister is satisfied the requirements for grant other than the requirement mentioned section 118(1)(c) have been complied with, the Minister may grant the GHG lease.

### **118      Requirements for grant**

- (1) The requirements for grant are each of the following—
  - (a) the applicant is an eligible person;
  - (b) the proposed area of the proposed GHG lease—
    - (i) is appropriate for the authorised activities proposed to be carried out; and
    - (ii) contains an adequately identified GHG stream storage site that is adequate for the proposed purpose of the GHG lease;
  - (c) the conditions of the relevant GHG permit have been substantially complied with;
  - (d) the Minister has approved the applicant's proposed initial development plan for the GHG lease;

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- (e) a relevant environmental authority has been issued;
  - (f) the applicant has established that—
    - (i) GHG stream storage in the GHG lease’s area is or is likely to happen within 5 years after the lease is to take effect; or
    - (ii) the applicant has entered into a contract, GHG coordination arrangement or other arrangement for GHG stream storage in the GHG lease’s area (a *relevant arrangement*);
  - (g) the applicant has paid the annual rent for the first year of the proposed GHG lease;
  - (h) the applicant has given under section 271, security for the GHG lease;
  - (i) the Minister is of the opinion that the applicant is capable of carrying out authorised activities for the GHG lease having regard to the applicant’s—
    - (i) financial and technical resources; and
    - (ii) ability to carry out GHG stream storage.
- (2) The matters mentioned in subsection (1)(i) are the *capability criteria*.
- (3) A person *satisfies* the capability criteria if the Minister forms the opinion about the person mentioned in subsection (1)(i).

## 119 Exception for particular relevant arrangements

The application may be refused if the Minister—

- (a) is not satisfied of the matter under section 118(1)(f)(i); and
- (b) is satisfied the applicant has entered into a relevant arrangement, but the Minister reasonably believes—
  - (i) the arrangement is not an arms-length commercial transaction; or



- (ii) supply under the arrangement is unlikely to be carried out.

## 120 Provisions of GHG lease

- (1) A GHG lease must state its area.
- (2) A GHG lease may also state—
  - (a) conditions or other provisions of the GHG lease other than conditions or provisions that are—
    - (i) inconsistent with the mandatory conditions for GHG leases; or
    - (ii) the same as or substantially the same as or inconsistent with any relevant environmental condition; and
  - (b) a day for the GHG lease to take effect; and
  - (c) a day by which GHG stream storage under the GHG lease is to start (the *storage commencement day*).
- (3) However, the provisions of the GHG lease may exclude or restrict the carrying out of an authorised activity for the lease.
- (4) The day of effect must not be before the day the GHG lease is granted.
- (5) If no day of effect is decided, the GHG lease takes effect on the day it is granted.
- (6) The storage commencement day may be more than 5 years after the day of effect only if the Minister is satisfied the holder has entered into a relevant arrangement.
- (7) In deciding the provisions of the GHG lease the Minister must consider the development plan criteria and capability criteria.
- (8) This section applies subject to section 121.

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## **121 Provisions about grant and conditions of GHG lease for significant project**

- (1) This section applies if a proposed GHG lease is for a significant project.
- (2) The Minister must not grant the GHG lease until the Minister has been given the Coordinator-General's report for the project.
- (3) Any Coordinator-General's conditions for the GHG lease must be stated in the lease.
- (4) Any other condition of the GHG lease stated under section 120 must not be inconsistent with the Coordinator-General's conditions.
- (5) If a mandatory condition for GHG leases conflicts with any of the Coordinator-General's conditions, the mandatory condition prevails to the extent of the inconsistency.
- (6) In this section—

*Coordinator-General's conditions*, for the proposed GHG lease, means the conditions for the lease stated in the Coordinator-General's report for the significant project.

*Coordinator-General's report* means the Coordinator-General's report under the *State Development and Public Works Organisation Act 1971* for the EIS for the significant project.

## **122 Information notice about refusal**

If the Minister decides to refuse the application, the Minister must give the applicant an information notice about the decision.

## **123 When refusal takes effect**

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

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## Part 3                      Obtaining GHG lease by    competitive tender

### Division 1                Preliminary

#### 124      Operation of pt 3

- (1) This part provides for a process for the granting of GHG leases by competitive tender.
- (2) To remove any doubt, it is declared that a GHG lease can only be granted under this part or part 2.

### Division 2                Calls for tenders

#### 125      Call for tenders

- (1) The Minister may by gazette notice invite tenders for a GHG lease (a *call for tenders*) for land other than unavailable land for a GHG lease.
- (2) The call must state—
  - (a) the day and time by which tenders in response to it must be made (the *closing time* for the call); and
  - (b) any criteria (*special criteria*) other than the development plan criteria and capability criteria proposed to be used to decide whether to grant the GHG lease or to decide its provisions.
- (3) The call may state other relevant matters, including for example, matters relevant to the development plan, capability or special criteria.

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## **126 Right to tender**

- (1) An eligible person may tender for a proposed GHG lease the subject of a call for tenders.
- (2) However, a tender—
  - (a) must comply with the requirements under section 114 for making a permit-related application; and
  - (b) must be made to the Minister in the approved form; and
  - (c) can not be made—
    - (i) after the closing time for the call; or
    - (ii) for only part of the area of the proposed GHG lease.

## **127 Right to terminate call for tenders**

- (1) The Minister may by gazette notice terminate a call for tenders at any time before deciding whether to grant a GHG lease to a person who has made a tender in response to the call.
- (2) All tenders in response to the call lapse when the call is terminated.
- (3) No amount, whether by way of compensation, reimbursement or otherwise, is payable by the State to any person for or in connection with the termination.

## **Division 3 Deciding tenders**

### **128 Process for deciding tenders**

Subject to section 132, any process the Minister considers appropriate may be used to decide a call for tenders, including for example, by a process appointing a preferred tenderer on the tenders made in response to the call.

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## 129 Provisions for preferred tenderers

- (1) The Minister may require a preferred tenderer for the call for tenders to—
  - (a) pay any amounts necessarily incurred or to be incurred to enable the GHG lease to be granted; and
  - (b) to do all or any of the following within a stated reasonable period—
    - (i) pay the annual rent for the first year of the GHG lease;
    - (ii) give security for the GHG lease as required under section 271.
- (2) If a preferred tenderer does not—
  - (a) comply with a requirement under subsection (1); or
  - (b) do all things reasonably necessary to allow a GHG lease to be granted to the tenderer;

the Minister may appoint another tenderer to be the preferred tenderer.

## 130 Deciding whether to grant GHG lease

- (1) The Minister may, after the closing time for the call for tenders—
  - (a) grant a GHG lease to 1 tenderer; or
  - (b) refuse to grant any GHG lease.
- (2) However—
  - (a) before deciding to grant the GHG lease, the Minister must decide whether to approve the applicant's proposed initial development plan for the GHG lease; and
  - (b) the Minister can not grant the GHG lease unless—
    - (i) the tenderer is an eligible person; and

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- (ii) the proposed plan has been approved; and
- (iii) the Minister is satisfied the requirements for grant other than the requirement mentioned in section 118(1)(c) have been complied with; and
- (iv) a relevant environmental authority has been issued.

*Note—*

If a tender relates to acquired land, see also section 369C.

- (3) This section applies subject to section 121.

### **131 Provisions of GHG lease**

Sections 120 and 121 apply to a GHG lease granted under this part as if the tender for the lease was a permit-related application.

### **132 Criteria for decisions**

- (1) In considering whether to grant a GHG lease or its provisions the Minister must consider the development plan criteria, capability criteria and any special criteria.
- (2) The Minister may give the weight to each of the development plan, capability and special criteria that the Minister considers appropriate in the circumstances.

### **133 Notice to unsuccessful tenderers**

After a call for tenders has been decided, the Minister must give each tenderer not granted the GHG lease notice of the decision.

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## Part 4 Term and area provisions

### 134 Term of GHG lease

A GHG lease—

- (a) does not have a fixed term; and
- (b) continues in force until it is surrendered or otherwise ends under this Act.

### 135 Area of GHG lease

- (1) This section provides for the area of a GHG lease.
- (2) The area does not include excluded land for the GHG lease.

*Note—*

See also section 369B(3) if land in the GHG lease's area is taken under a resumption law.

- (3) Unless the Minister otherwise decides, the area must form a single parcel of land.
- (4) The area must not include any of the following (*unavailable land*)—
  - (a) land in the area of another GHG tenure other than land that will under section 48, cease to be included in the area of a GHG permit on the grant of the GHG lease;
  - (b) excluded land for another GHG tenure;
  - (c) land that a regulation prescribes as land over which a GHG lease can not be granted.
- (5) The area may include a part of a sub-block only if the part is all areas within the sub-block that are left after taking away all unavailable land within the sub-block.

*Note—*

See also section 369B(3) if land in the GHG lease's area is taken under a resumption law.

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### **136 References to sub-blocks of GHG lease**

- (1) This section applies if a GHG lease states that its area includes land within a block without including or excluding any particular sub-block.
- (2) The reference to the block is a reference to all sub-blocks within the block to the extent they do not consist of unavailable land.

*Note—*

See also section 369B(3) if land in the GHG lease's area is taken under a resumption law.

- (3) To remove any doubt, it is declared that if land within any of the sub-blocks ceases to be unavailable land, the cessation itself does not cause the land to be within the GHG lease's area.

### **137 Minister's power to decide excluded land**

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



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the reference to the block is a reference to all sub-blocks within the block other than any sub-block that is completely within the area of another GHG tenure.

- (5) Excluded land may be described in a way the Minister considers appropriate, including for example, by area or by reference to a stated type of land.
- (6) Land ceases to be excluded land for a GHG lease if for any reason, the sub-block in which the land is located ceases to be in the lease's area.

### **138 Minister may add excluded land**

- (1) The Minister may amend a GHG lease by adding excluded land for the GHG lease to its area only if—
  - (a) the GHG lease as amended complies with section 135; and
  - (b) the GHG lease holder consents.
- (2) If land mentioned in subsection (1) is added to the area of the GHG lease, the land ceases to be excluded land for the lease.
- (3) The Minister may amend the provisions of the GHG lease in a way that reflects the inclusion of the excluded land.
- (4) Also, the Minister may give the GHG lease holder a notice—
  - (a) withdrawing from a stated day, the approval of the development plan for the GHG lease; and
  - (b) directing the holder to give the Minister a proposed later development plan for the GHG lease that—
    - (i) complies with the later development plan requirements; and
    - (ii) changes the development plan for the GHG lease to reflect the inclusion of the excluded land.
- (5) The amended provisions of the GHG lease or the proposed later development plan must not be—

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- (a) inconsistent with the mandatory conditions for GHG leases; or
- (b) the same as or substantially the same as or inconsistent with any relevant environmental condition.

## **Part 5                      Development plans**

### **Division 1                Function and purpose**

#### **139    Function and purpose**

- (1) The development plan for a GHG lease (the *relevant lease*) gives detailed information about the nature and extent of activities to be carried out under the relevant lease.
- (2) The development plan may—
  - (a) also relate to another GHG lease or proposed GHG lease if the other GHG lease or proposed GHG lease relates to the relevant lease; and
  - (b) provide that when the plan is approved it will replace any development plan for the other lease.
- (3) The purposes of giving the information are to—
  - (a) allow resource management decisions to be made; and
  - (b) ensure appropriate development of the GHG lease.

### **Division 2                Requirements for proposed initial development plans**

#### **140    Operation of div 2**

This division provides for requirements (the *initial*

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*development plan requirements*) for a proposed initial development plan for a proposed GHG lease.

## 141 General requirements

- (1) The proposed plan must provide for all of the following—
  - (a) an overview of the activities proposed to be carried out under the proposed GHG lease during all of its term;
  - (b) a description of the activities proposed to be carried out under the GHG lease during each year of the plan period;
  - (c) each of the following for each GHG stream storage site in the GHG lease's area—
    - (i) a site plan that complies with section 142;
    - (ii) a verifiable estimate of the GHG stream storage site's capacity;
    - (iii) a monitoring and verification plan that complies with section 145;
  - (d) the composition of GHG streams proposed to be injected or used for GHG stream storage under the GHG lease;
  - (e) a description of any pipeline land for the GHG lease;
  - (f) reasons why the plan is considered appropriate;
  - (g) another matter prescribed under a regulation.
- (2) The proposed plan may include any other information relevant to the development plan criteria.
- (3) The composition of GHG streams to be injected under proposed GHG lease must comply with section 164.
- (4) A regulation may impose requirements about the form of the development plan.
- (5) In this section—

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*year*, of the plan period, means—

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

## **142 Site plan**

- (1) A site plan for a GHG stream storage site must consist of maps, geological cross-sections, three dimensional models and other appropriate information about the site.
- (2) Without limiting subsection (1), the site plan must show each of the following—
  - (a) the geological structure and geochemical composition of the relevant GHG storage reservoir;
  - (b) the GHG storage reservoir's properties, including the potential interaction of carbon dioxide with its rock matrix and fluids;
  - (c) the proposed rate of GHG stream injection;
  - (d) the proposed composition of the GHG streams to be injected;
  - (e) the expected migration pathway of the GHG streams;
  - (f) the operations and techniques to be used to monitor and verify the behaviour of GHG streams during the term of the GHG lease.
- (3) The site plan must include any other information prescribed under a regulation.

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### **143 Petroleum wells to be assumed**

If under the 1923 Act, section 75U or the P&G Act section 292, the proposed GHG lease holder proposes to assume responsibility for a petroleum well, the proposed plan must—

- (a) identify the wells; and
- (b) describe the GHG storage activities proposed to be carried out relating to the wells.

*Note—*

See also sections 263 (Former petroleum wells assumed by GHG tenure holder) and 267 (Obligation to decommission).

### **144 Water issues**

- (1) In preparing the proposed plan, the proposed GHG lease holder must have regard to potential groundwater issues.
- (2) The proposed plan must include a plan for the treatment and disposal of any water taken or that may be taken because of the carrying out of authorised activities for the proposed GHG lease.

### **145 Monitoring and verification plan**

The proposed development plan must include a plan for the observation and monitoring of the migration pathway or pathways of GHG streams before, during and after injection into the relevant GHG storage reservoir.

### **146 Plan period**

- (1) The proposed plan must state its period.
- (2) If the proposed plan relates to a tender, the period must be the same as the required period under the relevant call for tenders.
- (3) If the proposed plan relates to a permit-related application, the period must not be longer than 5 years from when the proposed GHG lease is to take effect.

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## **Division 3**                      **Approval of proposed initial development plans**

*Note—*

For the requirement for approval of an initial development plan, see sections 117 and 130.

### **147**      **Criteria for decision**

- (1) In deciding whether to approve a proposed development plan the Minister must consider—
  - (a) the potential of the area of the proposed GHG lease for GHG stream storage and related activities; and
  - (b) the nature and extent of the activities and when and where they are proposed to be carried out; and
  - (c) whether GHG stream storage under the GHG lease will be optimised in the best interests of the State; and
  - (d) the nature and extent of water disposal and treatment activities; and
  - (e) any relevant authorisation required under the Water Act.
- (2) The matters mentioned in subsection (1) are the *development plan criteria*.

### **148**      **Verification may be required**

- (1) The Minister may by notice require the applicant to give the Minister within a stated reasonable period a document made by an appropriately qualified independent person that verifies—
  - (a) an assessment of data supplied in the proposed initial development plan; or
  - (b) the source of the data; or
  - (c) the work done for the development plan; or

- (d) that, in the person's opinion, the applicant has—
  - (i) the financial and technical resources to carry out authorised activities for the proposed GHG lease; and
  - (ii) the ability to manage GHG stream storage.
- (2) If the applicant does not comply with the requirement, the Minister may refuse to approve the development plan.
- (3) The applicant must pay any costs incurred in complying with the requirement.

#### **149 Referral to Water Act Minister**

The Minister can not approve the proposed plan unless—

- (a) the Minister has given the Water Act Minister a copy of the proposed plan; and
- (b) the Water Act Minister has approved the proposed development plan to the extent it relates to potential groundwater issues.

### **Division 4 Requirements for proposed later development plans**

#### **150 Operation of div 4**

This division provides for requirements (the *later development plan requirements*) for a proposed later development plan for a GHG lease.

*Note—*

For the requirements to give a proposed later development plan, see sections 47 (Minister may add excluded land), 172 (Obligation to give proposed later development program) and 379 (Types of noncompliance action that may be taken).

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## **151 General requirements**

- (1) The proposed plan must—
  - (a) comply with the initial development plan requirements; and
  - (b) highlight any significant changes from the current development plan for the GHG lease; and
  - (c) if the current development plan has not been complied with—state the details of and the reasons for each noncompliance.
- (2) If the effect of the proposed plan is to significantly change an activity provided for under the current development plan for the GHG lease, the proposed plan must also state reasons for the change.
- (3) Also, for a significant change that is a reduction of GHG stream injection, the proposed plan must include an evaluation of the following in the GHG lease’s area—
  - (a) the potential for GHG stream storage;
  - (b) market opportunities for GHG stream storage.

## **Division 5 Approval of proposed later development plans**

### **152 Application of div 5**

This division applies if—

- (a) under this Act, a proposed later development plan is given to the Minister for approval; or
- (b) the Minister is considering an application under section 188 for approval of a proposed GHG coordination arrangement.



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**153 GHG lease taken to have development plan until decision on whether to approve proposed development plan**

- (1) This section applies until—
  - (a) if the approval is given—the holder is given notice of the approval; or
  - (b) if the approval is refused—when the refusal takes effect.
- (2) Despite the ending of the plan period for the current development plan for the GHG lease—
  - (a) the GHG lease is taken to have a development plan; and
  - (b) the holder may carry out any authorised activity for the GHG lease.

**154 Deciding whether to approve proposed plan**

- (1) The Minister may approve or refuse to approve the proposed plan.
- (2) In deciding whether to approve the proposed plan the Minister must consider each of the following—
  - (a) the development plan criteria;
  - (b) the extent to which the current development plan for the GHG lease has been complied with;
  - (c) if the proposed plan provides for a significant change that is a reduction of GHG stream injection—
    - (i) whether the reduction is reasonable; and
    - (ii) whether the GHG lease holder has taken all reasonable steps to prevent the reduction.
- (3) Also, if the GHG lease was granted in response to a tender, any other development plan proposed by other tenderers for the lease must be considered.
- (4) However, subsection (3) applies only to the extent the other plan includes the period of the proposed plan.

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### **155 Steps after, and taking effect of, decision**

- (1) If the Minister decides to approve the proposed later development plan, the Minister must give the holder notice of the decision.
- (2) The approval takes effect when the holder is given the notice or if the notice states a later day of effect, on that later day.
- (3) If the Minister decides to refuse to approve the proposed plan, the Minister must give the holder an information notice about the decision.
- (4) The refusal does not take effect until the end of the appeal period for the decision to refuse.

## **Division 6 Amending development plans**

### **156 Restrictions on amendment**

- (1) A GHG lease holder may amend the development plan for the GHG lease.
- (2) However, the amendment is subject to approval under this division.
- (3) Also, a development plan can not be amended—
  - (a) in a way that provides for a cessation of GHG stream injection under a GHG lease; or

*Note—*

See section 176 (Timing of surrender application).

- (b) if the plan as amended would not comply with the later development plan requirements.

### **157 Applying for approval to amend**

- (1) A GHG lease holder may apply for approval to amend the development plan for the lease.
- (2) The application must be—

- (a) made to the Minister in the approved form; and
- (b) accompanied by the fee prescribed under a regulation.

### **158 Deciding application**

In deciding whether to approve the proposed amendment the Minister must consider—

- (a) the development plan criteria; and
- (b) the extent to which the current development plan for the GHG lease has been complied with; and
- (c) if the proposed plan provides for a significant change that is a reduction of GHG stream injection—
  - (i) whether the reduction is reasonable; and
  - (ii) whether the GHG lease holder has taken all reasonable steps to prevent the reduction.

### **159 Steps after, and taking effect of, decision**

- (1) If the Minister decides to approve the proposed amendment, the Minister must give the holder notice of the decision.
- (2) If the Minister decides to refuse to approve the proposed amendment, the Minister must give the applicant an information notice about the decision.
- (3) The refusal takes effect when the holder is given the notice or if the notice states a later day of effect, on that later day.



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**163 Restriction on substances that may be used for GHG stream storage**

A GHG lease holder can not use a substance other than a GHG stream for GHG stream storage.

**164 Restriction on GHG streams that may be used**

A GHG lease holder may use a GHG stream for GHG storage injection testing or GHG stream storage only if it consists only of carbon dioxide and—

- (a) a substance incidentally derived from—
  - (i) the process called carbon dioxide capture, transport and geological storage, also called carbon capture and storage; or
  - (ii) GHG storage; or
- (b) a detection agent prescribed under a regulation at the rate or concentration prescribed under a regulation.

*Note—*

A stream is a GHG stream only if it is a stream of carbon dioxide or a substance that overwhelmingly consists of carbon dioxide. See section 12 (What is a *GHG stream*).

**165 Water Act authorisation required for taking or interference with water**

A GHG lease holder can not take or interfere with water as defined under the Water Act unless the taking or interference is authorised under that Act.

*Note—*

For relevant Water Act provisions, see sections 19 and 808 of that Act.

**166 Obligation to consult with particular owners and occupiers**

- (1) A GHG lease holder must consult or use reasonable endeavours to consult with each owner and occupier of private

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or public land on which authorised activities for the lease are proposed to be carried out or are being carried out.

- (2) The consultation must be about—
  - (a) access; and
  - (b) the carrying out of authorised activities for the GHG lease (including, for example, crossing access land for the lease) to the extent they relate to the owners and occupiers; and
  - (c) the GHG lease holder's compensation liability to the owners or occupiers.

#### **167 Obligation to commence GHG stream storage**

A GHG lease holder must start GHG stream storage under the GHG lease on or before the later of the following—

- (a) the end of 5 years after the GHG lease takes effect;
- (b) any storage commencement day for the GHG lease.

#### **168 Annual rent**

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

#### **169 Civil penalty for nonpayment of annual rent**

- (1) If a GHG lease holder does not pay the annual rent as required under section 168, the holder must also pay the State a civil penalty.
- (2) The amount of the penalty is 15% of the rent.
- (3) The penalty—
  - (a) must be paid on the day after the last day for payment of the rent; and

(b) is still payable even if the holder later pays the rent.

*Note—*

See also section 372 (Interest on amounts owing to the State).

## **170 Requirement to have development plan**

The holder of a GHG lease must have a development plan for the lease.

## **171 Compliance with development plan**

A GHG lease holder must comply with the development plan for the lease.

## **172 Obligation to give proposed later development plan**

- (1) This section imposes an obligation on a GHG lease holder to give the Minister a proposed later development plan for the lease.
- (2) The obligation is complied with only if the proposed later development plan—
  - (a) complies with the later development plan requirements; and
  - (b) is accompanied by the relevant fee.
- (3) A proposed later development plan must be given to the Minister—
  - (a) at least 40 but no more than 100 business days before the end of the plan period for its current development plan (the *current plan period*); or
  - (b) as soon as practicable after the holder proposes or becomes aware of a significant change to the nature and extent of an authorised activity that is not already dealt with under the current development plan for the GHG lease.

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- (4) However, if before the end of the current plan period a decision is made to refuse to approve a proposed later development plan given under subsection (3), the holder may within the period give the Minister another proposed later development plan.
- (5) If the holder does not give the Minister any proposed later development plan before the end of the current plan period or if subsection (4) applies and the holder does not give the Minister another proposed later development plan within the current plan period—
  - (a) the Minister must give the holder a notice requiring the holder to give the Minister a proposed later development plan for the GHG lease within 40 business days after the giving of the notice; and
  - (b) the holder must comply with the requirement.
- (6) In this section—

*relevant fee*, for the giving of the proposed plan, means—

  - (a) if the proposed plan is given within the time required under subsection (3)—the fee prescribed under a regulation; or
  - (b) if the proposed plan is given after the time required under subsection (3) and—
    - (i) if it is given under subsection (4)—nil; or
    - (ii) if it is not given under subsection (4)—an amount that is 10 times the prescribed fee.

### **173 Consequence of failure to comply with notice to give proposed later development plan**

- (1) If a GHG lease holder does not comply with a requirement under section 172(5)(a), the lease is cancelled.
- (2) However, the cancellation does not take effect until the Minister gives the holder a notice stating that the GHG lease has been cancelled because of the operation of subsection (1).



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## Part 7 Surrenders

### 174 When surrender is permitted

A GHG lease holder may surrender the lease only if, under this part—

- (a) an application (a *surrender application*) has been made for approval of the surrender; and
- (b) the surrender has been approved.

### 175 Part of GHG lease area can not be surrendered

A GHG lease holder can not surrender part of the lease's area.

### 176 Timing of surrender application

- (1) If—
  - (a) GHG stream injection under a GHG lease ceases; and
  - (b) all GHG wells in the GHG lease's area have been decommissioned in the way required under section 267;the GHG lease holder must make a surrender application for the lease within 60 business days.  
Maximum penalty—500 penalty units.
- (2) The GHG lease holder can not make a surrender application for the lease before all of the events mentioned in subsection (1) have happened.

### 177 Requirements for making surrender application

- (1) A surrender application must be—
  - (a) made to the Minister in the approved form; and
  - (b) accompanied by the fee prescribed under a regulation.

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- (2) A surrender application must also be accompanied by a report by the applicant stating each of the following—
- (a) the authorised activities for the GHG lease carried out on the area the subject of the application;
  - (b) the results of the activities;
  - (c) the applicant's modelling of the behaviour of GHG streams injected under the GHG lease;
  - (d) information relevant to the modelling and the applicant's analysis of the information;
  - (e) the applicant's assessment of—
    - (i) the behaviour of GHG streams injected under the GHG lease; and
    - (ii) the expected migration pathway or pathways of the GHG streams; and
    - (iii) the short-term and long-term consequences of the migration;
  - (f) the applicant's suggestions for the approach to be taken by the State if the surrender is approved, to monitor and verify the behaviour of the GHG streams;
  - (g) any other information prescribed under a regulation.

Maximum penalty for subsection (2)—500 penalty units.

### **178 Minister may require further report or work for surrender of GHG lease**

- (1) Before deciding whether to approve the surrender of a GHG lease the Minister may by notice require the applicant to do either or both of the following—
- (a) give the Minister a report about whether the risks associated with GHG stream storage under the GHG lease have been reduced as much as is reasonably practicable;
  - (b) carry out stated work to reduce the risks.

- (2) The applicant must comply with the requirement.  
Maximum penalty—500 penalty units.
- (3) Until the applicant complies with the requirement, the Minister need not decide the application.

### **179 Deciding application**

- (1) The Minister may approve a surrender only if—
  - (a) up to the day the application was made, the holder had submitted all reports required to be submitted under this Act; and
  - (b) the Minister considers the risks associated with GHG stream storage under the GHG lease have been reduced as much as is reasonably practicable; and
  - (c) all of the relevant environmental authority has been cancelled or surrendered.
- (2) In deciding whether to approve a surrender the Minister must consider the extent to which the applicant has complied with the conditions of the GHG lease.

### **180 Notice and taking effect of decision**

- (1) If the Minister decides to approve a surrender, the Minister must give the applicant notice of the decision.
- (2) The surrender takes effect on the day after the decision is made.
- (3) If the Minister decides to refuse a surrender, the Minister must give the applicant an information notice about the decision.

### **181 Responsibility for injected GHG streams after decommissioning**

- (1) This section applies on the surrender of a GHG lease.

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- (2) Any GHG stream injected into a GHG storage reservoir in the former GHG lease's area in compliance with section 164 becomes the property of the State.
- (3) Subsection (2) applies despite—
  - (a) the GHG stream being on or part of land owned by someone else; or
  - (b) the sale or other disposal of the land.

## **Chapter 4            Coordination with particular                                  authorities under other                                  resource Acts**

### **Part 1                    Preliminary**

#### **182    Relationship with chs 2, 3 and 5**

- (1) Requirements and restrictions under this chapter relating to the granting of a GHG tenure apply as well as any relevant requirements under chapter 2, 3 or 5.
- (2) If this chapter imposes a requirement for or a restriction on the granting of a GHG tenure, it can not be granted if the restriction applies or if the requirement has not been complied with.
- (3) If a provision of this chapter conflicts with a provision of chapter 2, 3 or 5, the provision of this chapter prevails to the extent of the inconsistency.
- (4) This chapter does not otherwise limit or affect the requirements of chapter 2, 3 or 5.

- (5) Subsection (6) applies if this chapter imposes a requirement for or a restriction on the carrying out of an authorised activity for a GHG authority.
- (6) Despite chapters 2, 3 and 5, the activity is not an authorised activity for the GHG authority while the restriction applies or if the requirement has not been complied with.

### **183 What is an *overlapping resource authority***

- (1) An *overlapping authority*, for a GHG authority, is any authority of the following types all or part of the area of which is in the GHG authority's area—
  - (a) an exploration authority (non-GHG);
  - (b) a geothermal lease;
  - (c) a mining lease;
  - (d) a petroleum lease.
- (2) An *overlapping authority*, for a proposed GHG authority, is another authority of a type mentioned in subsection (1) (the *other authority*) all or part of the area of which will if the proposed GHG authority is granted be in the other authority's area.

### **184 What is an *exploration authority (non-GHG)***

An *exploration authority (non-GHG)* is—

- (a) an ATP; or
- (b) any of the following under the Mineral Resources Act—
  - (i) a mining claim;
  - (ii) an exploration permit;
  - (iii) a mineral development licence; or
- (c) a geothermal permit.

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## **185 Relationship with other resource Acts and overlapping resource authorities**

Subject to the other provisions of this chapter and chapters 2, 3 and 5, another resource Act or an authority, tenement or tenure under a resource Act does not limit or otherwise affect—

- (a) the power under this Act to grant a GHG authority over land in the area of an overlapping authority for the proposed GHG authority; or
- (b) the carrying out of authorised activities for a GHG authority.

## **Part 2 Coordination arrangements for GHG leases**

### **186 GHG coordination arrangements that may be made**

- (1) The holder of a GHG lease may make an arrangement with the holder of an overlapping authority for the GHG lease about GHG stream storage under the lease.
- (2) A person who proposes to enter into a lease of a type mentioned in subsection (1) may enter into an arrangement mentioned in subsection (1).
- (3) An arrangement of a type mentioned in subsection (1) that under section 189, has taken effect and has not ceased to operate according to its terms and has not been cancelled under this part is a ***GHG coordination arrangement***.
- (4) A lease or proposed lease of a type mentioned in subsection (1) is a ***relevant lease*** for a GHG coordination arrangement.

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**187 Other provisions about and effect of GHG coordination arrangement**

- (1) A GHG coordination arrangement may—
  - (a) be for any term; and
  - (b) have more than 2 relevant leases; and
  - (c) be included in, or form part of, a coordination arrangement under the P&G Act or a geothermal coordination arrangement under the Geothermal Act.
- (2) A person other than the holder or proposed holder of a relevant lease may also be a party to the arrangement.
- (3) A proposed GHG coordination arrangement has no effect unless it is approved by the Minister under section 189.

**188 Applying for ministerial approval of proposed GHG coordination arrangement**

- (1) The parties to a proposed GHG coordination arrangement may jointly apply for approval of the arrangement.
- (2) The application must be—
  - (a) made to the Minister in the approved form; and
  - (b) accompanied by—
    - (i) the original or a certified copy of the proposed arrangement; and
    - (ii) the fee prescribed under a regulation.
- (3) If the proposed arrangement is inconsistent with the current development plan for the GHG lease, the application must be accompanied by a proposed later development plan for the lease.

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## **189 Ministerial approval of proposed GHG coordination arrangement**

- (1) The Minister may approve the proposed arrangement only if—
  - (a) the Minister is satisfied—
    - (i) the arrangement clearly identifies the safety responsibilities of each party to the arrangement for the land the subject of the arrangement; and
    - (ii) the spatial relationship between the relevant leases for the arrangement is appropriate; and
  - (b) for an application required to be accompanied by a proposed later development plan for a relevant lease—the proposed plan has been approved; and
  - (c) the arrangement is consistent with the purposes of this Act.
- (2) In considering whether to approve the proposed arrangement the Minister may have regard to any coordination arrangement or proposed coordination arrangement under the P&G Act or other agreement the Minister considers relevant.
- (3) The Minister may refuse to approve a proposed GHG coordination arrangement that provides for a party to the arrangement to be granted a pipeline licence for a GHG stream pipeline if the Minister considers that—
  - (a) having regard to the requirements under the P&G Act chapter 4, the pipeline licence would not be granted if the party were to apply for it; or
  - (b) not enough information has been given to decide whether the licence should be granted; or
  - (c) the spatial relationship between the GHG lease and an overlapping authority is not appropriate for a GHG coordination arrangement.
- (4) If a relevant lease has not been granted, the approval does not take effect until the GHG lease takes effect.



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**190 Approval does not confer right to surrender or renew**

- (1) This section applies if the term of a GHG coordination arrangement is longer than the current term of any relevant lease for the arrangement.
- (2) To remove any doubt, it is declared that the approval of the arrangement does not impose an obligation or create a right—
  - (a) to approve a surrender application for a GHG lease; or
  - (b) to renew any other type of relevant lease.

**191 Grant of pipeline licence**

- (1) This section applies if a GHG coordination arrangement provides for a party to the arrangement to be granted a pipeline licence for a GHG stream pipeline.
- (2) The Minister may if the party applies under the P&G Act, chapter 4, part 2, grant the pipeline licence.
- (3) The P&G Act, section 412 applies as if the application were a pipeline licence application under that Act.
- (4) However, the provisions of the pipeline licence must be consistent with the arrangement.

**192 Amendment or cancellation by parties to arrangement**

- (1) A GHG coordination arrangement may be amended or cancelled by the parties to the arrangement only with the Minister's approval.
- (2) A purported amendment or cancellation of a GHG coordination arrangement by the parties to it has no effect unless it complies with subsection (1).

**193 Minister's power to cancel arrangement**

- (1) The Minister may by complying with subsections (2) and (3), cancel a GHG coordination arrangement.

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- (2) If the Minister proposes to cancel the arrangement, the Minister must give each holder of a relevant lease a notice stating—
  - (a) that the Minister proposes to cancel the arrangement; and
  - (b) reasons for the proposed cancellation; and
  - (c) that the holder may make submissions to the Minister about the proposed cancellation or the likely impact of the cancellation on the relevant leases.
- (3) Before cancelling the arrangement, the Minister must consider—
  - (a) any submissions made by a holder within the stated period; and
  - (b) the likely impact of the cancellation on the relevant leases; and
  - (c) the public interest.
- (4) If the Minister decides to cancel the arrangement, the Minister must give each of the holders an information notice about the decision.
- (5) The cancellation takes effect on the end of the appeal period for the decision to cancel or if a later day of effect is stated in the information notice, on that day.
- (6) When the decision takes effect, the arrangement and the Minister's approval of it cease to have effect.

#### **194 Cancellation does not affect relevant leases**

The cancellation of a former GHG coordination arrangement does not affect any relevant lease.

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## Part 3                      Obtaining GHG lease if overlapping authority

### Division 1                Preliminary

#### 195    Application of pt 3

This part applies if—

- (a) a person (the *applicant*) wishes to make a GHG lease application; and
- (b) there is an overlapping authority for the proposed GHG lease.

### Division 2                Requirements for application

#### 196    Requirements for making application

- (1) The GHG lease application must include—
  - (a) a statement that complies with section 197 (a *GHG statement*); and
  - (b) other information that addresses the matters mentioned in subsection (2) (the *GHG assessment criteria*).
- (2) The GHG assessment criteria are—
  - (a) compliance with the P&G Act safety provisions; and
  - (b) the additional requirements under part 7 for proposed initial development plans; and
  - (c) the potential for the parties to make a GHG coordination arrangement for the proposed GHG lease; and
  - (d) the economic and technical viability of the concurrent or coordinated carrying out of authorised activities for the

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- proposed GHG lease and the overlapping authority; and
- (e) the public interest.

### **197 Content requirements for GHG statement**

The GHG statement must—

- (a) assess—
- (i) the likely effect of proposed GHG storage activities under the proposed GHG lease on the future use of resources under the overlapping authority; and
- (ii) the technical and commercial feasibility of coordinating the proposed GHG storage activities and the future use of the resources; and
- (b) include proposals for the minimisation of potential adverse effects on possible future safe and efficient use of the resources under the overlapping authority.

## **Division 3 Consultation provisions**

### **198 Applicant's information obligation**

- (1) The applicant must within 10 business days after making the GHG lease application give the overlapping authority holder a copy of the application other than any part of the application relating to the capability criteria.
- (2) If the Minister is reasonably satisfied the applicant has not complied with subsection (1), the Minister may refuse the application.

### **199 Submissions by overlapping resource authority holder**

- (1) The overlapping authority holder may make submissions to the Minister about the GHG lease application (*holder submissions*).

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- (2) However, holder submissions may be made only within 4 months after the holder is given a copy of the application.
  - (3) Holder submissions may do all or any of the following—
    - (a) state that the holder does not object to the granting of the proposed GHG lease;
    - (b) if the overlapping authority is an exploration authority (non-GHG) other than a geothermal exploration permit—state that the holder does not wish any priority for the resource for which the overlapping authority was granted (*overlapping authority priority*);
    - (c) include information about authorised activities carried out under the overlapping authority;
    - (d) include a proposal by the overlapping authority holder for the use of the resource;
    - (e) include information relevant to the GHG assessment criteria;
    - (f) propose reasonable provisions for the safety management plan for the proposed GHG lease.
  - (4) The holder must give the applicant a copy of the holder submissions.

## **Division 4                      Resource management decision**

### **200      Application of div 4**

- (1) This division applies if—
  - (a) the overlapping authority is an exploration authority (non-GHG); and
  - (b) the overlapping authority holder has made holder submissions within 4 months after the holder was given a copy of the application; and
  - (c) the submissions state that the holder wishes overlapping authority priority.

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- (2) However, this division does not apply if, under another resource Act, overlapping authority priority has been given for any of the relevant land.

*Note—*

If this division does not apply, the GHG lease application proceeds immediately to decision under chapter 3 as affected by division 7.

## **201 Resource management decision**

The Minister must make a decision (the *resource management decision*) about whether—

- (a) to grant the GHG lease application; or
- (b) to give any overlapping authority priority for all or part of the relevant land; or
- (c) not to grant the GHG lease application and not to give any overlapping authority priority for any of the relevant land.

## **202 Criteria for decision**

In making the resource management decision the Minister must have regard to—

- (a) the GHG statement; and
- (b) the GHG assessment criteria; and
- (c) the holder submissions; and
- (d) the public interest.

## **203 Restrictions on giving overlapping authority priority**

Overlapping authority priority may be given only if the Minister considers that—

- (a) either—

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- (i) it is unlikely that the applicant and the overlapping authority holder will enter into a GHG coordination arrangement; or
  - (ii) a GHG coordination arrangement for the proposed GHG lease is not commercially or technically feasible; and
- (b) the public interest would be best served by not granting a GHG lease to the applicant first.

## **Division 5                    Process if resource management decision is to give overlapping authority priority**

### **204    Application of div 5**

This division applies only if—

- (a) under division 4, a resource management decision is required for the GHG lease application; and
- (b) that decision was to give overlapping authority priority for all or part of the relevant land.

### **205    Notice to applicant and overlapping authority holder**

- (1) The chief executive must give the applicant and the overlapping authority holder notice of the resource management decision.
- (2) The notice must invite the overlapping authority holder to within 6 months after the giving of the notice (the ***overlapping authority application period***) apply for a lease under the Act under which the overlapping authority was granted (a ***relevant lease***)—
  - (a) if the priority is for all of the land—for all of the land; or
  - (b) if the priority is for part of the land—for that part.

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## **206 Relevant lease application for all of the land**

- (1) This section applies if the priority is for all of the land and within the overlapping authority application period the overlapping authority holder applies for a relevant lease for all of the land.
- (2) A further step can not be taken to decide the GHG lease application until after the relevant lease application has been decided.

*Note—*

Acts under which the overlapping authority was granted provide for refusal of the relevant lease application if it is not pursued in a timely manner.

- (3) If the decision on the relevant lease application is to grant a relevant lease for all of the land, the GHG lease application is taken to have lapsed.

## **207 Relevant lease application for part of the land**

- (1) This section applies if the overlapping authority holder applies for a relevant lease for part of the land within the overlapping authority application period.
- (2) The person who made the GHG lease application may amend it so that a GHG lease is only sought for all or part of the rest of the land.
- (3) Unless the amendment is made, a further step can not be taken to decide the GHG lease application until after the relevant lease application has been decided.
- (4) If—
  - (a) the amendment has not been made; and
  - (b) the decision on the relevant lease application is to grant a relevant lease for part of the land;

the person who made the GHG lease application may amend it so that a GHG lease is only sought for all or part of the rest of the land.



*Note—*

If the GHG lease application is not amended, see section 211 (Application may be refused if no reasonable prospects of GHG coordination arrangement).

## **208 No relevant lease application**

If the overlapping authority holder does not apply for a relevant lease for any of the land within the overlapping authority application period, the GHG lease application may be decided.

## **Division 6 Resource management decision not to grant and not to give priority**

### **209 Lapsing of application**

The GHG lease application is taken to have lapsed if—

- (a) under division 4, a resource management decision is required; and
- (b) that decision was not to grant the GHG lease application and not to give any overlapping authority priority for any of the relevant land.

## **Division 7 Deciding application**

### **210 Application of div 7**

This division applies if—

- (a) the overlapping authority holder has not made holder submissions within 4 months after the holder was given a copy of the application (the *submission period*) or at all; or

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- (b) the overlapping authority holder has made holder submissions within the submission period stating that the holder does not wish any overlapping authority priority; or
- (c) under division 4, a resource management decision is required and—
  - (i) the resource management decision was not to give overlapping authority priority for any of the relevant land; or
  - (ii) the resource management decision was to give overlapping authority priority for all or part of the relevant land and after division 5 has been complied with the Minister decides to grant a GHG lease for the land.

## **211 Application may be refused if no reasonable prospects of GHG coordination arrangement**

The Minister may decide to refuse the application if—

- (a) the Minister is satisfied the applicant and the overlapping authority holder have made reasonable attempts to reach a proposed GHG coordination arrangement (a *relevant arrangement*) for the proposed GHG lease; and
- (b) either—
  - (i) the overlapping authority holder has given the Minister a notice stating there are no reasonable prospects of a relevant arrangement being made; or
  - (ii) the Minister has not been given a relevant arrangement for approval and the Minister considers the applicant and the overlapping authority holder have had a reasonable opportunity to make a relevant arrangement.

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## **212 Additional criteria for deciding provisions of GHG lease**

In deciding the provisions of the GHG lease the Minister must consider the following—

- (a) the GHG statement;
- (b) the GHG assessment criteria;
- (c) any holder submissions;
- (d) the effect of the GHG lease on safe and efficient use of resources under any overlapping resource authority for the GHG lease if the overlapping resource authority is a lease;
- (e) the effect on safe and efficient use of resources under any future lease for the GHG lease that may arise from the overlapping authority.

## **213 Publication of outcome of application**

- (1) After the Minister decides whether or not to grant the GHG lease, the chief executive must publish a notice about the outcome of the GHG lease application in or on at least 1 of the following—
  - (a) the gazette;
  - (b) the department's website;
  - (c) another publication the chief executive considers appropriate.
- (2) The notice must state—
  - (a) the decision; and
  - (b) if the decision was to grant the GHG lease—all conditions of the GHG lease other than the mandatory conditions; and
  - (c) if under division 4, a resource management decision was required and that decision was to give overlapping authority priority for all or part of the land—the decision and the reasons for it.

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- (3) However, if the chief executive considers that information in any condition is commercial-in-confidence, the chief executive may instead of publishing the condition publish a statement about the intent of the condition.

## **Part 4                      Priority to particular lease applications**

### **214      Earlier geothermal, mining or petroleum lease application**

If—

- (a) a GHG lease application is made; and
- (b) before the making of that application, an application (the *other application*) was made for a geothermal lease, mining lease or petroleum lease (the *other proposed lease*); and
- (c) the other application had not been decided before the making of the GHG lease application; and
- (d) the other proposed lease is an overlapping resource authority for the proposed GHG lease;

the GHG lease application must not be decided until the other lease application has been decided.

### **215      Proposed geothermal, mining or petroleum lease for which EIS approval given**

- (1) This section applies for a GHG lease application if—
- (a) before the making of the application, an approval under the Environmental Protection Act, chapter 3, part 2 was granted for the voluntary preparation of an EIS; and
  - (b) the EIS is for a project that is or includes a proposed geothermal lease, mining lease or petroleum lease (the

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*other proposed lease*) for land the subject of the application.

- (2) The application must not be decided until—
  - (a) if no application is made for the other proposed lease within 2 years after the granting of the approval—the end of the 2 years; or
  - (b) if an application is made for the other proposed lease within the 2 years—that application is decided.

**216 Proposed geothermal, mining or petroleum lease declared a significant project**

- (1) This section applies for a GHG lease application if—
  - (a) before the making of the application, a significant project was declared; and
  - (b) the project is or includes a proposed geothermal lease, mining lease or petroleum lease (the *other proposed lease*) for land the subject of the application.
- (2) The application must not be decided until—
  - (a) if no application is made for the other proposed lease within 1 year after the making of the declaration—the end of that year; or
  - (b) if an application is made for the other proposed lease within that year—that application is decided.

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## **Part 5**

# **GHG lease applications in response to invitation under resource Act**

### **217 Application of pt 5**

This part applies if—

- (a) a GHG lease application is made in response to an invitation given because of a resource management decision under a resource Act; and
- (b) the application is made within 6 months after the giving of the invitation.

### **218 Additional ground for refusing application**

- (1) The Minister may decide to refuse the GHG lease application if satisfied the applicant has not in a timely manner—
  - (a) taken any step for the application required of the applicant under chapter 3 or this chapter; or
  - (b) satisfied the Minister about a matter that under chapter 3 or this chapter, is required for the granting of the application.
- (2) Subsection (1) does not limit section 413.

*Editor's note—*

section 413 (Additional information may be required about application)

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## Part 6 Additional provisions for GHG authorities

### Division 1 Restrictions on authorised activities other than for GHG leases

#### 219 Overlapping geothermal, mining or petroleum lease

- (1) This section applies if land is in the area of both of the following—
  - (a) a GHG permit or GHG data acquisition authority (the *GHG authority*);
  - (b) a geothermal lease, mining lease or petroleum lease (a *relevant lease*).
- (2) However, this section does not apply if the same person holds the GHG authority and the relevant lease.
- (3) An authorised activity for the GHG authority may be carried out on the land only if—
  - (a) the relevant lease holder has not, in the way required under subsection (4), objected to—
    - (i) the carrying out of the activity; or
    - (ii) if the P&G Act safety provisions require a safety management plan for the GHG authority holder—the safety management plan; or
  - (b) if an objection under paragraph (a) has been made—the Minister has, under section 221, decided the authorised activity may be carried out.

*Note—*

For notice of authorised activities, see section 223.

- (4) The objection must be in the approved form and given to the Minister and the GHG authority holder.

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*Note—*

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

## **220 Overlapping exploration authority (non-GHG)**

- (1) This section applies if land is in the area of both of the following—
  - (a) a GHG authority other than a GHG lease;
  - (b) an exploration authority (non-GHG).
- (2) An authorised activity for the GHG authority can not be carried out on the land if—
  - (a) carrying it out adversely affects the carrying out of an authorised activity for the exploration authority (non-GHG); and
  - (b) the authorised activity for the exploration authority (non-GHG) has already started.

## **221 Resolving disputes**

- (1) This section applies if under section 219 a relevant lease holder has objected to the carrying out of a GHG storage activity by a GHG authority holder.
- (2) This section also applies if there is a dispute between a GHG authority holder and an exploration authority (non-GHG) holder about whether an authorised activity for the GHG authority can be carried out under section 220.
- (3) Either of the parties may by a notice in the approved form ask the Minister to decide—
  - (a) for section 219—whether the authorised activity may be carried out under that section; or
  - (b) for section 220—whether the authorised activity may be carried out under that section.



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- (4) Before making the decision the Minister must give the parties a reasonable opportunity to make submissions about the request within a reasonable period.
  - (5) The Minister must, after complying with subsection (4) and considering any submission made under that subsection, decide the matter and give the parties notice of the decision.
  - (6) The Minister's decision binds the parties.
  - (7) If the request is about a matter mentioned in subsection (1), the Minister may impose conditions on any decision that the authorised activity may be carried out.
  - (8) In this section—  
*parties* means—
    - (a) for a request about a matter mentioned in subsection (1)—the GHG authority holder and the relevant lease holder; or
    - (b) for a request about a matter mentioned in subsection (2)—the GHG authority holder and the exploration authority (non-GHG) holder.

## **Division 2                      Additional conditions**

### **222      Notice of grant by particular GHG authority holders**

- (1) This section applies if—
  - (a) a GHG authority other than a GHG lease is granted; and
  - (b) land in the GHG authority's area is in the area of or in a proposed area under an application for any of the following other authorities—
    - (i) an exploration authority (non-GHG);
    - (ii) a GHG data acquisition authority;
    - (iii) a data acquisition authority under the P&G Act;
    - (iv) a water monitoring authority under the P&G Act.

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- (2) It is a condition of the GHG authority that its holder must within 20 business days after the holder receives notice of the grant, give the holder of or applicant for the other authority a notice stating—
  - (a) that the GHG authority has been granted; and
  - (b) the GHG authority holder's name; and
  - (c) the term of the GHG authority.

### **223 Condition to notify particular other authority holders of proposed start of particular authorised activities**

- (1) This section applies to a GHG authority holder if—
  - (a) there is any of the following (the *other authority*) for the GHG authority—
    - (i) an overlapping authority;
    - (ii) a geothermal permit, mining lease or petroleum tenure that shares a common boundary with the GHG authority; or
  - (b) land in the GHG authority's area is in the area of a data acquisition authority under the P&G Act (also the *other authority*).
- (2) Before the GHG authority holder first starts a designated activity in the other authority's area, the GHG authority holder must give the other authority holder at least 30 business days notice of the activity.
- (3) A notice under subsection (2) must state—
  - (a) when the designated activity is to start; and
  - (b) where the designated activity is to be carried out; and
  - (c) the nature of the activity.
- (4) Before changing the land on which the designated activity is being carried out, the GHG authority holder must give the other authority holder at least 30 business days notice stating where the activity is to be carried out.

- (5) Compliance with this section is a condition of the GHG authority.
- (6) In this section—  
*designated activity* means any authorised activity for the GHG authority other than—
  - (a) an incidental activity under section 31 or 112; or
  - (b) an activity that only involves selecting places where other authorised activities for the GHG authority may be carried out.

## **224 Continuance of GHG coordination arrangement after transfer**

- (1) This section applies if—
  - (a) there is an overlapping authority for a GHG lease; and
  - (b) a GHG coordination arrangement applies to the GHG lease; and
  - (c) the GHG lease is transferred.
- (2) It is a condition of the GHG lease that its holder must continue to be a party to a GHG coordination arrangement for the lease while the overlapping authority continues in force.

## **Division 3 Restriction on Minister's power to amend GHG lease if overlapping authority**

### **225 Interests of overlapping authority holder to be considered**

If there is an overlapping authority for a GHG lease, it may be amended under section 374 only if the interests of the overlapping authority holder have been considered.

## **Part 7**

# **Additional provisions for development plans if overlapping authority**

### **226 Operation of pt 7**

This part imposes additional requirements for the following for a GHG lease or proposed GHG lease for which there is an overlapping authority—

- (a) a proposed initial development plan;
- (b) a proposed later development plan;
- (c) a proposed amendment under an application to amend a development plan.

### **227 Statement about interests of overlapping authority holder**

The proposed plan or amendment must include a statement of how the effects on and the interests of any overlapping authority holder have or have not been considered, having regard to the GHG assessment criteria.

### **228 Consistency with overlapping resource authority's development plan and with any relevant coordination arrangement**

- (1) To the extent the area of the GHG lease and the overlapping authority coincide or will coincide, the proposed plan or amendment must be consistent with any geothermal coordination arrangement or GHG coordination arrangement for that area.
- (2) Subsection (3) applies if the overlapping authority is a mining lease or petroleum lease.
- (3) The proposed plan or amendment must to the extent the area of the GHG lease and the mining lease or petroleum lease

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coincide or will coincide be consistent with the development plan for the overlapping authority.

## **229 Additional criteria for approval**

In deciding whether to approve the proposed plan or amendment the Minister must consider the GHG assessment criteria.

# **Part 8 Additional provisions for safety management plans**

## **230 Grant of GHG lease does not affect obligation to make plan**

- (1) This section applies if a GHG statement accompanies a GHG lease application as required under this chapter.
- (2) The deciding of the application or the grant of the GHG lease—
  - (a) does not affect the obligation under the P&G Act safety provisions to make a safety management plan for any operating plant in the GHG lease's area; and
  - (b) is not of itself evidence that a safety management plan, or purported safety management plan, for an operating plant in the GHG lease's area complies with those provisions.

## **231 Requirements for consultation with particular overlapping resource authority holders**

- (1) This section applies if—

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- (a) a person (an *operator*) proposes to be an operator of operating plant under the P&G Act in the area of a GHG tenure; and
  - (b) the operating plant is used or is proposed to be used for GHG storage activities (*relevant operating plant*); and
  - (c) activities (*relevant activities*) carried out, or proposed to be carried out, at the plant may adversely affect the safe and efficient use of resources under an overlapping authority for the GHG tenure.
- (2) Before any operator may operate relevant operating plant, each operator must have made reasonable attempts to consult with the overlapping authority holder about relevant activities for the plant.
- (3) If there is more than 1 operator, the GHG tenure holder may coordinate the consultation between the operators and the overlapping authority holder.
- (4) For subsection (2), an operator is taken to have made reasonable attempts to consult if—
  - (a) the operator gives the overlapping authority holder a copy of the parts of the operator's proposed safety management plan concerning any relevant operating plant the operator proposes to operate for the relevant activities; and
  - (b) the overlapping authority holder has not within 30 days after the giving of the copy made any proposal to the operator about provisions for the plan.
- (5) An operator must before making or remaking a safety management plan for any relevant operating plant the operator operates or proposes to operate, have regard to any reasonable provisions for the plan proposed by the overlapping authority holder concerning relevant activities for the plant.
- (6) However, the obligation under subsection (5) applies only to the extent the provisions are commercially and technically feasible for the operator or any relevant GHG tenure holder.

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- (7) If an operator makes a safety management plan for relevant operating plant that includes provisions proposed by the overlapping authority holder, the operator must—
- (a) give the overlapping authority holder a copy; and
  - (b) give the chief inspector under the P&G Act a notice stating any provisions proposed under subsection (5) and whether they were included in the plan.
- (8) In this section—
- remaking*, a safety management plan, includes an amendment or remaking of the plan of a type required under the P&G Act, section 678.

## **232 Application of P&G Act provisions for resolving disputes about reasonableness of proposed provision**

- (1) This section applies if a dispute exists between an operator under section 231 and an overlapping authority holder about the reasonableness of a provision proposed by the overlapping authority holder for the operator's proposed safety management plan.
- (2) The P&G Act, section 387, chapter 12 and schedule 1 apply to the dispute as if it were a dispute to which section 387 of that Act applies.

*Editor's note—*

P&G Act, chapter 12 and schedule 1 (Reviews and appeals)

## **Chapter 5            General provisions for GHG authorities**

### **Part 1                GHG injection and storage data acquisition authorities**

#### **Division 1           Obtaining authority**

##### **233    Who may apply for GHG data acquisition authority**

- (1) A GHG tenure holder may apply for a GHG data acquisition authority to allow the applicant to carry out the following activities (*data acquisition activities*)—
  - (a) geophysical surveys on land (the *data acquisition land*) contiguous to land in the GHG tenure's area to enable the applicant to acquire data relevant to authorised activities under the tenure;
  - (b) the entering of the data acquisition land to carry out the geophysical surveys.
- (2) However, the application can not be made or granted for land in the area of another GHG tenure.
- (3) The GHG tenure mentioned in subsection (1) is the *relevant GHG tenure* for the GHG data acquisition authority or proposed GHG data acquisition authority.

##### **234    Requirements for making application**

The application must be—

- (a) made to the Minister in the approved form; and
- (b) accompanied by the fee prescribed under a regulation.



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## **235 Deciding application**

- (1) The Minister may grant or refuse the GHG data acquisition authority.
- (2) However, the GHG data acquisition authority can not be granted unless a relevant environmental authority has been issued.

*Note—*

If the application relates to acquired land, see also section 369C.

- (3) The Minister may as a condition of deciding to grant the GHG data acquisition authority, require the applicant to do all or any of the following within a stated reasonable period—
  - (a) pay the annual rent for the GHG data acquisition authority;
  - (b) give under section 271, security for the GHG data acquisition authority.
- (4) If the applicant does not comply with the requirement, the application may be refused.

## **236 Provisions of authority**

- (1) A GHG data acquisition authority must state its term and area.
- (2) The term must end no later than 1 year after the authority takes effect.
- (3) The GHG data acquisition authority may also state—
  - (a) conditions or other provisions of the GHG data acquisition authority other than conditions or provisions that are—
    - (i) inconsistent with section 238, 239 or 243 or any other mandatory condition for data acquisition authorities; or

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*Note—*

Other provisions of this chapter also impose mandatory conditions on data acquisition authorities. See, in particular, part 12.

- (ii) inconsistent with a condition of the relevant GHG tenure; or
  - (iii) the same as or substantially the same as or inconsistent with any relevant environmental condition; and
- (b) the day it takes effect.
- (4) However, the provisions of the GHG data acquisition authority may exclude or restrict the carrying out of data acquisition activities.

## **237 Notice of refusal**

If the Minister decides to refuse the application, the Minister must give the applicant notice of the decision.

## **Division 2 Provisions for GHG data acquisition authorities**

### **238 Key authorised activities**

A GHG data acquisition authority authorises its holder to carry out data acquisition activities in the authority's area.

*Notes—*

- 1 For other authorised activities, see parts 7, division 2 (Access to private land outside area of GHG authority) and 12 (General provisions for conditions and authorised activities).
- 2 For general restrictions on authorised activities, their relationship with owners' and occupiers' rights and who may carry out authorised activities for a GHG authority holder, see part 12, division 3.

- 3 The carrying out of particular activities on particular land in the GHG data acquisition authority's area may not be authorised following the taking of the land under a resumption law. See section 369B.

### **239 Additional condition of relevant GHG tenure**

If a condition is imposed on a GHG data acquisition authority (the *authority condition*), it is a condition of the relevant GHG tenure that the tenure holder must comply with the authority condition.

### **240 Authority holder is the relevant GHG tenure holder from time to time**

The holder of a GHG data acquisition authority is taken to be the person who, from time to time, holds the relevant GHG tenure.

### **241 Authority ends if relevant GHG tenure ends**

- (1) A GHG data acquisition authority ends if the relevant GHG tenure ends.
- (2) Subsection (1) applies subject to any noncompliance action taken for the GHG data acquisition authority or the relevant GHG tenure.

### **242 Relationship with subsequent GHG tenure**

- (1) This section applies if a GHG tenure is granted over land in the area of a GHG data acquisition authority.
- (2) The grant does not limit the GHG data acquisition authority or its term.
- (3) However, an authorised activity for the GHG data acquisition authority may be carried out on the land only if—

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- (a) carrying out the activity does not adversely affect the carrying out of an authorised activity for the GHG tenure; or
  - (b) the agreement conditions have been complied with.
- (4) In this section—
- agreement conditions* means that—
- (a) the GHG tenure holder has agreed in writing to the carrying out of the activity; and
  - (b) a copy of the agreement has been given to the chief executive; and
  - (c) the agreement is still in force.

### **243 Annual rent**

- (1) A GHG data acquisition authority holder must pay the State the rent as prescribed under a regulation.

*Note—*

See also section 372 (Interest on amounts owing to the State).

- (2) The rent must be paid in the way, and on or before the day, prescribed under a regulation.

### **244 End of authority report for GHG data acquisition authority**

- (1) This section applies if a data acquisition authority ends.
- (2) The person who held the authority immediately before it ended must, within 6 months give in the required way the chief executive a report relating to the former authority about the matters mentioned in section 259.

Maximum penalty—150 penalty units.

- (3) However, subsection (2) applies only to the extent the matters are relevant to the former authority.



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- (b) state whether in the opinion of the relevant GHG tenure holder, it is currently viable to carry out GHG stream storage in the area; and
  - (c) if the holder's opinion is that it is not viable to carry out GHG stream storage in the area, state—
    - (i) whether in the holder's opinion, it may at any time in the future be viable to carry out GHG stream storage in the area; and
    - (ii) if the opinion is that it may at some time in the future be viable to carry out GHG stream storage in the area—the holder's assessment of when that time may be; and
  - (d) give data, and an analysis of the data, that supports each opinion.
- (2) The supporting data and analysis must include—
- (a) technical data relating to the geology of GHG storage reservoirs in the area; and
  - (b) market and financial data relevant to the opinions.

#### **247 Minister's power to obtain independent viability assessment**

- (1) This section applies for a GHG tenure, whether or not its holder has given a GHG storage viability report about the tenure.
- (2) The Minister may obtain an independent assessment of the viability of carrying out GHG stream storage in all or part of the GHG tenure's area (an *independent viability assessment*).
- (3) However, before seeking the assessment, the Minister must give the holder a notice stating each of the following—
  - (a) that the Minister proposes to obtain the assessment;
  - (b) the Minister's reasons for seeking the assessment;

- (c) whether the State will under section 248, seek to recover the costs of the assessment;
  - (d) that the holder may within a stated reasonable period make submissions to the Minister about the proposed assessment.
- (4) The Minister must consider any submissions made under subsection (3)(d).
- (5) The Minister must after receiving the assessment, give the holder a copy.

## **248 Costs of independent viability assessment**

If—

- (a) the Minister has incurred costs in obtaining under section 247, an independent viability assessment about a GHG tenure; and
- (b) the notice under section 247 about the assessment stated that the State will seek to recover the costs; and
- (c) the Minister has given the GHG tenure holder a notice requiring the holder to pay a reasonable amount for the costs;

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

# **Part 3 Ownership and decommissioning of GHG stream pipelines**

## **249 Application of pt 3**

This part applies for a pipeline constructed or operated under a GHG tenure.

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*Note—*

See sections 31 (Incidental activities) and 111 (GHG stream pipeline and water pipeline construction and operation).

## **250 General provision about ownership while tenure is in force for pipeline**

- (1) This section applies while the land on which the pipeline is constructed is, and continues to be, in the GHG tenure's area.
- (2) The pipeline is taken to be the personal property of the holder of the GHG tenure.
- (3) The pipeline remains the holder's personal property despite—
  - (a) it having become part of the land; or
  - (b) the sale or other disposal of the land.
- (4) The pipeline can not be—
  - (a) levied or seized in execution; or
  - (b) sold in exercise of a power of sale or otherwise disposed of by a process under a law of a State taken against the holder or the owner of the land.
- (5) Subsections (2) to (4) apply despite—
  - (a) an Act or law of a State; or
  - (b) a contract, covenant or claim of right under a law of a State.

## **251 Ownership afterwards**

- (1) This section applies if the GHG tenure (the *original tenure*) ends or the land on which the pipeline is constructed ceases to be in the original tenure's area.
- (2) Section 250 applies and continues to apply for the pipeline and for any subsequent GHG tenure to the original tenure or pipeline licence for the pipeline.
- (3) However, the application of section 250 is subject to—



- (a) section 356; and  
*Editor's note—*  
section 356 (Power of authorised person to ensure compliance)
  - (b) any condition of the former tenure.
- (4) Also, if the pipeline is decommissioned under section 252 the following person may dispose of it to anyone else—
- (a) if no subsequent GHG tenure was granted for the land—the holder or former holder of the original tenure;
  - (b) if a subsequent GHG tenure was granted for the land—the holder or former holder of that tenure.

## **252 Obligation to decommission pipelines on cessation or reduction of tenure**

- (1) The holder of a GHG tenure must before the decommissioning day, decommission in the way prescribed under a regulation any pipeline in the tenure's area.
- (2) However, subsection (1)—
  - (a) does not apply if the pipeline was constructed or operated under another GHG tenure or a petroleum authority; and
  - (b) ceases to apply if the operation of the pipeline becomes an authorised activity for another GHG tenure or a petroleum authority.
- (3) Also, subsection (1) does not apply for a pipeline if—
  - (a) the pipeline was constructed or operated under a pipeline licence; and
  - (b) the licence is under the P&G Act, surrendered or otherwise ends for the purpose of the pipelines the subject of the licence becoming the subject of another pipeline licence.
- (4) In this section—

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*decommissioning day* means the latest of the following days—

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

## **Part 4                      Reporting and information provisions**

### **Division 1                      General reporting provisions**

#### **253      Requirement of GHG tenure holder to report outcome of GHG storage injection testing**

- (1) This section applies if a GHG tenure holder carries out GHG storage injection testing.
- (2) The holder must within 40 business days after the testing ends give the chief executive a report stating the outcome of the testing.
- (3) The report must also state how much water was taken during the testing.

#### **254      Monitoring reports by GHG lease holder**

- (1) This section applies to the holder of a GHG lease.

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- (2) The holder must within 2 months after each of its anniversary days give each relevant chief executive a monitoring report for the 12 months that ended on the last anniversary day.

Maximum penalty—150 penalty units.

- (3) Any relevant chief executive may by notice require the holder to within 30 business days give each relevant chief executive a monitoring report for the period since—
- (a) the holder last gave a monitoring report under subsection (2); or
  - (b) if a monitoring report has not yet been required to be given under subsection (2)—the granting of the GHG lease.

- (4) The holder must comply with a notice given under subsection (3).

Maximum penalty—150 penalty units.

- (5) In this section—

***anniversary day***, for a GHG lease, means each day that is the anniversary of the day on which it took effect.

***monitoring report*** means a report about the expected migration pathway or pathways of GHG streams during and after injection into GHG storage reservoirs under the GHG lease.

***relevant chief executive*** means—

- (a) the chief executive of the department in which this Act is administered; or
- (b) the chief executive of the department in which the Environmental Protection Act is administered; or
- (c) the chief executive of the department in which the Water Act is administered.

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## **255 Relinquishment report by GHG permit holder**

- (1) If part of the area of a GHG permit is relinquished as required or authorised under this Act, its holder must within 6 months give the chief executive a report that—
  - (a) describes—
    - (i) the authorised activities for the GHG permit carried out in the part; and
    - (ii) the results of the activities; and
  - (b) includes other information prescribed under a regulation.

Maximum penalty—200 penalty units.

- (2) The report must—
  - (a) be given electronically using the system for submission of reports made or approved by the chief executive; and
  - (b) be in the digital format made or approved by the chief executive.
- (3) The chief executive must ensure the system and a document detailing the digital format made or approved by the chief executive are available for inspection on the department's website.
- (4) The requirements under subsection (2) are the *required way* for giving the chief executive reports.

## **256 End of tenure report**

If a GHG tenure ends, the person who held the tenure immediately before it ended must, within 6 months, give the chief executive a report in the required way that—

- (a) includes all of the following—
  - (i) a summary of all authorised activities for the GHG tenure carried out for the tenure since it took effect;
  - (ii) a summary of the results of the activities;

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- (iii) an index of all reports given as required under this Act, for the activities;
  - (iv) a summary of all significant hazards created to future safe and efficient mining that under the P&G Act safety provisions, are required to be reported by the person;
  - (v) for each hazard mentioned in the summary under subparagraph (iv)—a reference to the report that contains details of the hazard;
  - (vi) information about the amount and location of GHG stream storage done in, and water produced from, the GHG tenure's area;
  - (vii) any information related to information mentioned in subparagraph (vi) that may help the understanding of the size or amount and location of any GHG stream storage sites in, or water that may be produced from, the area;
  - (viii) any information required to be reported under this Act that has not been previously reported; and
- (b) states any other information prescribed under a regulation.

Maximum penalty—150 penalty units.

**257 Power to require information or reports about authorised activities to be kept or given**

- (1) A regulation or the chief executive may for the services of the State require a GHG authority holder to—
- (a) keep in a stated way stated information or types of information about authorised activities carried out under the GHG authority; or

*Example of a way of keeping information—*

in a stated digital format

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- (b) give the chief executive a notice in the approved form giving stated information or types of information or stated reports at stated times or intervals about authorised activities carried out under the GHG authority.

*Example of a stated time—*

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

- (2) For subsection (1), the information or report required to be given or kept may be—
  - (a) exploration data; or
  - (b) opinions, conclusions, technical consolidations and advanced interpretations based on exploration data.
- (3) A notice by the chief executive under subsection (1)(b) may state—
  - (a) a format required for giving the information; and
  - (b) a degree of precision required for the giving of the information.
- (4) A person of whom a requirement under subsection (1) has been made must comply with the requirement.

Maximum penalty—100 penalty units.

- (5) In this section—

*information* includes documents, records and samples.

## **Division 2                      Records and samples**

### **258      Requirement to keep records and samples**

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

Maximum penalty—500 penalty units.

- (2) For subsection (1), the prescribed records may be—
  - (a) exploration data; or
  - (b) opinions, conclusions, technical consolidations and advanced interpretations based on exploration data.

## **259 Requirement to give records and samples**

- (1) A person who under section 258, is required to keep a record or sample must for the services of the State give a copy of the record and a part of the sample to the chief executive within 6 months after the earlier of the following (the *required time*)—
  - (a) the day the record or sample was acquired or made;
  - (b) the day the relevant GHG tenure ends.

Maximum penalty—500 penalty units.

- (2) The copy of the record must be given in the required way for giving reports to the chief executive.
- (3) If the chief executive gives the person a notice asking the person for more of the sample, the person must give it to the chief executive at the address stated in the notice within the reasonable time stated in the notice (also the *required time*) unless the holder has a reasonable excuse.

Maximum penalty—500 penalty units.

- (4) The chief executive may extend the required time by up to 1 year if—
  - (a) the person asks for the extension before the required time ends; and
  - (b) the chief executive is satisfied the extension is necessary.
- (5) However, the extension must not end later than—
  - (a) for subsection (1)—6 months after the required time ends; or

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

## **Division 3                      Releasing required information**

### **260      Meaning of *required information***

The *required information*, for a GHG authority, is information (in any form) about authorised activities carried out under the authority that the authority holder has given under this Act, including for example—

- (a) a sample; and
- (b) data and other matters mentioned in section 257(2).

### **261      Public release of required information**

- (1) The mere fact of the existence of a GHG authority is taken to be an authorisation from its holder to the chief executive to do the following, after the end of any confidentiality period prescribed under a regulation—
  - (a) publish in the way prescribed under a regulation required information for the GHG authority for public use;
  - (b) on payment of a fee prescribed under a regulation, make it available to any person.
- (2) Any confidentiality period prescribed under subsection (1) ceases if the information is about an authorised activity carried out only in an area that is no longer in the GHG authority's area.



*Example—*

The required information is a well completion report about a well drilled on particular land in the area of a GHG permit. Subsection (1) ceases to apply if all of that land is relinquished under the relinquishment condition.

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

## **262 Chief executive may use required information**

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

# **Part 5 General provisions for wells**

## **Division 1 Responsibility for wells**

### **263 Former petroleum wells assumed by GHG tenure holder**

If, under the 1923 Act, section 75U or the P&G Act, section 292, a GHG tenure holder assumes responsibility for a well, this Act applies to the holder in relation to the well as if it were a GHG well.

### **264 Requirements for drilling GHG well**

A person drilling a GHG well must comply with—

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- (a) any requirements prescribed under a regulation for the drilling of the GHG well; and
- (b) any relevant requirements about construction and drilling standards for water bore drilling activities under the Water Act.

Maximum penalty—500 penalty units.

## **Division 2                      Decommissioning of wells**

### **265      Application of div 2**

This division applies to the following wells in the area of a GHG tenure—

- (a) a GHG well drilled by or for the GHG tenure holder;
- (b) a well that is or has been a petroleum well for which the holder has, under the 1923 Act, section 75U or the P&G Act, section 292, assumed responsibility.

### **266      Restriction on decommissioning well**

It is a condition of the GHG tenure that the GHG tenure holder may decommission the well only if the GHG storage reservoir to which the well relates has no available storage capacity for any further injection for GHG storage.

### **267      Obligation to decommission**

- (1) Subject to section 266, the GHG tenure holder must ensure the well is decommissioned from use under this Act before—
  - (a) for a GHG lease—the GHG storage reservoir to which the well relates has no available storage capacity for any further injection for GHG storage; or
  - (b) for a GHG permit—the permit ends or the land on which the well is located ceases to be in the permit's area.

Maximum penalty—500 penalty units.

- (2) However, subsection (1) does not apply for land that, under section 48(1), ceases to be in the area of a GHG permit.
- (3) For subsection (1), the well is decommissioned from use under this Act only if—
  - (a) it has been plugged and abandoned in the way prescribed under a regulation; and
  - (b) any relevant requirements under the Water Act for the decommissioning of water bores have been complied with; and
  - (c) the GHG tenure holder has given the Water Act Minister a notice in the approved form about the decommissioning.

## **268 Right of entry to facilitate decommissioning for GHG permit**

- (1) This section applies if—
  - (a) the GHG tenure is a GHG permit; and
  - (b) the GHG permit has ended or the land on which the well is located is no longer in the GHG tenure's area; and
  - (c) the GHG permit holder or former holder has not carried out decommissioning as required under section 267.
- (2) The holder or former holder may enter the following land to carry out the decommissioning—
  - (a) land (the *primary land*) on which the decommissioning must be or was required to be carried out;
  - (b) any other land (the *access land*) it is reasonably necessary to cross for access to the primary land.
- (3) Parts 7 and 8 and part 10, division 1 apply to the holder or former holder in the following way—
  - (a) if the GHG permit has ended, as if—

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- (i) it were still in force; and
- (ii) the former holder were still its holder;
- (b) as if the primary land and access land is in the GHG permit's area;
- (c) as if the decommissioning is an authorised activity for the GHG tenure.

*Editor's note—*

parts 7 (Private land), 8 (Public land) and 10 (Compensation and negotiated access)

## **269 Responsibility for well after decommissioning**

- (1) This section applies if the GHG tenure holder has decommissioned a well under section 267.

*Note—*

For ownership before decommissioning, see section 327 (Ownership of equipment and improvements).

- (2) Despite the decommissioning, the holder continues to be responsible under this Act for the well until the earlier of the following times (the *relevant time*)—
- (a) when the GHG tenure ends;
  - (b) when the land on which the well is located ceased to be in the GHG tenure's area.
- (3) At the relevant time the well is taken to have been transferred to the State.
- (4) Subsection (3) applies despite—
- (a) the well being on or part of land owned by someone else; or
  - (b) the sale or other disposal of the land.

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## Part 6                      Security

### 270    Operation and purpose of pt 6

- (1) This part empowers the Minister to require, from time to time, the holder of a GHG authority or a person who has applied for a GHG authority to give the State security for the authority or proposed authority.
- (2) The security may be used to pay—
  - (a) any liability under this Act that the State incurs because of an act or omission of the holder; and
  - (b) any unpaid annual rent payable by the holder to the State; and
  - (c) other unpaid amounts payable under this Act by the holder to the State, including for example, any of the following payable by the holder to the State—
    - (i) unpaid civil penalty;
    - (ii) unpaid interest on unpaid annual rent;
    - (iii) any debt payable by the holder under section 371; and
  - (d) any compensation the State must pay under section 360 because of the exercise or purported exercise of a remedial power under section 356 for the GHG authority, whether or not the authority has ended.

### 271    Power to require security for GHG authority

- (1) The Minister may require the holder of a GHG authority or a person who has applied for a GHG authority to give the State security for the authority, or proposed authority.
- (2) The security must be—
  - (a) in the form prescribed under a regulation; and
  - (b) of at least the amount prescribed under a regulation.

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

## **272 Minister's power to require additional security**

- (1) The Minister may at any time require a GHG authority holder to increase the amount of security given for the authority.
- (2) However—
  - (a) if, because of an increase in the prescribed amount under section 271(2), the requirement is to increase the total security required to no more than the increased prescribed amount—the requirement must be made by notice to the holder; or
  - (b) if the requirement is to increase the total security required to more than the prescribed amount under section 271(2) when the requirement is made—
    - (i) subsections (3) to (6) must be complied with before making the requirement; and
    - (ii) the requirement does not take effect until the holder is given an information notice about the decision to make the requirement.
- (3) The Minister must give the holder notice—
  - (a) stating the proposed increased amount of the security for the GHG authority; and
  - (b) inviting the holder to within a stated reasonable period make submissions to the Minister about the proposed increased amount.

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- (4) The stated period must end at least 20 business days after the holder is given the notice.
  - (5) The Minister must consider any submissions made by the holder within the stated period.
  - (6) In this section—  
*security* given includes security given or increased because of a requirement under subsection (1).

### **273 Interest on security**

The State may keep any interest that accrues on security given under this part for a GHG authority.

### **274 Power to use security**

The State may use security given under this part for a GHG authority and any interest that accrues on the security to make a payment mentioned in section 270(2) concerning the authority.

### **275 Replenishment of security**

- (1) This section applies if—
  - (a) under section 274, all or part of the security for a GHG authority has been used; and
  - (b) the GHG authority is still in force.
- (2) The Minister must give the GHG authority holder a notice—
  - (a) stating how much of the security has been used; and
  - (b) directing the holder to within 30 days after the giving of the notice replenish the security for the GHG authority up to the higher of the following—
    - (i) the amount prescribed under a regulation;
    - (ii) if the notice states that under section 271, another amount is required—the other amount.

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**276 Security not affected by change in authority holder**

- (1) This section applies if security for a GHG authority has been given under this part for the authority and its holder changes.
- (2) Despite the change, the security and any interest that accrues on it continues in force for the benefit of the State and may be used under section 274.
- (3) If the security is in the form of money, until the security is replaced or refunded it continues in force for the holder from time to time of the GHG authority.

**277 Retention of security after GHG authority ends**

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

**Part 7 Private land**

**Division 1 Requirements for entry to private land in GHG authority area**

**Subdivision 1 Entry notice requirement for preliminary activities and particular advanced activities**

**278 Entry notice requirement**

- (1) A person must not—



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- (a) enter private land in a GHG authority's area to carry out a preliminary activity for the authority; or
  - (b) enter private land in a GHG authority's area to carry out an advanced activity for the authority if either of the following applies for the entry—
    - (i) the deferral agreement exemption;
    - (ii) the Land Court application exemption;

unless the GHG authority's holder has given each owner and occupier of the land a written notice of the entry that complies with section 279 (an *entry notice*).

Maximum penalty—500 penalty units.

- (2) The entry notice must be given—
  - (a) generally—at least 10 business days before the entry; or
  - (b) if, by a signed endorsement on the notice, the relevant owner or occupier has agreed to a shorter period—the shorter period.

Maximum penalty—500 penalty units.

- (3) The holder must give the chief executive a copy of the entry notice immediately after the notice is given and before entry is made under the GHG authority.

Maximum penalty—10 penalty units.

- (4) A contravention of subsection (3) does not affect the validity of the notice or the entry.
- (5) This section is subject to section 280.
- (6) In this section—

*deferral agreement exemption*, for an entry, means that the conduct and compensation agreement requirement does not apply for the entry because of section 284(c)(i).

*give*, for an entry notice, includes publishing it in a way approved under section 282.

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***Land Court application exemption***, for an entry, means that the conduct and compensation agreement requirement does not apply for the entry because of section 284(c)(ii).

## **279 Required contents of entry notice**

- (1) An entry notice must state the following—
  - (a) the land proposed to be entered;
  - (b) the period during which the land will be entered (the ***entry period***);
  - (c) the activities proposed to be carried out on the land;
  - (d) when and where the activities are proposed to be carried out;
  - (e) contact details for—
    - (i) the relevant GHG authority holder; or
    - (ii) another person the holder has authorised to discuss the matters stated in the notice.
- (2) Also, the first entry notice from the GHG authority holder to a particular owner or occupier must be accompanied by or include a copy of—
  - (a) the GHG authority; and
  - (b) the land access code; and
  - (c) any code of practice made under this Act applying to authorised activities for the GHG authority; and
  - (d) the relevant environmental authority documentation.
- (3) The entry period can not be longer than—
  - (a) generally—
    - (i) for a GHG permit—6 months; or
    - (ii) for another GHG authority—1 year; or
  - (b) if the relevant owner or occupier agrees in writing to a longer period—the longer period.

- 
- (4) Subject to subsections (1) to (3), an entry notice may state an entry period that is different to the entry period stated in another entry notice given by the GHG authority holder to another owner or occupier of the land.
- (5) In this section—
- relevant environmental authority documentation*** means—
- (a) if, under the Environmental Protection Act, the relevant environmental authority for the GHG authority is a code compliant authority—the relevant code; or
  - (b) if, under the Environmental Protection Act, the relevant environmental authority for the GHG authority is a non-code compliant authority—
    - (i) the environmental authority; and
    - (ii) if the environmental authority imposes conditions by referring to a code—that code.

## **280 Exemptions from entry notice requirement**

- (1) The requirement under section 278(1) to give an entry notice does not apply for an entry to land to carry out an authorised activity if any of the following apply—
- (a) the GHG authority holder owns the land;
  - (b) the holder has the right other than under this Act to enter the land to carry out the activity;
  - (c) if—
    - (i) there is a conduct and compensation agreement relating to the land; and
    - (ii) each eligible claimant for the land is a party to the agreement; and
    - (iii) the agreement includes a waiver of entry notice;
  - (d) the entry is to preserve life or property or because of an emergency that exists or may exist;

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- (e) the relevant owner or occupier has, by signed writing, given a waiver of entry notice.
- (2) A waiver of entry notice mentioned in subsection (1) must comply with section 281(1).

## **281 Provisions for waiver of entry notice**

- (1) A waiver of entry notice mentioned in section 280 must—
- (a) if it does not form part of a conduct and compensation agreement, be written and signed; and
  - (b) state the following—
    - (i) that the relevant owner or occupier has been told they are not required to agree to the waiver of entry notice;
    - (ii) the authorised activities proposed to be carried out on the land;
    - (iii) the period during which the land will be entered;
    - (iv) when and where the activities are proposed to be carried out.
- (2) The relevant owner or occupier can not withdraw the waiver of entry notice during the period.
- (3) The waiver of entry notice ceases to have effect at the end of the period.

## **282 Giving entry notice by publication**

- (1) The chief executive may approve a GHG authority holder giving an entry notice for the authority by publishing it in a stated way.
- (2) The publication may relate to more than 1 entry notice.
- (3) The chief executive may give the approval only if satisfied—

- 
- (a) for a relevant owner or occupier who is an individual, it is impracticable to give the owner or occupier the notice personally; and
  - (b) the publication will happen at least 20 business days before the entry.

## **Subdivision 2      Conduct and compensation agreement requirement for particular advanced activities**

### **283      Conduct and compensation agreement requirement**

- (1) A person must not enter private land in a GHG authority's area to carry out an advanced activity for the authority (the *relevant activity*) unless each eligible claimant for the land is a party to an appropriate conduct and compensation agreement.

Maximum penalty—500 penalty units.

- (2) The requirement under subsection (1) is the *conduct and compensation agreement requirement*.

*Note—*

For conduct and compensation agreements, see part 10, division 1.

- (3) In this section—  
*appropriate conduct and compensation agreement*, for an eligible claimant, means a conduct and compensation agreement about the holder's compensation liability to the eligible claimant of at least to the extent the liability relates to the relevant activity and its effects.

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## **284 Exemptions from conduct and compensation agreement requirement**

The conduct and compensation agreement requirement does not apply for an entry to land to carry out an advanced activity if any of the following apply—

- (a) the GHG authority holder owns the land;
- (b) the holder has the right other than under this Act to enter the land to carry out the activity;
- (c) each eligible claimant for the land is—
  - (i) a party to an agreement, complying with section 285, that a conduct and compensation agreement can be entered into after the entry (a *deferral agreement*); or
  - (ii) an applicant or respondent to a Land Court application under section 325B relating to the land;
- (d) the entry is to preserve life or property or because of an emergency that exists or may exist.

## **285 Requirements for deferral agreement**

A deferral agreement must—

- (a) be written and signed by or for the holder and each eligible claimant for the land to be entered; and
- (b) state the following—
  - (i) that the eligible claimant has been told the claimant is under no obligation to enter into a deferral agreement before entering into a conduct and compensation agreement;
  - (ii) the authorised activities proposed to be carried out on the land;
  - (iii) the period during which the land will be entered;
  - (iv) when and where the activities are proposed to be carried out;

- (v) the period for which the deferral agreement has effect;
- (vi) when it is proposed to enter into a conduct and compensation agreement.

## **Division 2            Access to private land outside area                                  of GHG authority**

### **Subdivision 1        Preliminary**

#### **286    Application of div 2**

This division applies for a GHG authority in relation to all private land outside its area.

### **Subdivision 2        Access rights and access                                  agreements**

#### **287    Access rights of GHG authority holder**

- (1) Subject to section 288, the holder of a GHG authority has the following rights—
  - (a) to cross the land if it is reasonably necessary to allow the holder to enter the GHG authority's area;
  - (b) to carry out activities on the land that are reasonably necessary to allow the crossing of the land.

*Examples for paragraph (b)—*

- 1    constructing a road or track
- 2    opening a gate or fence

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- (2) The rights under subsection (1) that may under section 288, be exercised are the ***access rights*** for the GHG authority.
- (3) Land to which the access rights apply is ***access land*** for the GHG authority.

## **288 Restriction on exercise of access rights**

- (1) The access rights may be exercised only if—
  - (a) the exercise of the rights is needed to preserve life or property because of a dangerous situation or emergency that exists or may exist; or
  - (b) the following have agreed orally or in writing to the exercise of the rights—
    - (i) if exercising the rights is likely to have a permanent impact on the land—each owner and the occupier of the land;
    - (ii) if exercising the rights is unlikely to have a permanent impact on the land—each occupier of the land.

*Note—*

See also section 388 (Duty to avoid interference in carrying out authorised activities).

- (2) An agreement mentioned in subsection (1)(b) is an ***access agreement***.
- (3) In this section—

***permanent impact***, on the land, means a continuing effect on the land or its use or a permanent or long-term adverse effect on its current lawful use by an occupier of the land.

*Example of an exercise of the rights that is likely to have a permanent impact—*

building a road

*Example of an exercise of the rights that is unlikely to have a permanent impact—*

opening or closing a gate



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**289 Owner or occupier must not unreasonably refuse to make access agreement**

- (1) An owner or occupier of the land must not if asked by a GHG authority holder unreasonably refuse to make an access agreement for the exercise of the access rights.
- (2) For subsection (1), the owner or occupier does not unreasonably refuse only because the owner or occupier asks for agreement to be subject to reasonable and relevant conditions offered by the owner or occupier.
- (3) If the holder asks the owner or occupier to make an access agreement and the owner or occupier has not within 20 business days made the agreement, the owner or occupier is taken to have refused to agree.

*Note—*

Either party may refer a refusal under subsection (1) or (3) to the Land Court to decide whether the refusal is unreasonable. See section 293.

**290 Principles for deciding whether access is reasonable**

- (1) This section provides for matters to which regard must be had in deciding whether—
  - (a) it is reasonably necessary for a GHG authority holder to cross the land to allow the holder to enter the GHG authority's area; or
  - (b) it is reasonably necessary for the holder to carry out activities on the land to allow the crossing of the land; or
  - (c) the owner or occupier has unreasonably refused to make an access agreement.
- (2) The holder must first show that it not possible or reasonable to exercise the access rights by using a formed road.
- (3) After subsection (2) has been satisfied, the following must be considered—

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- (a) the nature and extent of any impact the exercise of the access rights will have on the land and the owner or occupier's use and enjoyment of it;
- (b) how, when and where and the period during which the holder proposes to exercise the access rights.

## **291 Provisions for access and access agreements**

- (1) Section 279 applies for any entry to the land by a GHG authority holder as if the entry were an entry to carry out authorised activities.
- (2) However—
  - (a) a written access agreement may include a waiver of entry notice for the entry; and
  - (b) if an access agreement provides for alternative provisions to section 279 for the entry—section 279 does not apply for so long as the alternative provisions are in force.
- (3) A written access agreement may include a compensation agreement for the exercise or future exercise of access rights by the holder.
- (4) This division does not limit or otherwise affect the ability of the owner or occupier to grant the holder a right of access to the land, including for example, by the grant of an easement.

## **292 Access agreement binds successors and assigns**

Subject to section 294, an access agreement binds the parties to it and each of their personal representatives, successors in title and assigns.

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## **Subdivision 3      Land Court resolution**

### **293      Power of Land Court to decide access agreement**

- (1) If a dispute arises between a GHG authority holder and an owner or occupier of the land (the *parties*) about a matter mentioned in section 290(1), any party to the dispute may apply to the Land Court for it to decide the matter.
- (2) In deciding the matter, the Land Court may impose conditions it considers appropriate for the exercise of the access rights.
- (3) Conditions imposed under subsection (2) are taken to be—
  - (a) if there is already an access agreement between the parties—conditions of that agreement; or
  - (b) if there is no access agreement between the parties—an access agreement between the parties.

### **294      Power of Land Court to vary access agreement**

- (1) An owner or occupier of the land or a GHG authority holder may apply to the Land Court to vary any access agreement between them.
- (2) The Land Court may vary the access agreement only if it considers the change is appropriate because of a material change in circumstances.
- (3) Subsection (2) does not limit section 322.
- (4) This section does not prevent the owner or occupier and the holder from agreeing to vary the access agreement.

### **295      Criteria for deciding access**

In deciding an application under this subdivision, the Land Court must have regard to section 290(2) and (3).

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## **Division 3                      Provisions for dealings or change in ownership or occupancy**

### **296      Entry notice or waiver of entry notice or access agreement not affected by a dealing**

A dealing with a GHG authority does not affect an entry notice or waiver of entry notice or an access agreement given or made for the authority.

### **297      Change in ownership or occupancy**

- (1) If after the giving of an entry notice, the ownership or occupancy of the relevant land changes—
  - (a) the holder of the GHG authority for which the entry notice was given is taken to have given that notice to each new owner or occupier of the land; and
  - (b) section 279(2) does not apply for the new owner or occupier for the entry period stated in the notice.
- (2) If after the giving of a waiver of entry notice the ownership or occupancy of the relevant land changes, each new owner or occupier of the land is taken to have given that waiver of entry notice.
- (3) If the relevant GHG authority holder becomes aware of a new owner or occupier mentioned in subsection (1) or (2), the holder must within 15 business days give the new owner or occupier a copy of the entry notice or waiver of entry notice.
- (4) If the holder does not comply with subsection (3), subsections (1) and (2) cease to apply for the entry notice or consent.

## **Division 4                      Periodic notice after entry of land**

### **298      Notice to owners and occupiers**

- (1) This section applies if—

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

## **Division 5                      Access to carry out rehabilitation and environmental management**

### **299      Right of access for authorised activities includes access for rehabilitation and environmental management**

- (1) This section applies if under this part, a GHG authority holder has the right to enter private land to carry out authorised activities for the authority.
- (2) The right includes the right to enter the land to carry out rehabilitation or environmental management required of the holder under any relevant environmental requirement under the Environmental Protection Act.

## **Part 8                              Public land**

### **Division 1                      Public roads**

#### **Subdivision 1              Preliminary**

### **300      Significant projects excluded from div 1**

- (1) This division does not apply for a GHG authority for a significant project.
- (2) Subsection (1) does not limit or otherwise affect conditions the Coordinator-General may under the *State Development and Public Works Organisation Act 1971*, part 4, recommend for the GHG authority.

### **301      What is a *notifiable road use***

- (1) A *notifiable road use*, for a GHG authority, is—

- 
- (a) the use of a public road in the GHG authority's area for transport relating to a seismic survey or drilling activity; or
  - (b) the use of a public road at more than the threshold rate if the haulage relates to—
    - (i) the transportation of GHG streams; or
    - (ii) the construction of a pipeline.
- (2) Subsection (1)(b) applies even if the road is not on land in the GHG authority's area.
- (3) In this section—  
*threshold rate* means—
- (a) for a State-controlled road—50000t a year; or
  - (b) for another public road—10000t a year.

## Subdivision 2 Notifiable road uses

### 302 Notice of notifiable road use

- (1) It is a condition of each GHG authority that its holder must not use a public road for a notifiable road use unless the holder has given the public road authority for the road notice that the holder proposes to carry out the use.

*Note—*

For the condition that compensation be addressed before carrying out a notifiable road use, see section 325K.

- (2) The notice must—
- (a) be given—
    - (i) at least 10 business days before the use starts; or
    - (ii) within a shorter period agreed to by the public road authority in writing; and
  - (b) state each of the following—

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

### **303 Directions about notifiable road use**

- (1) The public road authority for a public road may, by notice, give a GHG authority holder a direction (a *road use direction*) about the way the holder may use the road for notifiable road uses being carried out, or proposed to be carried out, by the holder.
- (2) The direction must—
  - (a) be reasonable; and
  - (b) only be about—
    - (i) preserving the condition of the road; or
    - (ii) the safety of road users or the public; and
  - (c) be accompanied by or include an information notice about the decision to give the direction.

*Examples of what a direction may be about—*

- when the road may be used
- the route for the movement of heavy vehicles
- safety precautions the holder must take

- (3) The direction may also require the holder to—



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

### **304 Obligation to comply with road use directions**

It is a condition of each GHG authority that its holder must comply with any road use direction given to its holder relating to the authority unless the holder has a reasonable excuse.

## **Division 2 Other public land**

### **312 Requirement for entry notice to carry out authorised activities**

- (1) This section does not apply for a notifiable road use.

*Note—*

For notifiable road uses see sections 302 (Notice of notifiable road use) and 303 (Directions about notifiable road use).

- (2) A person must not enter public land to carry out an authorised activity for a GHG authority on public land unless—
- (a) the activity is an activity that may be carried out by a member of the public without requiring the specific approval of the public land authority for the land; or

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*Example—*

travelling on a public road in the GHG authority's area

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

Maximum penalty—100 penalty units.

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

### **313 Waiver of entry notice**

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

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**314 Required contents of entry notice**

- (1) An entry notice must state each of the following—
  - (a) the land proposed to be entered;
  - (b) the period during which the land will be entered (the *entry period*);
  - (c) the activities proposed to be carried out on the land;
  - (d) when and where the activities are proposed to be carried out;
  - (e) contact details for—
    - (i) the relevant GHG authority holder; or
    - (ii) another person the holder has authorised to discuss the matters stated in the notice.
- (2) The entry period must not be longer than—
  - (a) for a GHG permit—6 months; or
  - (b) for another GHG authority—1 year.
- (3) However, the entry period may be longer if the public land authority agrees in writing.
- (4) Subject to subsections (2) and (3), an entry notice given to 1 public land authority for the public land may state a different entry period from an entry notice given to another public land authority for the public land.
- (5) If a proposed activity is not likely to significantly disrupt activities the public land authority ordinarily carries out on the land, the entry notice may comply with subsection (1)(c) and (d) by generally describing the nature and extent of the activity.

**315 Conditions public land authority may impose**

- (1) A public land authority may impose relevant and reasonable conditions on a GHG authority holder, including for example, about giving the public land authority—



- (a) another GHG authority;
  - (b) a petroleum tenure;
  - (c) a petroleum authority;
  - (d) a mining tenement;
  - (e) a geothermal tenure.
- (2) However, if the land is also private land or public land, this part does not limit part 7 or 8.

**317 Access if second authority is a lease**

If the second authority is a lease, the first authority holder may enter the land only if—

- (a) the second authority holder has consented in writing to the entry; and
- (b) the first authority holder has given the chief executive a notice stating that the consent has been given.

**318 Access if second authority is not a lease**

- (1) If the second authority is not a lease, the first authority holder may do the following without the second authority holder's consent—
- (a) cross the land if it is reasonably necessary to allow the first authority holder to enter the first authority's area;
  - (b) carry out activities on the land that are reasonably necessary to allow the crossing of the land.
- (2) However, a right under subsection (1) may be exercised only if its exercise does not adversely affect the carrying out of an authorised activity for the second authority.
- (3) Subsection (2) applies whether or not the authorised activity has already started.

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## **Part 10 Compensation and negotiated access**

### **Division 1 Compensation other than for notifiable road uses**

#### **Subdivision 1 Preliminary**

##### **319 Application of div 1**

This division does not apply for a public land authority in relation to a notifiable road use.

#### **Subdivision 2 General provisions**

##### **320 General liability to compensate**

- (1) The holder of each GHG authority is liable to compensate each owner or occupier of private land or public land in the area of, or access land for, the authority (an *eligible claimant*) for any compensatable effect the eligible claimant suffers caused by relevant authorised activities.
- (2) A GHG authority holder's liability under subsection (1) to an eligible claimant is the holder's *compensation liability* to the claimant.
- (3) This section is subject to section 325E.
- (4) In this section—  
*compensatable effect* means all or any of the following—
  - (a) all or any of the following relating to the eligible claimant's land—
    - (i) deprivation of possession of its surface;

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- (ii) diminution of its value;
  - (iii) diminution of the use made or that may be made of the land or any improvement on it;
  - (iv) severance of any part of the land from other parts of the land or from other land that the eligible claimant owns;
  - (v) any cost, damage or loss arising from the carrying out of activities under the GHG authority on the land;
- (b) accounting, legal or valuation costs the claimant necessarily and reasonably incurs to negotiate or prepare a conduct and compensation agreement, other than the costs of a person facilitating an ADR;

*Examples of negotiation—*

an ADR or conference

- (c) consequential damages the eligible claimant incurs because of a matter mentioned in paragraph (a) or (b).

*relevant authorised activities* means authorised activities for the GHG authority carried out by the holder or a person authorised by the holder.

### **Subdivision 3      General provisions for conduct and compensation agreements**

#### **321      Conduct and compensation agreement**

- (1) An eligible claimant and a GHG authority holder may enter into an agreement (a *conduct and compensation agreement*) about—
- (a) how and when the GHG authority holder may enter the land for which the eligible claimant is an eligible claimant; and

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- (b) how authorised activities under the GHG authority to the extent they relate to the eligible claimant must be carried out; and
  - (c) the holder's compensation liability to the claimant or any future compensation liability that the holder may have to the claimant.
- (2) However, a conduct and compensation agreement can not be inconsistent with this Act, a condition of the GHG authority or a mandatory provision of the land access code and is unenforceable to the extent of the inconsistency.
- (3) A conduct and compensation agreement may relate to all or part of the liability or future liability.

### **322 Content of conduct and compensation agreement**

- (1) A conduct and compensation agreement must—
- (a) provide for the matters mentioned in section 321(1); and
  - (b) be written and signed by or for the GHG authority holder and the eligible claimant; and
  - (c) state whether it is for all or part of the compensation liability; and
  - (d) if it is for only part of the compensation liability, state—
    - (i) details of each activity or effects of the activity to which the agreement relates; and
    - (ii) the period for which the agreement has effect; and
  - (e) provide for how and when the compensation liability will be met.
- (2) A conduct and compensation agreement may—
- (a) extend the holder's compensation liability to the claimant or any future compensation liability that the holder may have to the claimant to any renewal of the GHG authority; and
  - (b) provide for—



- (i) monetary or non-monetary compensation; or

*Example of non-monetary compensation—*

A conduct and compensation agreement may provide for the construction of a road for the claimant.

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

*Example of a process for amendment—*

A conduct and compensation agreement may provide for compensation under it to be reviewed on the happening of a material change in circumstances for the GHG authority including a change in the extent of activities required under a later development plan for a GHG lease.

- (c) provide for any compensation that is or may be payable by the holder to the eligible claimant under the Environmental Protection Act.

- (3) This section does not limit the matters that may be provided for in a conduct and compensation agreement.

## Subdivision 4 Negotiation process

*Note—*

Generally, a GHG authority holder can not enter private land to carry out an advanced activity unless the holder complies with this subdivision. See sections 283 and 284.

### 323 Notice of intent to negotiate

- (1) A GHG authority holder may give an eligible claimant to whom the holder has a compensation liability a notice (the *negotiation notice*) that the holder wishes to negotiate a conduct and compensation agreement or a deferral agreement with the eligible claimant.
- (2) The negotiation notice must be accompanied by a copy of the land access code and state all of the following—

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- (a) if the holder wishes to negotiate a conduct and compensation agreement—
    - (i) whether the holder wishes to negotiate all or part of the holder's compensation liability to the eligible claimant; and
    - (ii) if the holder only wishes to negotiate part of the liability—what the part is;
  - (b) if the holder wishes to negotiate a deferral agreement—that wish and the reasons for it;
  - (c) the land the holder proposes to enter;
  - (d) the activities proposed to be carried out on the land;
  - (e) when and where the activities are proposed to be carried out;
  - (f) if the holder is a corporation—contact details for the holder and an individual the holder has authorised to negotiate the agreement.
- (3) The GHG authority holder must give the chief executive a copy of the negotiation notice immediately after it is given.

Maximum penalty for subsection (3)—10 penalty units.

### **324 Negotiations**

- (1) On the giving of the negotiation notice, the GHG authority holder and the eligible claimant (the *parties*) must use all reasonable endeavours to negotiate a conduct and compensation agreement or a deferral agreement (a *relevant agreement*).
- (2) The period of the negotiations—
  - (a) must be at least for the period provided for under section 324A (the *minimum negotiation period*); but
  - (b) may continue for as long as the parties wish.
- (3) If, during the minimum negotiation period, the parties enter into a relevant agreement the GHG authority holder can not

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enter the relevant land to carry out advanced activities for the authority until the period ends.

- (4) Subsection (3) applies despite the terms of the agreement.

### **324A Provision for the minimum negotiation period**

- (1) Generally, the minimum negotiation period is 20 business days from the giving of the negotiation notice (the *usual period*).
- (2) Either party may, within the usual period, ask the other to agree to a longer minimum negotiation period because of stated reasonable or unforeseen circumstances.
- (3) If the other party so agrees, the longer minimum negotiation period is the minimum negotiation period.

### **325 Cooling-off during minimum negotiation period**

- (1) This section applies if the parties enter into a conduct and compensation agreement or a deferral agreement during the minimum negotiation period.
- (2) Either of the parties may, within the minimum negotiation period, terminate the agreement by giving notice to the other party.
- (3) On the giving of a notice under subsection (2), the terminated agreement is taken never to have had any effect.
- (4) To remove any doubt, it is declared that subsection (3) does not change the time when the negotiation notice was given.

### **325A Parties may seek conference or independent ADR**

- (1) This section applies if, at the end of the minimum negotiation period, the parties have not entered into a conduct and compensation agreement or deferral agreement.
- (2) Either party may by a notice (an *election notice*)—

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- (a) to the other party and an authorised officer—ask for an authorised officer to call a conference to negotiate a conduct and compensation agreement; or
  - (b) to the other party—call upon them to agree to an alternative dispute resolution process (an **ADR**) to negotiate a conduct and compensation agreement.
- (3) If the notice calls for an ADR, it must—
- (a) identify the ADR; and
  - (b) state that the party giving the notice agrees to bear the costs of the person who will facilitate the ADR.
- (4) An ADR may be a process of any kind including, for example, arbitration, conciliation, mediation or negotiation.
- (5) However, the facilitator must be independent of either party.

### **325AB Conduct of conference or ADR**

- (1) This section applies if an election notice is given.
- (2) If a conference was requested—
- (a) the authorised officer must take all reasonable steps to ensure the conference is finished within 20 business days after the notice is given (the ***usual period***); and
  - (b) chapter 6, part 1A applies for the conference.
- (3) If an ADR was called for, the parties must use reasonable endeavours to finish it within 20 business days after the giving of the notice (also the ***usual period***).
- (4) Either party may, within the usual period, ask the other to agree to a longer period to finish the conference or ADR because of stated reasonable or unforeseen circumstances.
- (5) If the parties agree to the longer period, that period applies instead of the usual period.
- (6) If an ADR was called for, section 377D applies to the ADR as if a reference in the section to a conference were a reference to an ADR.

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*Editor's note—*

section 377D (What happens if a party does not attend)

## **Subdivision 5      Deciding compensation through Land Court**

### **325B Land court may decide if negotiation process unsuccessful**

- (1) This section applies if an election notice is given and—
  - (a) a party asked an authorised officer to call a conference and the authorised officer does not finish it within the period required under section 325AB (the *required period*); or
  - (b) a party called for an ADR and the person facilitating the ADR does not finish it within the period required under section 325AB (also the *required period*).
- (2) This section also applies if an election notice is given and—
  - (a) only 1 party attended the conference requested or ADR called for; or
  - (b) both parties attended the conference or ADR and, at the end of the required period, there is no conduct and compensation agreement between the parties.
- (3) An eligible party may apply to the Land Court for it to decide the GHG authority holder's—
  - (a) compensation liability to the claimant; or
  - (b) future compensation liability to the claimant for an authorised activity for the GHG authority proposed to be carried out by or for the holder.
- (4) However, the Land Court may decide the liability or future liability only to the extent it is not subject to a conduct and compensation agreement.

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(5) In hearing the application, the Land Court must as much as practicable ensure the hearing happens together with, or as closely as possible to, the hearing of any relevant environmental compensation application.

(6) In this section—

*eligible party* means a party who attended the conference or ADR.

*relevant environmental compensation application* means an application to the Land Court for compensation that is or may be payable by the GHG authority holder to the eligible claimant under the Environmental Protection Act.

### **325C Land Court review of compensation**

(1) This section applies if—

(a) the compensation liability or future compensation liability of a GHG authority holder to an eligible claimant has been agreed to under a conduct and compensation agreement or decided by the Land Court (the *original compensation*); and

(b) there has been a material change in circumstances (the *change*) since the agreement or decision.

(2) The eligible claimant or the holder may apply to the Land Court for it to review the original compensation.

(3) In carrying out the review, the Land Court may review the original compensation only to the extent it is affected by the change.

(4) If the Land Court considers the original compensation is not affected by the change, it must not carry out or continue with the review.

(5) The Land Court may, after carrying out the review, decide to confirm the original compensation or amend it in a way the court considers appropriate.

- (6) If the decision is to amend the compensation, the original compensation as amended under the decision is, for this Act, taken to be the original compensation.

### **325D Orders Land Court may make**

- (1) The Land Court may make any order it considers appropriate to meet or enforce its decision on an application under this part.
- (2) Without limiting subsection (1), the Land Court may order non-monetary compensation as well as monetary compensation.

## **Subdivision 6 Additional Land Court jurisdiction for compensation and related matters**

### **325DA What sdiv 6 is about**

- (1) This subdivision provides for additional matters for which the Land Court has jurisdiction.
- (2) The jurisdiction is subject to subdivisions 1 to 5.

### **325DB Additional jurisdiction**

- (1) This section applies to a GHG authority holder and an eligible claimant (the *parties*) if any of the following apply—
  - (a) the GHG authority holder has carried out a preliminary activity;
  - (b) the parties can not reach agreement about a conduct and compensation agreement;
  - (c) there is a conduct and compensation agreement or deferral agreement between the parties.
- (2) The Land Court may do all or any of the following—

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- (a) assess all or part of the relevant GHG authority holder's compensation liability to another party;
- (b) decide a matter related to the compensation liability;
- (c) declare whether or not a proposed authorised activity for the relevant GHG authority would, if carried out, interfere with the carrying out of lawful activities by the eligible claimant;
- (d) make any order it considers necessary or desirable for a matter mentioned in paragraph (a), (b) or (c).

*Example—*

The Land Court declares that a particular proposed authorised activity interferes with the carrying out of lawful activities by the eligible claimant. It may also order that a stated modification of, or reduction in, the activity would remove the interference.

### **325DC Jurisdiction to impose or vary conditions**

- (1) In deciding a matter mentioned in section 325DB(2), the Land Court may—
  - (a) impose any condition it considers appropriate for the exercise of the parties' rights; or
  - (b) vary any existing condition under an agreement between the parties.
- (2) The variation may be made on any ground the Land Court considers appropriate.
- (3) The imposed or varied condition is taken to be—
  - (a) if there is an agreement between the parties—a condition of the agreement; or
  - (b) if there is no agreement between the parties—an agreement between the parties.
- (4) In this section—

***agreement*** means a conduct and compensation agreement.



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*condition* means a condition of or for a conduct and compensation agreement.

## **Subdivision 7      Miscellaneous provision**

### **325E    Compensation not affected by change in ownership or occupancy**

- (1) A conduct and compensation agreement or a Land Court decision under this part is for the benefit of, and is taken to have been agreed to or decided for and is binding on, the following—
  - (a) the relevant eligible claimant;
  - (b) the GHG authority holder;
  - (c) each of their successors and assigns including successors and assigns for the area of the relevant GHG authority.
- (2) Subsection (1) is subject to section 325C.

## **Division 2                      Compensation for notifiable road uses**

### **325F    Liability to compensate public road authority**

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

*Examples of a possible cost for subsection (1)—*

- repair costs to rectify damage to the road caused or that will be caused by any of the uses
- capital costs for unplanned upgrades of the road incurred or that will be incurred because of any of the uses

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- bring-forward costs, including interest charges, for a planned upgrade of the road that because of any of the uses is or will be required earlier than planned
- (2) The holder's liability under subsection (1) is the holder's **compensation liability** to the public road authority.
  - (3) The compensation liability—
    - (a) applies whether or not the holder has, under section 302, given notice of the use; and
    - (b) is subject to section 325L; and
    - (c) is in addition to and does not limit or otherwise affect the holder's liability under another provision of this Act about compensating the public road authority or anyone else.

### **325G Compensation agreement**

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

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- (a) extend the holder's compensation liability to the public road authority relating to the road to any renewal of the GHG authority; and
  - (b) provide for—
    - (i) monetary or non-monetary compensation; or
    - (ii) a process by which it may be amended or enforced.

*Example for paragraph (b)—*

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

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

### **325H Deciding compensation through Land Court**

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

### **325I Criteria for decision**

- (1) The criteria the Land Court must consider in deciding a compensation application include—
  - (a) the reasonableness of the cost, damage or loss claimed; and
  - (b) if the public road authority is a local government—the extent to which the cost, damage or loss claimed has

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been, will be or ought reasonably to be or to have been paid from—

- (i) amounts the GHG authority holder has paid or agreed to pay the public road authority for notifiable road uses; or
  - (ii) rates and charges under the *Local Government Act 1993* paid or payable by the GHG authority holder to the public road authority; and
- (c) any other relevant matter.
- (2) In considering the reasonableness of any cost, damage or loss claimed, the Land Court must have regard to—
- (a) any action taken or proposed by the GHG authority holder to, or to attempt to, avoid, minimise or remedy the cost, damage or loss; and
  - (b) any relevant act or omission of the public road authority.
- (3) Subsection (1)(b)(ii) applies whether or not the rates and charges relate to notifiable road uses.

### **325J Land Court review of compensation**

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

*Example of a material change in circumstances—*

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

- (2) The public road authority or GHG authority holder may apply to the Land Court for it to review the original compensation.

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- (3) Sections 325H and 325I apply for the review as if the application were a compensation application.
  - (4) The Land Court may after carrying out the review decide to confirm the original compensation or amend it in a way the Land Court considers appropriate.
  - (5) However, before making the decision, the Land Court must have regard to—
    - (a) the original compensation; and
    - (b) whether the applicant has attempted to mediate or negotiate an amendment of the original compensation; and
    - (c) any change in the matters mentioned in section 325I(1) since the original compensation was agreed or decided.
  - (6) If the decision is to amend the original compensation, the original compensation as amended under the decision is for this Act taken to be the original compensation.

**325K Compensation to be addressed before carrying out notifiable road use**

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

[s 325L]

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**325L Compensation not affected by change in administration or holder**

- (1) An agreement or decision under this part about compensation liability is binding on—
  - (a) the relevant public road authority; and
  - (b) the relevant GHG authority holder; and
  - (c) each of their personal representatives, successors and assigns.
- (2) Subsection (1) is subject to section 325J.

## **Part 11 Ownership of equipment and improvements**

**326 Application of pt 11**

- (1) This part applies if—
  - (a) equipment or improvements are taken, constructed or placed on land in the area of a GHG authority; and
  - (b) the equipment or improvements were taken, constructed or placed on the land for use for an authorised activity for the GHG authority; and
  - (c) the GHG authority continues in force.
- (2) However, this part—
  - (a) does not apply for a GHG stream pipeline; and
  - (b) is subject to part 15.

*Notes—*

- 1 For pipelines, see sections 250 (General provision about ownership while tenure is in force for pipeline) and 252 (Obligation to decommission pipelines on cessation or reduction of tenure).

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- 2 Part 15 (Enforcement of end of authority and area reduction obligations).
- (3) In this section—
- equipment* includes machinery and plant.
- improvements*—
- (a) does not include a GHG well; but
- (b) does include any works constructed in connection with a GHG well.

### **327 Ownership of equipment and improvements**

- (1) While the equipment or improvements are on the land they remain the property of the person who owned them immediately before they were taken, constructed or placed on the land, unless that person otherwise agrees.

*Note*—

See however section 334 (Obligation to remove equipment and improvements).

- (2) However, for a GHG well subsection (1) is subject to part 5, division 2.

*Editor's note*—

part 5, division 2 (Decommissioning of wells)

- (3) Subsection (1) applies despite—
- (a) the plant or equipment having become part of the land;  
or
- (b) the sale or other disposal of the land.
- (4) The equipment or improvements can not be—
- (a) levied or seized in execution; or
- (b) sold in exercise of a power of sale or otherwise disposed of by a process under a law of a State taken against the holder or the owner of the land.
- (5) This section applies despite—

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- (a) an Act or law of a State; or
- (b) a contract, covenant or claim of right under a law of a State.

## **Part 12**                      **General provisions for conditions and authorised activities**

### **Division 1**                      **Other mandatory conditions for all GHG authorities**

#### **328**      **Operation of div 1**

This division provides for general mandatory conditions for all GHG authorities.

*Notes—*

- 1 The following provisions also impose mandatory conditions on all GHG authorities—
  - chapter 2, parts 1 and 5
  - chapter 3, parts 1 and 6
  - chapter 4
  - parts 7 and 8 of this chapter.
- 2 For what is a mandatory condition, see section 20(2).

#### **329**      **Compliance with land access code**

A GHG authority holder must—

- (a) comply with the mandatory provisions of the land access code to the extent it applies to the holder; and



- (b) ensure any other person carrying out an authorised activity for the GHG authority complies with the mandatory provisions of the land access code.

### **331 Obligation to comply with Act and prescribed standards**

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

*standard* includes an Australian Standard, an international standard or a code or protocol.

### **332 Obligation to survey if Minister requires**

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

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### **333 Notice of petroleum discovery**

- (1) This section applies if because of the carrying out an authorised activity for a GHG authority, its holder discovers petroleum.
- (2) The holder must within 3 business days give the chief executive a notice about the discovery.
- (3) The notice must give details of the discovery and any other information prescribed under a regulation.

*Note—*

If the holder is also a petroleum tenure holder, see also the P&G Act, section 544 (Notice by petroleum tenure holder about discovery and commercial viability).

## **Division 2                      General provisions for when authority ends or area reduced**

### **334 Obligation to remove equipment and improvements**

- (1) This section applies for equipment or improvements in the area of a GHG authority or on access land for the authority that are being, or have been, used for an authorised activity for the authority.
- (2) However, this section does not apply for—

- (a) a GHG well or a pipeline; or

*Notes—*

- 1 For GHG wells, see part 5, division 2 (Decommissioning of wells)
  - 2 For pipelines, see section 252 (Obligation to decommission pipelines on cessation or reduction of tenure).
- (b) equipment or improvements on land that under section 48, ceases to be in the area of a GHG permit.

- (3) The holder of the GHG authority must before the removal day remove the equipment or improvements from the land unless the owner of the land otherwise agrees.

Maximum penalty—1000 penalty units.

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

- (5) In this section—

*equipment* includes machinery and plant.

*removal day* means the latest of the following days—

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

### **335 Authorisation to enter to facilitate compliance**

- (1) The Minister may by notice authorise a former holder of a GHG authority to enter any of the following land to comply with, or remedy a contravention of, section 329 or this division—
- (a) the land to which section 329 or this division applies (*primary land*);
  - (b) any other land (*secondary land*) necessary or desirable to cross for access to the primary land.

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- (2) Parts 7 (other than division 4), 8 and 10 and sections 20 and 331 apply to the former holder for of the authorisation as if—
  - (a) the GHG authority were still in force (the *notional authority*); and
  - (b) the former holder is the holder of the notional authority; and
  - (c) the primary land and any secondary land are in the notional authority's area; and
  - (d) the compliance or the remedying of the contravention were authorised activities for the notional authority.
- (3) However, the power under this section does not include the power to enter a structure or a part of a structure used for residential purposes without the consent of the occupier of the structure or part of the structure.
- (4) If the former holder intends to enter the land and any occupier of the land is present at the land, the former holder also must show or make a reasonable attempt to show the occupier the former holder's authorisation under this section.

## **Division 3                      Provisions for authorised activities**

### **336      Authorised activities may be carried out despite rights of owner or occupier**

- (1) The authorised activities for a GHG authority may be carried out despite the rights of an owner or occupier of land on which the activities are carried out.
- (2) However, subsection (1) applies for an authorised activity only if section 337 does not prevent it from being carried out.

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**337 General restrictions on right to carry out authorised activity**

- (1) The right under this Act to carry out an authorised activity for a GHG authority is subject to—
- (a) chapter 4 and this chapter; and
  - (b) compliance with its holder’s rights and obligations under—
    - (i) chapters 2 to 4; and
    - (ii) this chapter; and
    - (iii) sections 387 and 388; and

*Editor’s note—*

sections 387 (GHG tenure holder’s measurement obligations) and 388 (Duty to avoid interference in carrying out GHG storage activities)
  - (c) the mandatory conditions and the other conditions and provisions of the GHG authority; and
  - (d) any exclusion or restriction provided for in the GHG authority on the carrying out of the activities; and
  - (e) the P&G Act safety provisions; and
  - (f) the Environmental Protection Act; and
  - (g) any other relevant Act or law.
- (2) Also, the right may be exercised only by the holder or someone that the holder has authorised under section 338.

**338 Who may carry out authorised activity for GHG authority holder**

- (1) An authorised activity for a GHG authority may be carried out for the holder by any of the following persons acting within the scope of the person’s authority from the holder—
- (a) if the holder is a corporation—its officers and employees;

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- (b) the holder's employees or partners who are individuals;
- (c) agents of or contractors for the holder;
- (d) officers and employees of or agents of or contractors for agents or contractors mentioned in paragraph (c).

*Example—*

A GHG lease holder may also enter into a GHG coordination arrangement under which another party to the arrangement may carry out an authorised activity for the GHG lease. See section 186(1).

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

### **338A Limitation of owner's or occupier's tortious liability for authorised activities**

- (1) This section applies to an owner or occupier of land in the area of a GHG authority if—
  - (a) someone else carries out an authorised activity for a GHG authority holder on the land; or
  - (b) someone else carries out an activity on the land and, in doing so, purports to be carrying out an authorised activity for a GHG authority.
- (2) The owner or occupier is not civilly liable to anyone else for a claim based in tort for damages relating to the carrying out of the activity.
- (3) However, subsection (2) does not apply to the extent the owner or occupier, or someone else authorised by the owner or occupier, caused, or contributed to, the harm the subject of the claim.
- (4) This section applies—

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- (a) despite any other Act or law; and
  - (b) even though this Act or the GHG authority prevents or restricts the carrying out of the activity as an authorised activity for the authority.
- (5) Subject to subsection (2), in this section, the terms *claim*, *damages* and *harm* have the same meaning that they have under the *Civil Liability Act 2003*.

## **Part 13**                      **GHG register**

### **339**      **GHG register**

- (1) The chief executive must keep a register of details about—
  - (a) GHG authorities; and
  - (b) GHG coordination arrangements; and
  - (c) dealings with GHG authorities; and
  - (d) acquired land.
- (2) The chief executive may also keep in the register information that the chief executive considers appropriate about matters relating to this Act or a resource Act.

### **340**      **Keeping of register**

- (1) The chief executive must include in the GHG register the information prescribed under a regulation.
- (2) If under this Act, there is a change relating to information required to be kept in the register or to information that under section 339(2) the chief executive keeps in the register, the chief executive must—
  - (a) amend the register to reflect the change; and
  - (b) record in the register—

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- (i) when the information was amended; and
  - (ii) for a dealing—when it took effect under section 348(2).
- (3) For subsection (2), if the change requires approval under this Act, the change happens when the approval takes effect.

### **341 Access to register**

- (1) The chief executive must—
  - (a) keep the GHG register open for inspection by the public during office hours on business days at the places the chief executive considers appropriate; and
  - (b) allow a person on payment of the fee prescribed under a regulation to search and take extracts from the register; and
  - (c) give a person who asks for a copy of all or part of a notice, a document or information held in the register the copy on payment of the fee prescribed under a regulation.
- (2) This section is subject to section 342.

### **342 Arrangements with other departments for copies from GHG register**

- (1) Despite section 341, the chief executive may enter into an arrangement with another department allowing it to carry out a search of, take extracts from or obtain a copy of particulars recorded in the GHG register without payment of the fees prescribed under section 341.
- (2) However, the chief executive may enter into an arrangement under subsection (1) only if the chief executive is reasonably satisfied the information obtained from the copy will not be—
  - (a) used for a commercial purpose, including for example, the marketing or sale of the information or other information; or



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- (b) included in another database of information in any form other than with chief executive's approval.

### **343 Supply of statistical data from GHG register**

- (1) The chief executive may enter into an agreement to supply statistical data derived from instruments or information kept in the GHG register.
- (2) If the chief executive supplies statistical data under subsection (1)—
  - (a) the fees and charges applying for the supply of the data are the fees and charges provided for in the agreement; and
  - (b) without limiting paragraph (a), the agreement may also state—
    - (i) how the fees and charges are to be calculated; and
    - (ii) how payment of the fees and charges is to be made.
- (3) Without limiting subsection (1), an agreement for the supply of statistical data may limit the use to which the data supplied may be put.
- (4) An agreement for the supply of statistical data must include—
  - (a) a provision allowing the chief executive to exclude particulars from data supplied under the agreement if the chief executive is satisfied on reasonable grounds that inclusion of the particulars may result in the particulars being inappropriately disclosed or used; and
  - (b) a provision allowing the chief executive to prohibit disclosure or to limit distribution or use of data supplied under the agreement.
- (5) An agreement under this section must not provide for the obtaining of information or anything else that may be obtained under section 341.

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(6) The chief executive must exclude GHG authority particulars and personal information from data supplied under the agreement.

(7) Subsection (6) applies despite anything in the agreement.

(8) In this section—

*GHG authority particulars* means particulars from any instrument or information kept by the chief executive that may allow a person to identify a GHG authority to which the instrument or information relates.

*personal information* means a particular from any instrument or information kept by the chief executive that may allow a person to identify a person to whom the instrument or information relates.

### **344 Chief executive may correct register**

(1) The chief executive may correct the GHG register if satisfied—

(a) the register is incorrect; and

(b) the correction will not prejudice the rights recorded in the register of a GHG authority holder, a person who holds an interest in a GHG authority or a person who is a party to a GHG coordination arrangement.

(2) The power to correct includes power to correct information in the register or a document forming part of the register.

(3) If the register is corrected, the chief executive must record in it—

(a) the state of the register before the correction; and

(b) the time, date and circumstances of the correction.

(4) A correction under this section has the same effect as if the relevant error had not been made.

(5) For subsection (1)(b), a right is not prejudiced if the relevant person acquired or has dealt with the right with actual or

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constructive knowledge that the register was incorrect and how it was incorrect.

## Part 14 Dealings

### Division 1 Preliminary

#### 345 What is a *dealing* with a GHG authority

- (1) Each of the following is a *dealing* with a GHG authority—
  - (a) a transfer of a GHG authority or of a share in a GHG authority;
  - (b) a mortgage of a GHG authority or a share in a GHG authority;
  - (c) a release, transfer or surrender of a mortgage mentioned in paragraph (b);
  - (d) a sublease or a share in a sublease of a GHG lease;
  - (e) a transfer of a sublease mentioned in paragraph (d);
  - (f) a change to a GHG authority holder's name even if the holder continues to be same person after the change.
- (2) However, a *dealing* with a GHG authority does not include a prohibited dealing mentioned in section 346(1).
- (3) In this section—

*transfer* includes—

  - (a) a transmission by death; and
  - (b) a transfer by operation of law.

*Example for paragraph (b)—*

A GHG authority is held by individuals as joint tenants and one of them dies. A transfer of the authority includes a record of the

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death to record the passing by survivorship of the deceased holder's share of the authority to the other holders.

### **346 Prohibited dealings**

- (1) The following are prohibited—
  - (a) a transfer of a pipeline constructed or operated under section 31 or 111;
  - (b) a dealing that has the effect of transferring a divided part of the area of a GHG tenure;  
*Examples of a divided part of the area of a GHG tenure—*
    - a specific part of the surface of the area
    - a specific strata beneath the surface of the area
  - (c) a transfer of a GHG data acquisition authority or of a share in a data acquisition authority other than a transfer by operation of law under section 240.
- (2) A dealing or transfer prohibited under subsection (1) is of no effect.

### **347 What is a *third party transfer***

A *third party transfer*, of a GHG authority, is a dealing that is a transfer of a GHG authority or of a share in a GHG authority other than—

- (a) a transfer under which—
  - (i) the proposed transferee is someone who holds the same Australian Business Number as any proposed transferor; or
  - (ii) all of one holder's share in the GHG authority will be transferred to another holder of the GHG authority; or
- (b) a transmission by death; or
- (c) a transfer by operation of law.

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## **Division 2                      Registration of dealings generally**

### **348      Registration required for all dealings**

- (1) A dealing with a GHG authority has no effect until it has been registered.
- (2) A registered dealing takes effect on—
  - (a) for a third party transfer—the day the transfer was concluded; or
  - (b) otherwise—the day the dealing was given to the chief executive for registration.

### **349      Approval requirement for third party transfer**

A third party transfer can not be registered unless an application has been made under division 3 for approval of the transfer and the approval has been given.

### **350      Obtaining registration other than third party transfer**

- (1) Registration of a dealing other than a third party transfer may be sought only by giving the chief executive a notice of the dealing in the approved form.
- (2) The form must be accompanied by the fee prescribed under a regulation.

### **351      Effect of approval and registration**

The registration of a dealing or the giving of an approval under division 3 for a dealing does not of itself give the dealing any more effect or validity than it would have had, had section 348 not been enacted.

## **Division 3**                      **Approval and registration of third party transfers**

### **352**    **Applying for approval**

- (1) Any party to a third party transfer may apply for approval and registration of the transfer.
- (2) However, an application can not be made under subsection (1) if the proposed transferee is not an eligible person.
- (3) The application must be—
  - (a) made to the Minister in the approved form; and
  - (b) accompanied by—
    - (i) if the GHG authority or interest is subject to a mortgage—the mortgagee’s consent; and
    - (ii) the fee prescribed under a regulation.

### **353**    **Deciding application**

- (1) The Minister must decide whether or not to give the approval.
- (2) The approval may be given only if—
  - (a) the proposed transferee is a holder of the relevant environmental authority; and
  - (b) either—
    - (i) any financial assurance required under the Environmental Protection Act for the environmental authority has been given; or
    - (ii) the administering authority under that Act has given the Minister notice that it has not required financial assurance under that Act from the proposed transferee for the environmental authority.

- (3) If the application relates to a transfer of a GHG tenure the Minister must consider the relevant criteria under chapter 2 or 3 for obtaining that type of GHG tenure.

#### **354 Security may be required**

- (1) The Minister may as a condition of deciding to give the approval require the proposed transferee to give under section 271, security for the GHG authority as if the proposed transferee were an applicant for the authority.
- (2) If the proposed transferee does not comply with the requirement, the approval may be refused.

#### **355 Information notice about refusal**

If the Minister decides not to give the approval, the Minister must give the applicant an information notice about the decision.

## **Part 15 Enforcement of end of authority and area reduction obligations**

#### **356 Power of authorised person to ensure compliance**

- (1) This section applies if the holder, or former holder, of a GHG authority has not complied with section 267, 252 or 334 in relation to land (the *primary land*).

*Editor's note—*

section 252 (Obligation to decommission pipelines on cessation or reduction of tenure), 267 (Obligation to decommission) or 334 (Obligation to remove equipment and improvements)

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- (2) A person authorised (the *authorised person*) by the chief executive may by complying with section 357 exercise the following powers (*remedial powers*)—
  - (a) enter the primary land and do all things necessary to ensure the requirement is complied with;
  - (b) enter any other land (*secondary land*) necessary or desirable to cross for access to the primary land.
- (3) However, remedial powers do not include power to enter a structure or a part of a structure used for residential purposes without the consent of the occupier of the structure or part of the structure.
- (4) The authorisation—
  - (a) must be written; and
  - (b) may be given on conditions the Minister considers appropriate.

### **357 Requirements for entry to ensure compliance**

- (1) Remedial powers may be exercised for the primary or secondary land under section 356 only if a following person is given notice of the proposed entry at least 10 business days before the proposed entry—
  - (a) if the land has an occupier—any occupier of the land;
  - (b) if the land does not have an occupier—its owner.
- (2) The notice must—
  - (a) identify the authorised person; and
  - (b) describe the land; and
  - (c) state—
    - (i) that the authorised person has under this section, been authorised to enter the land; and
    - (ii) the purpose of the entry; and
    - (iii) the period of the entry.



- (3) The chief executive may approve the giving of the notice by publishing it in a stated way.
- (4) The chief executive may give the approval only if satisfied the publication is reasonably likely to adequately inform the person to whom the notice is required to be given of the proposed entry.
- (5) If the authorised person intends to enter the land and any occupier of the land is present at the land, the person also must show or make a reasonable attempt to show the occupier the person's authorisation under this section.

### **358 Duty to avoid damage in exercising remedial powers**

In exercising remedial powers, a person must take all reasonable steps to ensure the person causes as little inconvenience, and does as little damage, as is practicable.

### **359 Notice of damage because of exercise of remedial powers**

- (1) If a person exercising remedial powers damages land or something on it, the person must give the owner and any occupier of the land notice of the damage.
- (2) If for any reason it is not practicable to comply with subsection (1), the person must—
  - (a) leave the notice at the place where the damage happened; and
  - (b) ensure it is left in a conspicuous place and in a reasonably secure way.
- (3) The notice must state—
  - (a) particulars of the damage; and
  - (b) that the owner or occupier may claim compensation under section 360 from the State.

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### **360 Compensation for exercise of remedial powers**

- (1) This section applies if an owner or occupier of land (the *claimant*) suffers a cost, damage or loss because of the exercise or purported exercise of remedial powers.
- (2) Compensation is payable to the claimant by the State for the cost, damage or loss.
- (3) The compensation may be claimed and ordered in a proceeding brought in a court of competent jurisdiction.
- (4) The court may order the compensation only if it is satisfied it is just to make the order in the circumstances of the particular case.

### **361 Ownership of thing removed in exercise of remedial powers**

- (1) This section applies if—
  - (a) remedial powers are exercised for land; and
  - (b) in the exercise of the powers a thing is removed from the land; and
  - (c) immediately before the removal, the thing was the property of—
    - (i) the holder or former holder of a GHG authority about whom the powers were exercised; or
    - (ii) an agent of or contractor for the holder.
- (2) On the removal, the thing becomes the property of the State.
- (3) The State may deal with the thing as it considers appropriate, including for example, by destroying it or giving it away.
- (4) The chief executive may deal with the thing for the State.
- (5) If the State sells the thing, the State may after deducting the costs of the sale return the net proceeds of the sale to the former owner of the thing.

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**362 Recovery of costs of and compensation for exercise of remedial power**

- (1) The State may recover from the responsible person as a debt any—
  - (a) reasonable costs the State or an authorised person under section 356 incurs in exercising a remedial power; and
  - (b) compensation payable by the State under section 360 for the exercise of the remedial power.
- (2) However, in any proceeding to recover the costs, any relevant net proceeds of sale mentioned in section 361 must be deducted from the amount claimed for the costs.
- (3) In this section—

*relevant net proceeds of sale* means proceeds of sale under which the thing sold was the property of the responsible person immediately before its removal under section 361.

*responsible person* means the holder or former holder of the GHG authority about whom the remedial powers were exercised.

## **Part 16 Dealing with serious situations**

### **363 What is a serious situation**

A *serious situation* exists for a GHG storage reservoir if—

- (a) a GHG stream injected into the reservoir has leaked; or
- (b) there is a significant risk that a GHG stream injected into the reservoir will leak from it; or
- (c) a GHG stream injected, being injected or to be injected into the reservoir has behaved or is behaving otherwise than as predicted in a relevant work program or development plan.

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### **364 Minister's power to give direction**

- (1) This section applies if the Minister reasonably believes—
  - (a) a serious situation exists or may exist for a GHG storage reservoir; and
  - (b) a GHG tenure holder is in a position to take steps to remedy the situation or possible situation.
- (2) The Minister may give the GHG tenure holder a direction (a *serious situation direction*) to—
  - (a) stop injecting any GHG stream into the reservoir; or
  - (b) suspend the injection of any GHG stream into the reservoir for a stated period; or
  - (c) take steps reasonably necessary to remedy the situation within a stated reasonable period.
- (3) If the direction requires the GHG tenure holder to take action mentioned in subsection (2)(c) within a stated period, it may state the steps the Minister reasonably believes are necessary to remedy the serious situation within the period.
- (4) The direction may also require the GHG tenure holder to notify the Minister when the holder has complied with the direction.

### **365 Requirements for giving serious situation direction**

- (1) A serious situation direction must state—
  - (a) that the Minister believes—
    - (i) a stated serious situation exists; and
    - (ii) the GHG tenure holder given the direction is in a position to take steps to remedy the situation; and
  - (b) the reasons for the belief; and
  - (c) the requirements under the direction.

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- (2) The direction must include or be accompanied by an information notice about the decisions to give the direction and to fix the period.
  - (3) The direction may be given orally if—
    - (a) for any reason it is not practicable to give the direction in writing; and
    - (b) the Minister warns the person it is an offence not to comply with the direction.
  - (4) If a serious situation direction is given orally, the Minister must confirm the direction by also giving it in writing as soon as practicable after giving it orally.

### **366 Failure to comply with serious situation direction**

- (1) A GHG tenure holder to whom a serious situation direction has been given must comply with the direction.  
Maximum penalty—1000 penalty units.
- (2) Subsections (3) and (4) apply if—
  - (a) the direction requires the GHG tenure holder to take steps reasonably necessary to remedy the serious situation the subject of the direction within a stated reasonable period; and
  - (b) the direction states the steps the Minister reasonably believes are necessary to remedy the serious situation within the period.
- (3) The GHG tenure holder is taken to have complied with the requirement if all of the stated steps are taken within the period.
- (4) Subsection (3) does not prevent the GHG tenure holder from complying with the requirement in another way.

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**367 Serious situation direction applies despite other instruments**

A serious situation direction applies despite any GHG tenure, work program, development plan or other instrument made or given under this Act.

**368 Powers under P&G Act not affected**

To remove any doubt, it is declared that this part does not limit—

- (a) the power to give a compliance direction or a dangerous situation direction under the P&G Act; or
- (b) another power under the P&G Act safety provisions or chapter 10 of that Act.

## **Part 17 Miscellaneous provisions**

**369 GHG authority does not create an interest in land**

The granting of a GHG authority does not create an interest in any land.

**369A Extinguishing GHG interests on the taking of land in a GHG authority's area (other than by an easement)**

- (1) This section applies to the taking of land, other than by taking or otherwise creating an easement, under a resumption law.
- (2) Despite any other Act, the taking of land does not extinguish GHG interests other than to the extent, if any, provided for in the resumption notice for the taking of the land.
- (3) The resumption notice for the taking of land may provide for the extinguishment of a GHG interest on the taking only to the extent the relevant Minister for the taking is satisfied the

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interest is incompatible with the purpose for which the land is taken.

- (4) Without limiting the application of subsection (3), the relevant Minister may be satisfied a GHG interest is incompatible with the purpose for which the land is taken if, for that purpose, it is necessary to extinguish all interests in the land, including native title rights and interests.
- (5) A GHG interest may be—
  - (a) wholly extinguished; or
  - (b) partially extinguished by—
    - (i) excluding land from the land the subject of the interest; or
    - (ii) prohibiting the carrying out of activities by the holder of the interest.
- (6) The resumption notice for the taking of land may provide for the extinguishment of GHG interests by reference to either or both of the following—
  - (a) stated land, which—
    - (i) may be all or part of the land that is taken; and
    - (ii) if the stated land is only part of the land that is taken—may be described in the resumption notice in any way, including, for example—
      - (A) as a shape that does not constitute a block or sub-block; or
      - (B) by using 3 dimensionally located points to identify the position, shape and dimensions of each boundary;
  - (b) stated GHG interests, which may be all GHG interests or GHG interests of a particular type.
- (7) For the taking of land for which GHG interests are extinguished as provided by this section—

[s 369A]

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- (a) each person's interest in an extinguished GHG interest is converted into a right to claim compensation under the resumption law; and
  - (b) the resumption law applies with necessary and convenient changes and with the changes mentioned in subsections (8) and (9) and section 369D.
- (8) The notice of intention to resume for the proposed taking of the land must state the extent to which the GHG interests are proposed to be extinguished.
- (9) The entity taking the land must give the chief executive a notice that—
- (a) states the details of the extinguishment; and
  - (b) asks for the extinguishment to be recorded in the GHG register; and
  - (c) is accompanied by a certified copy of the resumption notice.
- (10) In this section—
- certified copy***, of the resumption notice, means a copy of the original of the notice that has been certified by a justice of the peace as being a correct copy of the original notice.
- relevant Minister***, for the taking of land under a resumption law, means—
- (a) if the land is taken under the process stated in the ALA (whether the land is taken under the ALA or another resumption law)—the Minister to whom the application that the land be taken is made under section 9 of that Act; or
  - (b) otherwise—the Minister administering the resumption law under which the land is, or is to be, taken.



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**369B Effect of extinguishment of GHG interests on the taking of land in a GHG authority's area (other than by taking an easement)**

- (1) This section applies if, under section 369A, the resumption notice for the taking of land (other than by taking or otherwise creating an easement) under a resumption law provides for the extinguishment of GHG interests for stated land.
- (2) If the resumption notice states that all GHG interests relating to the stated land are extinguished and a GHG interest relates only to the stated land, the interest is wholly extinguished.
- (3) If the resumption notice states that all GHG interests relating to the stated land are extinguished and a GHG interest relates to the stated land and other land—
  - (a) the stated land is no longer the subject of the interest; and
  - (b) without limiting paragraph (a)—
    - (i) the stated land is excluded from the area of the GHG authority comprising the interest, or under or in relation to which the interest exists; and
    - (ii) this Act applies, in relation to the area of the GHG authority, with necessary and convenient changes to allow for the exclusion of the stated land, including, for example, to allow the area to include a part of a block or sub-block if the part is what is left after the stated land is excluded from the area.
- (4) If the resumption notice states that the carrying out of stated activities on the stated land by holders of stated GHG interests is prohibited, the holder of a stated GHG interest is not, or is no longer, authorised to carry out the stated activities on the stated land.
- (5) However, subsections (3) and (4) do not apply in relation to a GHG interest that comprises, or exists under or in relation to, a new or renewed GHG authority granted after the land is taken.

[s 369C]

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**369C Applications relating to land taken under a resumption law for which GHG interests were extinguished**

- (1) The Minister may, under a grant provision, grant a new GHG authority for an area that includes acquired land only if the Minister, after consulting the entity that took the land, is satisfied the grant of the authority is compatible with the purpose for which the land is being or is to be used.
- (2) If there are 2 or more applications under this Act for the grant, under a grant provision, of a new GHG authority for an area that includes the same acquired land, the applications are to be dealt with as follows—
  - (a) the applications must be considered and decided according to the day on which they are made;
  - (b) if the applications were made on the same day—
    - (i) they take the priority the Minister decides, after considering the relative merits of each application; and
    - (ii) the Minister must give each applicant a notice stating there is competition for priority between the applicant's application and another application, or other applications, made on the same day as the day on which the applicant's application was made.
- (3) If a grant provision provides for the grant of a new GHG authority (the *new authority*) over land in the area of an existing GHG authority (the *existing authority*)—
  - (a) the application under this Act for the new authority may include acquired land that was, immediately before the taking of the land, in the existing authority's area; and
  - (b) subject to subsections (1) and (2), the Minister may grant the new authority for an area that includes the acquired land as if the acquired land were in the existing authority's area.

(4) To remove any doubt, it is declared that this section does not affect the operation of the provisions of this Act about the application for, and grant of, a new GHG authority other than to the extent provided for in subsections (1) to (3).

(5) In this section—

*grant provision* means a provision of this Act providing for the grant of a new GHG authority.

*new GHG authority* includes a renewed GHG authority.

### **369D Compensation for effect of taking of land in a GHG authority's area on GHG interests**

(1) This section applies if land in a GHG authority's area is taken under a resumption law (including by taking or otherwise creating an easement).

(2) In assessing any compensation to be paid to the holder of a GHG interest in relation to the taking of the land, allowance can not be made for the value of a GHG storage reservoir known or supposed to be in the land.

### **370 Joint holders of a GHG authority**

(1) A GHG authority may be held by 2 or more persons as joint tenants or as tenants in common.

(2) If under this Act—

(a) an application is made for, or for approval to transfer, a GHG authority for more than 1 proposed holder or transferee; and

(b) the application does not show whether the proposed holders or transferees are to hold as joint tenants or as tenants in common; and

(c) the application is granted;

the chief executive must record in the GHG register that the applicants hold the GHG authority as tenants in common.

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- (3) In this section—  
*GHG authority* includes a share in a GHG authority.

**371 Minister's power to ensure compliance by GHG authority holder**

- (1) This section applies if—
- (a) the holder of a GHG authority has not complied with a requirement under this Act, of the holder; and
  - (b) no other provision of this Act allows someone other than the holder to ensure compliance with the requirement.
- (2) The Minister may take any action the Minister considers appropriate to ensure all or part of the requirement is complied with if—
- (a) subsections (3) and (4) have been complied with; or
  - (b) the holder has agreed to the Minister taking the action.
- (3) The Minister must give the holder notice—
- (a) stating the requirement and the action the Minister proposes to take; and
  - (b) inviting the holder to within a stated reasonable period make submissions to the Minister about the proposed action.
- (4) The Minister must consider any submissions made by the holder within the stated period.
- (5) A decision to take the action does not take effect until the holder is given an information notice about the decision.
- (6) The State may recover from the holder as a debt any reasonable costs it incurs in the exercise of the power under subsection (2).

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### 372 Interest on amounts owing to the State

- (1) Interest is payable to the State on any amount owing under this Act by anyone to the State and unpaid from time to time after the relevant day.

*Examples of an amount that may be owing under this Act—*

annual or other rent and a civil penalty for nonpayment of annual rent

- (2) The interest accrues daily at the rate prescribed under a regulation on the unpaid amount for the period starting on the day immediately after the amount became payable and ending on the day the amount owing on which interest is payable is paid in full, both days inclusive.
- (3) Any amount received in payment of the unpaid amount or the interest must first be applied in payment of the interest.
- (4) Subsection (3) applies despite any order or direction of the payer.
- (5) In this section—  
*relevant day* means the following—
  - (a) for an amount for annual or other rent or a civil penalty for nonpayment of annual rent—the day that is 3 months after the last day for payment of the rent or civil penalty;
  - (b) for another amount—the day the amount becomes owing.

### 373 Recovery of unpaid amounts

- (1) If a provision of this Act requires a GHG authority holder to pay the State an amount (including interest) the State may recover the amount from the holder as a debt.
- (2) In this section—  
*holder* includes a former holder of the GHG authority about whom the remedial powers were exercised.

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### **374 Power to correct or amend authority**

- (1) The Minister may amend a GHG authority at any time by giving its holder a notice of the amendment and recording particulars in the relevant register if the amendment—
  - (a) is to correct a clerical error; or
  - (b) is to state or more accurately state the boundaries of the area of the GHG authority because of a survey carried out under section 332.
- (2) The Minister may at any time amend a condition of the GHG authority if its holder authority agrees in writing.
- (3) Despite subsections (1) and (2), the following can not be amended under this section—
  - (a) the mandatory conditions for that type of authority;
  - (b) the term of the GHG authority;
  - (c) any work program or development plan for the GHG authority.
- (4) Also, the Minister can not amend the GHG authority if the authority as amended would be inconsistent with a mandatory condition for that type of authority.

### **375 Replacement of instrument for GHG authority**

- (1) If the instrument for a GHG authority has been lost, stolen or destroyed, its holder may apply to replace it.
- (2) The application must be made to the Minister in the approved form.
- (3) If the Minister is reasonably satisfied the instrument has been lost, stolen or destroyed, the Minister must replace it.
- (4) If the Minister decides to refuse to replace the instrument, the Minister must give the holder an information notice about the decision.

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**376 Joint and several liability for conditions and for debts to State**

If more than 1 person holds a GHG authority each holder is jointly and severally—

- (a) responsible for complying with its conditions; and
- (b) liable for all debts payable under this Act and unpaid by the GHG authority holder to the State.

**377 Notice of authority holder's agents**

A person carrying out functions under this Act may refuse to deal with a person who claims to be acting as the agent of the holder of a GHG authority unless the holder has given the person notice of the agency.

## **Chapter 6 Conferences, investigations and enforcement**

### **Part 1A Conferences with eligible claimants or owners and occupiers**

#### **Division 1 Preliminary**

**377A Application of pt 1A**

- (1) This part applies if an authorised officer is given an election notice by a GHG authority holder or an eligible claimant asking for a conference.
- (2) This part also applies if—

[s 377B]

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- (a) an owner or occupier of land who is concerned about any of the following gives an authorised officer notice of the concerns—
  - (i) that someone claiming to act under a GHG authority, or to have entered land on the authority holder's instructions—
    - (A) is not authorised to be on the land; or
    - (B) is not complying with a provision of this Act or a condition of the GHG authority;
  - (ii) activities being, or proposed to be, carried out on the land apparently under a GHG authority (including when the activities are being, or are to be, carried out);
  - (iii) the conduct on the land of someone apparently acting under a GHG authority; or
- (b) a GHG authority holder who is concerned about something relevant to the authority involving the holder and the owner or occupier of land gives an authorised officer notice of the concerns; or
- (c) for another reason, an authorised officer considers it desirable to call a conference to discuss concerns about a GHG authority.

## Division 2                      Calling conference and attendance

### 377B Calling conference

- (1) If this part applies because of the giving of an election notice, the authorised officer must, by notice, ask the GHG authority holder and the eligible claimant (the *parties*) to attend a conference by the authorised officer about negotiating a conduct and compensation agreement.
- (2) If this part applies under section 377A(2), the authorised officer may, by notice, ask the GHG authority holder and the



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owner or occupier or other person with an interest in the concerns (also the *parties*) to attend a conference by the authorised officer about the concerns.

- (3) The notice must state when and where the conference will be held and what is to be discussed at the conference.

### **377C Who may attend conference**

- (1) Apart from the authorised officer, anyone given notice of the conference may attend and take part in the conference.
- (2) Also, with the authorised officer's approval, someone else may be present to help a person attending the conference.
- (3) However, a party can not be represented by a lawyer unless the parties agree and the authorised officer is satisfied there is no disadvantage to a party.

### **377D What happens if a party does not attend**

- (1) This section applies if a party given notice of the conference does not attend.
- (2) The authorised officer may hold the conference even though someone given notice of it does not attend.

*Note—*

If the conference was called because of an election notice and only 1 party attends, the Land Court may decide the issue of compensation. See section 325B.

- (3) A party who attended the conference may apply to the Land Court for an order requiring the party who did not attend to pay the attending party's reasonable costs of attending.
- (4) The Land Court must not order the party who did not attend to pay costs if it is satisfied the party had a reasonable excuse for not attending.
- (5) If the Land Court makes the order, it must decide the amount of the costs.

[s 377E]

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## **Division 3                      Conduct of conference**

### **377E    Authorised officer's role**

- (1) In conducting the conference, the authorised officer must endeavour to help those attending to reach an early and inexpensive settlement of the subject of the conference.
- (2) Subject to section 325AB, the authorised officer is to decide how the conference is to be conducted.

### **377F    Statements made at conference**

Nothing said by a person at the conference is admissible in evidence in a proceeding without the person's consent.

### **377G    Agreement made at conference**

- (1) If, at the conference, the parties negotiate an agreement about the concerns the subject of the conference, the agreement must be written and signed by or for the parties.
- (2) The agreement—
  - (a) may, if appropriate, be a conduct and compensation agreement or an amendment of an existing conduct and compensation agreement between the parties; and
  - (b) has the same effect as any other compromise.

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## Part 1                      Noncompliance action for GHG    authorities

### Division 1                Preliminary

#### 378    Operation of div 1

- (1) This division provides a process for noncompliance action against the holder of a GHG authority.
- (2) The power to take noncompliance action under this part does not limit a power as follows (the *other power*)—
  - (a) the power under chapter 5, part 6 to require new or additional security;
  - (b) a power under another provision of this Act to amend the GHG authority;
  - (c) the power to give a dangerous situation or compliance direction under the P&G Act.
- (3) The other power does not limit the power to take noncompliance action.
- (4) Noncompliance action may be taken when the other power is exercised.

*Notes—*

- 1 The P&G Act, chapter 10 includes provisions about investigating GHG storage activities and for the giving of compliance and dangerous situation directions concerning those activities.
- 2 See also chapter 5, part 16 (Dealing with serious situations).

[s 379]

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## **Division 2                      Noncompliance action by Minister**

### **379    Types of noncompliance action that may be taken**

(1) The noncompliance action the Minister may take under this division is all or any of the following—

(a) amending the GHG authority by doing all or any of the following—

(i) for a GHG authority other than a GHG lease, reducing its term;

(ii) reducing its area;

*Example of a possible reduction—*

A GHG permit holder has not in contravention of section 89, carried out work required under the work program for the permit. Noncompliance action may include amending the permit to reduce its area to reflect the work not carried out.

(iii) amending a condition of the GHG authority;

(iv) imposing a new condition;

(b) for a GHG authority other than a GHG lease, requiring its holder to relinquish a stated part of its area on or before a stated time;

(c) cancelling the GHG authority, immediately or on a stated day;

(d) if the GHG authority is a GHG tenure—

(i) withdrawing from a stated day, the approval of its work program or development plan; and

(ii) directing its holder to, on or before that day, give the Minister the following document so that the Minister may decide whether to approve it—

(A) for a GHG permit—a proposed later work program that complies with the later work program requirements;

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- (B) for a GHG lease—a proposed later development plan that complies with the later development plan requirements;
- (e) requiring the GHG authority holder to pay the State a penalty of an amount no more than the monetary value of 2000 penalty units.
- (2) However, a requirement under subsection (1)(e) may be made only if the holder has agreed to the requirement being made instead of the taking other noncompliance action under subsection (1).
- (3) A condition or amendment under subsection (1) may restrict the authorised activities for the GHG authority.
- (4) If under subsection (1)(c), the GHG authority is cancelled on a stated day, a condition may be imposed under subsection (1)(a) restricting the authorised activities for the authority until the cancellation.
- (5) Noncompliance action may be taken despite the mandatory conditions for the GHG authority.

### **380 When noncompliance action may be taken**

- (1) Noncompliance action may be taken if—
- (a) an event mentioned in subsection (2) or (3) has happened; and
- (b) the procedure under division 3 for taking the action has been followed; and
- (c) the GHG authority for which the noncompliance action is taken relates to the event for which the action is taken.
- (2) For subsection (1), the event is that the holder—
- (a) obtained the GHG authority because of a materially false or misleading representation or declaration made orally or in writing; or
- (b) has failed to comply with this Act, a direction given under this Act or the GHG authority; or



- (c) the grounds for taking noncompliance action against the holder;
  - (d) the facts and circumstances that are the basis for the grounds;
  - (e) that the holder may within a stated period make submissions to the Minister about the proposal to take noncompliance action.
- (2) The notice may state any of the following—
- (a) if the noncompliance action is likely to include amending the GHG authority—the likely amendment;
  - (b) the amount of any likely reduction of the GHG authority’s area.
- (3) The stated period must be at least 20 business days after the holder is given the notice.

### **382 Considering submissions**

- (1) The Minister must consider any submissions made by the holder within the period stated in the notice given under section 381.
- (2) If the Minister decides not to take noncompliance action the Minister must, as soon as practicable, give the holder a notice of the decision.

### **383 Decision on proposed noncompliance action**

- (1) If after complying with section 382, the Minister still believes a ground exists to take noncompliance action, the Minister may decide to take noncompliance action for the GHG authority relating to a ground stated in the notice given under section 381.
- (2) The Minister must in deciding whether to take the action have regard to whether the holder is a suitable person to hold or continue to hold the GHG authority.

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- (3) In considering whether the holder is a suitable person to hold or to continue to hold the GHG authority the Minister must consider any criteria for deciding whether to grant an GHG authority of the same type.

### **384 Notice and taking effect of decision**

- (1) If the Minister makes a decision under section 383, the person must after making the decision give an information notice about the decision to—
  - (a) the holder; and
  - (b) any other person who holds an interest in the GHG authority recorded in the GHG register.
- (2) Generally, the decision takes effect on the later of the following—
  - (a) the day the holder is given the information notice;
  - (b) a later day of effect stated in the notice.
- (3) However, if the decision was to cancel the GHG authority, the decision does not take effect until the end of the appeal period for the decision.

### **385 Consequence of failure to comply with relinquishment requirement**

- (1) This section applies if—
  - (a) noncompliance action taken is a requirement under section 379(1)(b), of a GHG authority holder; and
  - (b) the requirement is not complied with.
- (2) The Minister must give the holder a notice requiring the holder to comply with the requirement under section 379(1)(b) within 20 business days after the giving of the notice.
- (3) If the holder does not comply with the requirement under the notice, the GHG authority is cancelled.



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- (4) However, the cancellation does not take effect until the Minister gives the holder a notice stating that the GHG authority has been cancelled because of the operation of subsection (3).

## **Part 2                      General offences**

### **Division 1                      Restrictions relating to GHG storage activities**

#### **386      Restriction on GHG storage activities**

- (1) A person must not carry out a GHG storage activity in relation to land unless—
- (a) the activity is carried out under a GHG authority or a serious situation direction; or
  - (b) the carrying out of the activity is necessary to preserve life or property because of a dangerous situation or emergency that exists or may exist; or
  - (c) the activity is the construction or operation of a GHG stream pipeline carried out under a pipeline licence; or
  - (d) the person—
    - (i) is carrying out the activity for the State; and
    - (ii) has, under section 420, been authorised for that purpose; and
    - (iii) is acting within the scope of that authority.

Maximum penalty—2000 penalty units.

- (2) If the activity is injecting a GHG stream into an underground reservoir, it is a defence to a proceeding for an offence against subsection (1) for the defendant to prove that the injection—

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- (a) was for the purpose of enhanced petroleum recovery and was authorised under the 1923 Act or the P&G Act; and
- (b) was for the purpose of production testing or geothermal production under the Geothermal Act and was authorised under that Act.

### **387 GHG tenure holder's measurement obligations**

The holder of a GHG tenure must ensure—

- (a) GHG streams used for GHG stream storage in the GHG tenure's area are measured by a meter; and
- (b) the meter complies with any requirements prescribed under a regulation; and
- (c) the measurement is made at the times and in the way prescribed under a regulation.

Maximum penalty—500 penalty units.

### **388 Duty to avoid interference in carrying out GHG storage activities**

A person who carries out an authorised activity for a GHG authority must carry out the activity in a way that does not unreasonably interfere with anyone else carrying out a lawful activity.

Maximum penalty—500 penalty units.

## **Division 2 Interference with authorised activities**

### **389 Obstruction of GHG authority holder**

- (1) A person must not without reasonable excuse obstruct a GHG authority holder from—

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- (a) entering or crossing land to carry out an authorised activity for the GHG authority if chapter 5, part 7 or 8 to the extent the part is relevant, has been complied with for the entry; or
  - (b) carrying out an authorised activity for the GHG authority on the land.

Maximum penalty—500 penalty units.

- (2) If a person has obstructed a GHG authority holder from carrying out an activity mentioned in subsection (1) and the holder decides to proceed with the carrying out of the activity, the holder must warn the person that—
  - (a) it is an offence to obstruct the holder unless the person has a reasonable excuse; and
  - (b) the holder considers the person's conduct is an obstruction.
- (3) In this section—

*obstruct* includes assault, hinder, resist and attempt or threaten to assault, hinder, resist.

### **390 Restriction on building on pipeline land for GHG tenure**

- (1) This section applies if land is land is pipeline land for 1 or more 1 or more GHG tenures.
- (2) A person other than a holder of any of the GHG tenures must not construct or place a structure on the land unless all the GHG tenure holders consent.

Maximum penalty—500 penalty units.

### **391 Restriction on changing surface of pipeline land for a GHG tenure**

A person must not change the surface of pipeline land for a GHG tenure in a way that changes or may cause a change to the depth of burial of a pipeline unless—

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- (a) the GHG tenure holder consents; or
- (b) the change is necessary to preserve life or property because of a dangerous situation or emergency that exists or may exist; or
- (c) the change is a change to a public road by or for its public road authority; or
- (d) the person has a reasonable excuse.

Maximum penalty—500 penalty units.

## **Division 3                    Other offences**

### **392    False or misleading information**

- (1) A person must not make an entry in a document required to be kept under this Act knowing the entry is false or misleading in a material particular.

Maximum penalty—500 penalty units.

- (2) A person of whom a direction or requirement under this Act has been made must not state anything or give a document or thing in response to the direction or requirement that the person knows is false or misleading in a material particular.

Maximum penalty—500 penalty units.

### **393    Executive officers must ensure corporation does not commit particular offences**

- (1) The executive officers of a corporation must ensure the corporation complies with each designated provision of this Act.
- (2) If a corporation commits an offence against a designated provision of this Act, each of its executive officers also commits an offence, namely, the offence of failing to ensure the corporation complies with the provision.

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Maximum penalty—the penalty for the contravention of the provision by an individual.

- (3) Evidence that the corporation has been convicted of an offence against a designated provision of this Act is evidence that each of its executive officers committed the offence of failing to ensure the corporation complies with the provision.
- (4) However, it is a defence for an executive officer to prove that—
  - (a) if the officer was in a position to influence the conduct of the corporation in relation to the offence—the officer exercised reasonable diligence to ensure the corporation complied with the designated provision; or
  - (b) the officer was not in a position to influence the conduct of the corporation in relation to the offence.

- (5) In this section—

*designated provision*, of this Act, means any of the following provisions—

- sections 176 to 178, 244, 264, 267, 315, 334 and 366
- chapter 5, part 4
- this part, other than this section.

### **394 Attempts to commit offences**

- (1) A person who attempts to commit an offence against this Act commits an offence.

Maximum penalty for an attempt—half the maximum penalty for the completed offence.

- (2) The Criminal Code, section 4 applies to subsection (1).

## **Part 3**                      **Appeals**

### **395**    **Who may appeal**

- (1) A person whose interests are affected by a decision of the Minister identified in schedule 1 may appeal against the decision to the Land Court.
- (2) For this section, a person who has been given or is entitled to be given an information notice about a decision is taken to be a person whose interests are affected by the decision.

### **396**    **Period to appeal**

- (1) The appeal must be started within 20 business days after—
  - (a) for an appeal from a review decision—
    - (i) if the person has been given a review notice about the review decision to which the appeal relates—the day the person is given the notice; or
    - (ii) if subparagraph (i) does not apply—the day the person otherwise becomes aware of the review decision; or
  - (b) for an appeal from another decision—
    - (i) if the person has been given an information notice about the decision—the day the person is given the notice; or
    - (ii) if subparagraph (i) does not apply—the day the person otherwise becomes aware of the decision.
- (2) However, the Land Court may at any time within the 20 business days extend the period for making an appeal.

### **397**    **Starting appeal**

- (1) The appeal is started by filing a written notice of appeal with the Land Court.

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- (2) The appellant must give the chief executive a copy of the notice.

### **398 Stay of operation of decision**

- (1) The Land Court may grant a stay of the decision to secure the effectiveness of the appeal.
- (2) A stay—
- (a) may be given on the conditions the Land Court considers appropriate; and
  - (b) operates for the period fixed by the Land Court; and
  - (c) may be amended or cancelled by the Land Court.
- (3) The period of a stay under this section must not extend past the time when the Land Court decides the appeal.
- (4) The appeal affects the decision or carrying out of the decision only if it is stayed.

### **399 Hearing procedures**

- (1) In deciding an appeal, the Land Court—
- (a) has the same powers as the Minister; and
  - (b) is not bound by the rules of evidence; and
  - (c) must comply with natural justice; and
  - (d) may hear the appeal in court or in chambers.
- (2) An appeal is by way of rehearing unaffected by the decision.
- (3) Subject to subsections (1) and (2), the procedure for the appeal is—
- (a) in accordance with the rules for the Land Court; or
  - (b) in the absence of relevant rules, as directed by the Land Court.
- (4) A power under an Act to make rules for the Land Court includes power to make rules for appeals under this part.

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#### **400 Land Court's powers on appeal**

- (1) Subject to section 401, in deciding an 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 issue to the Minister with the directions the Land Court considers appropriate.
- (2) If the Land Court substitutes another decision, the substituted decision is for this Act other than this part taken to be the decision of the Minister.

#### **401 Restriction on Land Court's powers for decision not to grant GHG lease**

- (1) This section applies if the Land Court is deciding an appeal against a decision not to grant a GHG lease.
- (2) The Land Court can not exercise a power mentioned in section 400(1)(b) or (c) in relation to the decision on the ground that any resource management decision for the application for the GHG lease was to give overlapping authority priority, in whole or part.

## **Part 4 Evidence and legal proceedings**

### **Division 1 Evidentiary provisions**

#### **403 Application of div 1**

This division applies to a proceeding under or in relation to this Act.



**404 Authority**

The power of the Minister or chief executive to do anything under this Act must be presumed unless a party to the proceeding, by reasonable notice, requires proof of it.

**405 Signatures**

A signature purporting to be the signature of the Minister or the chief executive is evidence of the signature it purports to be.

**406 Other evidentiary aids**

A certificate purporting to be signed by the chief executive stating any of the following matters is evidence of the matter—

- (a) that a stated document of any of the following types is a document given, issued, kept or made under this Act—
  - (i) an appointment, approval or decision;
  - (ii) a direction, notice or requirement;
  - (iii) a GHG authority;
  - (iv) the GHG register;
  - (v) a report;
  - (vi) another record;
- (b) that a stated document is another document kept under this Act;
- (c) that a stated document is a copy of, or an extract from or part of, a thing mentioned in paragraph (a) or (b);
- (d) that on a stated day—
  - (i) a stated person was given a stated decision, direction or notice under this Act; or
  - (ii) a stated requirement under this Act was made of a stated person;

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- (e) that on a stated day or during a stated period a GHG authority—
  - (i) was or was not in force; or
  - (ii) was or was not subject to a stated condition; or
  - (iii) was or was not cancelled;
- (f) that a stated amount is payable under this Act by a stated person and has not been paid;
- (g) that a stated address for the holder of a GHG authority is the last address of the holder known to the Minister or the chief executive.

## **Division 2                      Offence proceedings**

### **407      Offences under Act are summary**

- (1) An offence against this Act is a summary offence.
- (2) A proceeding for an offence against this Act must start within the later of the following periods to end—
  - (a) 1 year after the commission of the offence;
  - (b) 6 months after the offence comes to the complainant's knowledge but within 2 years after the commission of the offence.

### **408      Statement of complainant's knowledge**

In a complaint starting a proceeding for an offence against this Act, a statement that the matter of the complaint came to the complainant's knowledge on a stated day is evidence the matter came to the complainant's knowledge on that day.

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**409 Conduct of representatives**

- (1) This section applies to a proceeding for an offence against this Act if it is relevant to prove a person's state of mind about particular conduct.
- (2) It is enough to show—
  - (a) the conduct was engaged in by a representative of the person within the scope of the representative's actual or apparent authority; and
  - (b) the representative had the state of mind.
- (3) Conduct engaged in for a person by a representative of the person within the scope of the representative's actual or apparent authority is taken to have been engaged in also by the person unless the person proves—
  - (a) if the person was in a position to influence the representative in relation to the conduct—the person took reasonable steps to prevent the conduct; or
  - (b) the person was not in a position to influence the representative in relation to the conduct.
- (4) In this section—

*engaging* in conduct includes failing to engage in conduct.

*representative* means—

  - (a) for a corporation—an agent, employee or executive officer of the corporation; or
  - (b) for an individual—an agent or employee of the individual.

*state of mind*, of a person, includes the person's—

  - (a) belief, intention, knowledge, opinion or purpose; and
  - (b) reasons for the belief, intention, opinion or purpose.

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#### **410 Additional orders that may be made on conviction**

- (1) If a court convicts a person for an offence against this Act, it may—
  - (a) order the forfeiture to the State of—
    - (i) anything used to commit the offence; or
    - (ii) anything else the subject of the offence; and
  - (b) make any order to enforce the forfeiture it considers appropriate; and
  - (c) order the person to pay the State the amount of costs it incurred for remedial work that was necessary or desirable because of the commission of the offence.
- (2) Forfeiture of a thing may be ordered—
  - (a) whether or not it has been seized under this Act; and
  - (b) if it has been seized under this Act, whether or not it has been returned to its owner.

## **Chapter 7 Miscellaneous provisions**

### **Part 1 Applications, lodging documents and making submissions**

#### **411 Place for making applications, lodging documents or making submissions**

- (1) This section applies to any of the following under this Act—
  - (a) the making of an application;
  - (b) the giving of a document to the Minister or the chief executive;

- (c) the making of a submission.
- (2) The application, document or submission may be made or given only at the following place—
  - (a) the office of the department provided for under the relevant approved form for that purpose;
  - (b) if the relevant approved form does not make provision as mentioned in paragraph (a) or if there is no relevant approved form—the office of the department notified on the department’s website.

**412 Substantial compliance with application requirements may be accepted**

If—

- (a) a person has made or purported to make an application under this Act; and
- (b) the requirements under this Act for making the application have not been complied with; and
- (c) the Minister is satisfied the application substantially complies with the requirements;

the person who must decide the application may decide to allow it to proceed and be decided as if it did comply with the requirements.

**413 Additional information may be required about application**

- (1) If the Minister is deciding or is required to decide an application under this Act, the Minister may by notice require the applicant to give the Minister within a stated reasonable period—
  - (a) additional information about, or a document relevant to, the application; or

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*Example—*

The application is for a GHG tenure. The Minister may require a document, prepared by an appropriately qualified person, independently verifying geological or predictive migration data given in the proposed work program or development plan for the GHG tenure.

- (b) an independent report by an appropriately qualified person or a statutory declaration by verifying all or any of the following—
  - (i) any information included in the application;
  - (ii) any additional information required under paragraph (a);
  - (iii) if the application is for a GHG tenure—that the applicant meets the relevant capability criteria under chapter 2 or 3.
- (2) For subsection (1)(a), if the application is for a GHG authority, a required document may include a survey or resurvey of the area of the proposed authority carried out by a cadastral surveyor under the *Surveyors Act 2003*.
- (3) For subsection (1)(b), the notice may require the statutory declaration—
  - (a) to be made by an appropriately qualified independent person or by the applicant; or
  - (b) if the applicant is a corporation—to be made for the applicant by an executive officer of the applicant.
- (4) If the applicant does not comply with the requirement, the Minister may refuse the application.
- (5) The applicant must pay any costs incurred in complying with the notice.

#### **414 Particular criteria generally not exhaustive**

- (1) This section applies if another provision of this Act permits or requires the Minister to consider particular criteria in deciding an application.

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- (2) To remove any doubt, it is declared that the Minister may in making the decision consider any other criteria the Minister considers relevant.
  - (3) However, subsection (2) does not apply if the provision otherwise provides.
  - (4) In this section—  
*criteria* includes issues and matters.

#### **415 Particular grounds for refusal generally not exhaustive**

- (1) This section applies if another provision of this Act provides for particular grounds on which the Minister may refuse an application.
- (2) To remove any doubt, unless the other provision otherwise provides, the person may refuse the application on another reasonable and relevant ground.
- (3) In this section—  
*refuse*, an application, includes to refuse the thing the subject of the application.

#### **416 Amending applications**

- (1) If a person has made an application under this Act, the person may amend the application or a document accompanying the application only if—
  - (a) the application has not been decided; and
  - (b) the Minister has agreed to the making of the amendment; and
  - (c) if the proposed amendment is to change the applicant—each applicant and proposed applicant has agreed to the change.
- (2) However, if the application is a tender for a GHG tenure—

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- (a) a proposed work program or development plan included in the tender can not be amended after the applicant has become the preferred tenderer for the tender; and
  - (b) the tender can not be otherwise amended after the closing time for the relevant call for tenders.
- (3) However, subsection (2)(b) does not apply if—
- (a) the tenderer is a corporation; and
  - (b) the change is only a change of name of the tenderer; and
  - (c) the tenderer's Australian company number and Australian registered business name have not changed.
- (4) If under subsection (1), the application is amended to change the applicant, for the deciding of the application the applicant as changed is taken to have been the applicant from the making of the application.

#### **417 Withdrawal of application**

- (1) A person who has made an application under this Act may give the chief executive a notice withdrawing the application at any time before any decision about the application takes effect.
- (2) The withdrawal takes effect when the notice is given.
- (3) If the applicant is a preferred tenderer for a call for tenders, the withdrawal does not affect the Minister's power to appoint another tenderer from the tenders made in response to the call to be the preferred tenderer.

#### **418 Minister's power to refund application fee**

If an application under this Act is withdrawn, the Minister may refund all or part of any fee paid for the application.



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## Part 2                      Other miscellaneous provisions

### 419      **General public interest criteria for ministerial decisions**

- (1) The Minister must consider the public interest in making a decision under this Act about an application or the granting of an approval by the Minister.
- (2) If—
  - (a) another provision of this Act permits or requires the Minister to make a decision; and
  - (b) the other provision does not require the Minister to consider the public interest;

the Minister may nonetheless consider the public interest in making the decision.

### 420      **Provision for entry by State to carry out GHG storage activity**

- (1) If the State proposes to exercise a right under section 28(3)(b)(i), the right may be exercised by anyone authorised by the chief executive.
- (2) However, a person authorised under subsection (1) may enter the land only if the person has given the owner of the land at least 5 business days notice of the proposed entry.
- (3) To remove any doubt, it is declared that subsection (2) does not apply to an inspector or authorised officer under the P&G Act performing functions under that Act relating to this Act.

### 421      **Name and address for service**

- (1) A person (the *first person*) may by a signed notice given to the chief executive nominate another person (a *nominated person*) at a stated address as the first person's address for service for this Act.

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- (2) If this Act requires or permits the Minister or chief executive to serve a notice or other document on the first person, it may be served on the first person by serving it on the last nominated person at the stated address for that person.
- (3) In this section—  
*serve* includes give.

#### **422 Additional information about reports and other matters**

- (1) This section applies if—
  - (a) a person is required under this Act to give a notice or copy of a document, report or information (the *advice*) with the Minister or the chief executive; and
  - (b) the person gives the advice.
- (2) The the Minister or chief executive may by notice require the person to give within the reasonable time stated in the notice written information about the matter for which the advice was given.
- (3) The person must comply with the notice.  
Maximum penalty for subsection (3)—500 penalty units.

#### **423 References to right to enter**

A right under this Act to enter a place includes the right to—

- (a) leave and re-enter the place from time to time; and
- (b) remain on the place for the time necessary to achieve the purpose of the entry; and
- (c) take on the place equipment, materials, vehicles or other things reasonably necessary to exercise a power under this Act.

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#### 424 Application of provisions

If a provision of this Act applies any of the following (the *applied law*) for a purpose—

- (a) another provision of this Act;
- (b) another law;
- (c) a provision of another law;

for that purpose the applied law and any definition relevant to it apply with necessary changes.

#### 425 Protection from liability for particular persons

(1) A person as follows (a *designated person*) does not incur civil liability for an act done, or omission made, honestly and without negligence under this Act—

- (a) the Minister;
- (b) a public service officer or public service employee;
- (c) a person if—
  - (i) the person has, under section 420, been authorised to carry out an activity for the State; and
  - (ii) the act or omission happened while the person was acting within the scope of that authority;
- (d) a GHG tenure holder given a serious situation direction who is complying with the direction.

(2) For subsection (1)(b), it does not matter what is the form of appointment or employment of the person.

(3) If subsection (1) prevents a civil liability attaching to a designated person, the liability attaches instead to the State.

(4) In this section—

*civil liability* includes liability for the payment of costs ordered to be paid in a proceeding for an offence against this Act.

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#### **426 Delegation by Minister or chief executive**

- (1) The Minister may delegate the Minister's functions under this Act to an appropriately qualified public service officer or employee.
- (2) The chief executive may delegate the chief executive's functions under this Act to an appropriately qualified public service officer or employee.
- (3) In this section—  
*functions* includes powers.

#### **427 Practice manual**

- (1) The chief executive may keep, in the way the chief executive considers appropriate, a manual (however called) about GHG authority administration practice to guide and inform persons dealing with the department.
- (2) The manual may include—
  - (a) directions about—
    - (i) what information, documents or instruments (*material*) a person may or must give; and
    - (ii) how or when requested material must be given; and
    - (iii) the format of requested material; and
  - (b) practices to ensure there is consistency and efficiency in GHG authority administration processes.
- (3) If—
  - (a) a person is required or permitted to give the Minister or the chief executive (the *official*) information for a particular purpose relating to this Act; and
  - (b) this Act does not provide for how the information may or must be given to the official for the purpose; and
  - (c) the person gives the official the information in the way required or permitted under the manual;

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the person is taken to have given the official the information for the purpose.

- (4) The information must be given at—
  - (a) if the manual states a particular office of the department where the information must be given (a *required office*)—that office; or
  - (b) if the manual does not state a required office and the information relates to a particular application—the department’s office where the application was lodged; or
  - (c) otherwise—the office of the chief executive.
- (5) The chief executive must—
  - (a) keep a copy of the manual and a record (however called) of each part of the manual, including the dates when each part was published or superseded; and
  - (b) make the manual and the record available to the public in the way the chief executive considers appropriate.
- (6) Without limiting subsection (5), the chief executive must ensure an up-to-date copy of the manual and the record are available to be read free of charge—
  - (a) on the department’s website; and
  - (b) if information relates to a particular application—at the department’s office where the application was made.

#### **428 Approved forms**

- (1) The chief executive may approve forms for use under this Act.
- (2) A form may be approved for use under this Act that is combined with or is to be used together with an approved form under another Act.

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#### **429 Regulation-making power**

- (1) The Governor in Council may make regulations under this Act.
- (2) A regulation may—
  - (a) be made about the fees payable under this Act including late payment fees; or
  - (b) impose a penalty for a contravention of a provision of a regulation of no more than 20 penalty units.

## **Chapter 8 Transitional provisions**

### **Part 1 Transitional provisions for Act No. 3 of 2009**

#### **430 Definitions for pt 1**

In this part—

*assent* means the date of assent of this Act.

*new GHG permit* see section 432(1).

*Zerogen* means Zerogen Pty Ltd (ACN 118 696 932).

#### **431 Conversion of Zerogen's P&G Act ATPs**

- (1) This section applies to P&G Act ATP 830 and to P&G Act ATP 835 both held by Zerogen.
- (2) On assent—
  - (a) each of the ATPs—
    - (i) becomes a GHG permit; and
    - (ii) ceases to be a P&G Act ATP; and

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- (b) the work program for each of the ATPs becomes the work program for the GHG permit that it becomes.
- (3) The Minister may amend the following in any way the Minister considers appropriate to reflect the changes under subsection (2)—
- (a) the instruments for the ATPs;
- (b) their work programs under the P&G Act.
- (4) In this section—
- amend* includes remake.

*P&G Act ATP* means an ATP under the P&G Act.

#### **432 New GHG permit for Zerogen**

- (1) On assent, Zerogen is taken to have been granted a GHG permit (the *new GHG permit*) for the following sub-blocks—

##### **Charleville block identification map**

<b>Block</b>	<b>Sub-blocks</b>
55	a, b, c, d, e, f, g, h, j, k, m, n, o, p, s, t, u, x, y and z
56	a, b, c, d, e, f, g, h, j, k, l, m, n, o, p, q, r, s, t, u, v, w, x, y and z

##### **Clermont block identification map**

<b>Block</b>	<b>Sub-blocks</b>
3147	a, b, c, d, e, f, g, h, j, k, l, m, n, o, p, q, r, s, t, u, v, w, x, y and z
3219	a, b, c, d, e, f, g, h, j and k
3291	a, b, c, d, e, f, g, h, j, k, l, m, n, o, p, q, r, s, t, u, v, w, x, y and z
3364	a, b, f, g, l, m, n, q, r, s, v, w and x

[s 432A]

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<b>Block</b>	<b>Sub-blocks</b>
3365	c, d, e, h, j, k, n, o, p, t, u and z
3366	a, b, c, d, e, f, g, h, j, k, l, m, n, o, p, q, r, s, t, u, v, w, x, y and z
3436	a, b, c, d, e, f, g, h, j, k, l, m, n, o, p, q, r, s, t, u, v, w, x, y and z
3437	f, l, q, r, v, w and x
3438	a, b, c, d, e, g, h, j, k, n, o, p, s, t, u, y and z.

(2) In this section—

*block identification map* means a map that forms part of the series of maps known as the ‘Block Identification Map—Series B’ held by the department.

#### **432A Correction of new GHG permit for Zerogen**

(1) Despite section 432, from the commencement of this section, the new GHG permit described in section 432 is taken not to include the following sub-blocks—

##### **Clermont block identification map**

<b>Block</b>	<b>Sub-blocks</b>
3436	d and e

(2) In this section—

*block identification map* see section 432.

#### **433 Authorised activities under Zerogen GHG permits may start from assent**

(1) From assent, Zerogen may, subject to this Act, carry out all authorised activities for any of its GHG permits mentioned in this part as if all of this Act commences on assent.



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- (2) Without limiting subsection (1), chapter 4, part 6, division 1 applies for the GHG permits from assent.

*Editor's note—*

chapter 4, part 6 (Additional provisions for GHG authorities)

- (3) The authorised activities may be carried out despite chapter 4, part 6, division 1.
- (4) Chapter 2, part 5 applies to the carrying out of the authorised activities.

#### **434 Deciding provisions of new GHG permit**

- (1) Zerogen must give the Minister a proposed work program for the new GHG permit as if all of this Act commences on assent.
- (2) The proposed work program must comply with the initial work program requirements.
- (3) As soon as practicable after Zerogen complies with subsection (2), the Minister must—
- (a) decide whether to approve the proposed work program; and
  - (b) if the approval is given—
    - (i) decide the provisions of the instrument for the GHG permit other than provisions relating to the permit's area; and
    - (ii) give Zerogen the instrument.
- (4) For subsection (3), sections 41, 44 and 45 apply as if—
- (a) a call for tenders had been made for the area of each of the GHG permits; and
  - (b) Zerogen had been the successful tenderer under the call for tenders.

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**435 Test plan for new GHG permit**

Despite section 80 not having commenced, Zerogen may give the Minister, and the Minister may approve under that section a test plan for GHG storage injection testing relating to the new GHG permit.

**436 Functions under part may be performed before assent**

- (1) If before assent the Minister or Zerogen purports to perform a function under this part that can be performed from assent, the function is taken to have been validly performed on assent.
- (2) In this section—  
*function* includes power.

**Part 2 Transitional provisions for amendments under Geothermal Energy Act 2010**

**437 Land access code prevails over conditions**

If a condition of a GHG authority is inconsistent with a mandatory provision of the land access code, the mandatory provision prevails to the extent of the inconsistency.

**438 Existing compensation agreements other than for notifiable road uses**

- (1) This section applies if immediately before the commencement of this section a compensation agreement under chapter 5, part 10 was in force.
- (2) On the commencement the agreement becomes a conduct and compensation agreement under chapter 5, part 10, division 1.

#### **439 Existing entry notices**

- (1) This section applies to an entry notice for the carrying out of an authorised activity for a GHG authority if the notice complied with the entry notice requirements before the commencement of this section.
- (2) The notice continues, according to its terms, to be valid for the carrying out of the activity after the commencement even though the notice does not comply with all of the entry notice requirements from the commencement.
- (3) In this section—  
*entry notice requirements* means the requirements under this Act relating to the giving of an entry notice.

#### **440 References to geothermal tenure**

Until the *Geothermal Energy Act 2010*, chapter 9, part 1 commences, a reference in this Act to a geothermal tenure is taken to be a reference to a geothermal exploration permit.

## **Part 3 Transitional provisions for Mines Legislation (Streamlining) Amendment Act 2012**

### **Division 1 Preliminary**

#### **441 Definitions for pt 3**

In this part—

*amending Act* means the *Mines Legislation (Streamlining) Amendment Act 2012*.

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*commencement* means the commencement of the section in which the term is used.

*former*, in relation to a provision, means the provision as in force before the commencement of the section in which the term is used.

## **Division 2                      Transitional provisions for amendments in amending Act commencing on assent**

### **442      Land in a GHG authority's area taken before the commencement**

- (1) This section applies if—
- (a) land in a GHG authority's area was taken under a resumption law before the commencement; and
  - (b) at the commencement, the entity taking the land has not taken action indicating the GHG authority was extinguished (wholly or partly) when the land was taken.

*Examples of action for paragraph (b)—*

- serving a copy of the resumption notice for the taking of the land on the GHG authority holder (in the holder's capacity as the holder of the authority)
- entering into an agreement under the ALA, section 15 with the GHG authority holder for the taking of the land
- negotiating, or taking other action relating to, the compensation payable to the GHG authority holder for the taking of the land
- paying compensation to the GHG authority holder for the taking of the land
- arranging for the taking of the land to be recorded in the GHG register against the GHG authority

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- (2) The taking of the land did not extinguish (wholly or partly) the GHG authority or any other GHG interest relating to the authority.
  - (3) Subsection (2) does not affect the ending of a GHG interest (wholly or partly) in any other way, including, for example—
    - (a) by the entity taking the land acquiring the GHG interest (wholly or partly) under a separate commercial agreement or other arrangement with the holder of the interest; or
    - (b) by the GHG interest holder surrendering the interest (wholly or partly) under this Act.

**443 Land in a GHG authority's area for which notice of intention to resume given before the commencement**

- (1) This section applies if—
  - (a) before the commencement, an entity gave a notice of intention to resume for the proposed taking, under a resumption law, of land in a GHG authority's area; and
  - (b) at the commencement, the land had not been taken under the resumption law.
- (2) If the land is taken other than by taking or otherwise creating an easement, sections 369A to 369D apply in relation to the taking, except that the resumption notice for the taking may provide for the extinguishment of a GHG interest on the taking even if the notice of intention to resume does not comply with section 369A(8).
- (3) If the land is taken by taking or otherwise creating an easement, section 369D applies in relation to the taking.

## **Schedule 1      Decisions subject to appeal**

section 395(1)

<b>Section reference</b>	<b>Description of decision</b>
<b>GHG permits</b>	
64	refusal to approve proposed later work program
69	refusal to approve amendment to work program
69	imposition of condition about relinquishment for amendment to work program
80	refusal to approve proposed test plan
80	decision to impose condition on proposed test plan
96	refusal to renew GHG permit
102	refusal of application for declaration of potential storage area
108	decision to take proposed action under section 107 for GHG permit
<b>GHG leases</b>	
117	decision not to grant a GHG lease on ATP-related application
154	refusal to approve proposed later development plan
158	refusal to approve amendment to development plan
161	refusal to approve proposed test plan
161	decision to impose condition on proposed test plan
179	refusal to approve surrender of GHG lease

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<b>Section reference</b>	<b>Description of decision</b>
<b>GHG coordination arrangements</b>	
193	cancellation of GHG coordination arrangement
<b>Decisions under chapter 5</b>	
271	decision to require security for GHG authority other than security in the form and amount prescribed under section 271(2)
272	decision to require increase in total security required to more than the prescribed amount under section 271(2) when the requirement is made
303	decision to give road use direction
315	imposition of condition on entry on public land, other than a condition agreed to or requested by the relevant GHG authority holder
353	refusal to approve application for approval and registration of third party transfer
364	decision to give a serious situation direction
371	decision to take action to ensure compliance with a requirement under this Act of a GHG authority holder other than action to which the holder has agreed
375	refusal to replace instrument for GHG authority
<b>Noncompliance action</b>	
383	decision to take noncompliance action for GHG authority

## Schedule 2 Dictionary

### section 11

**1923 Act** means the *Petroleum Act 1923*.

**1923 Act petroleum tenure** see the 1923 Act, section 2.

**access agreement** see section 288(2).

**access land**, for a GHG authority, see section 287(3).

**access rights** see section 287(2).

**acquired land**—

- 1 Land is *acquired land* if—
  - (a) it was taken under a resumption law, other than by taking or otherwise creating an easement; and
  - (b) under section 369A, all GHG interests relating to the land were extinguished on the taking.
- 2 However, land mentioned in paragraph 1 stops being *acquired land* if it is included in the area of a new or renewed GHG tenure granted under this Act.

**ADR** see section 325A(2)(b).

**advanced activity**, for a provision about a GHG authority, means an authorised activity for the authority other than a preliminary activity for the authority.

*Examples*—

- levelling of drilling pads and digging sumps
- earthworks associated with pipeline installation
- vegetation clear-felling
- constructing an exploration camp, concrete pad, sewage or water treatment facility or fuel dump
- geophysical surveying with physical clearing
- carrying out a seismic survey using explosives
- constructing a track or access road



- changing a fence line

**ALA** means the *Acquisition of Land Act 1967*.

**appeal period**, for a decision, means the period provided for under section 396 for starting an appeal against the decision.

**applicant**, for chapter 4, part 3, see section 195(a).

**application** includes a tender in response to a call for tenders.

**appropriately qualified**, for the performance of a function or exercise of a power, includes having the qualifications, experience and competence to perform the function or exercise the power.

**approved form** means the form approved under section 428.

**area**—

- 1 The *area*, of a GHG authority, is the land to which the authority is subject as recorded in the GHG register.
- 2 The *area* of an authority, tenement or tenure granted under another resource Act is its area as defined under that Act or the area to which the authority, tenement or tenure is subject under that Act.

**ATP** means an authority to prospect.

**authorised activity**, for a GHG authority, see section 22.

**authority to prospect** means an authority to prospect under the 1923 Act or the P&G Act.

**block** see section 26(1).

**call for tenders**—

- (a) for chapter 2, part 2—see section 33(1); or
- (b) for chapter 3, part 3—see section 125(1).

**capability criteria**—

- (a) for chapter 2—see section 42(2); or
- (b) for chapter 3—see section 118(2).

**closing time**, for a call for tenders—

- (a) for a GHG permit—see section 33(2)(a); or

(b) for a GHG lease—see section 125(2)(a).

**compensation application**, for chapter 5, part 10, division 2, means an application made under section 325H(1).

**compensation liability**—

(a) for chapter 5, part 10, division 1—see section 320(2); or

(b) for chapter 5, part 10, division 2—see section 325F(2).

**conditions**, of a GHG authority, see section 20.

**conduct and compensation agreement** see section 321(1).

**conduct and compensation agreement requirement** see section 283(2).

**construct**, a structure, includes placing the structure.

**contiguous**, for land, means abutting, with at least 1 side in common.

**conviction** includes a finding of guilt or the acceptance of a plea of guilty by a court, whether or not a conviction is recorded.

**costs**, incurred by the State, includes the cost of services that the State provides for itself.

**dangerous situation** means a situation relating to geothermal activity under the Geothermal Act, a GHG stream or petroleum or fuel gas in which an inspector under the P&G Act reasonably believes an imminent risk of material harm to persons or property is likely if action is not taken to avoid, eliminate or minimise the risk.

**data acquisition activities** see section 233(1).

**dealing**, with a GHG authority, see section 345.

**deferral agreement** see section 284(c)(i).

**development plan**, for a GHG lease, see section 25(1).

**development plan criteria** see section 147(2).

**drill** includes to bore.

**election notice** see section 325A(2).

*eligible claimant*, for compensation, see section 320(1).

*eligible person* see section 19.

*enhanced petroleum recovery* means producing petroleum by injecting a substance including for example, GHG, into a natural underground reservoir as defined under the P&G Act.

*enter* a place includes the exercise of the rights in relation to the place under section 423.

*entry notice*—

- (a) for chapter 5, part 7—see section 279(1); or
- (b) for chapter 5, part 8—see section 312(2)(b).

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

*excluded land*—

- (a) for a GHG permit—means excluded land for the permit decided under section 46; or
- (b) for a GHG lease—means excluded land for the lease decided under section 137.

*executive officer*, of a corporation, means a person who is concerned with or takes part in its management, whether or not the person is a director or the person's position is given the name of executive officer.

*exploration authority (non-GHG)*, for chapter 4, see section 184.

*fee* includes tax.

*first authority*, for chapter 5, part 9, see section 316(1).

*formed road* means any existing road or track on private or public land used or that may reasonably be capable of being used to drive or ride motor vehicles.

*Geothermal Act* means the *Geothermal Energy Act 2010*.

*geothermal lease* see the Geothermal Act, section 19(1)(b).

*geothermal permit* see the Geothermal Act, section 19(1)(a).

*geothermal tenure* see the Geothermal Act, section 19(2).

**GHG** means greenhouse gas.

**GHG assessment criteria** see section 196(1)(b).

**GHG authority** see section 18(3).

**GHG coordination arrangement** see section 186(3).

**GHG data acquisition authority** means a GHG injection and storage data acquisition authority.

**GHG exploration permit** (also called a **GHG permit**) see section 18(1)(a).

**GHG injection and storage data acquisition authority** (also called a **GHG data acquisition authority**) see section 18(1)(c).

**GHG injection and storage lease** (also called a **GHG lease**) see section 18(1)(b).

**GHG interest** means—

- (a) a GHG authority; or
- (b) a right existing under, or in relation to, a GHG authority.

**GHG lease** means a GHG injection and storage lease.

**GHG permit** means a GHG exploration permit.

**GHG register** means the register the chief executive keeps under section 339.

**GHG statement** see section 196(1)(a).

**GHG storage** see section 3(2).

**GHG storage activity** see section 23.

**GHG storage exploration** see section 15.

**GHG storage injection testing** see section 16.

**GHG storage reservoir** see section 13(a).

**GHG storage viability report** see section 245(1).

**GHG stream** see section 12.

**GHG stream pipeline** see section 17.

**GHG stream storage** see section 14.

***GHG stream storage site*** see section 13.

***GHG tenure*** see section 18(2).

***GHG well***—

- 1 A *GHG well* is a hole in the ground made or being made by drilling, boring or any other means—
  - (a) to carry out GHG storage exploration; or
  - (b) for GHG stream storage.
- 2 A *GHG well* includes the casing for the well and any of the following attached to the well—
  - the casing head
  - a casing hanger or spool or tubing hanger
  - flow control equipment up to and including the wing valves.
- 3 To remove any doubt, it is declared that a *GHG well* does not include a seismic shot hole or shallow hole drilled to work out a geological structure.

***holder***—

- (a) of a GHG authority other than a GHG data acquisition authority, means each person recorded as its holder in the GHG register; or
- (b) of a GHG data acquisition authority, means the person mentioned in section 240.

***holder submissions*** see section 199(1).

***independent viability assessment*** see section 247(2).

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

- (a) the decision, and the reasons for it;
- (b) the rights of appeal under this Act;
- (c) the period in which any appeal under this Act must be started;
- (d) how rights of appeal under this Act are to be exercised;

- (e) that a stay of a decision the subject of an appeal under this Act may be applied for under this Act.

***initial development plan requirements*** see section 140.

***initial work program requirements*** see section 51.

***interfere with*** includes tamper with.

***land*** includes—

- (a) land covered by Queensland waters; and
- (b) subterranean land.

***land access code*** see the P&G Act, section 24A.

***later development plan requirements*** see section 150.

***later work program requirements*** see section 58.

***mandatory condition***, of a GHG authority, see section 20(2).

***mandatory provision***, of the land access code, means a provision of that code that the code requires compliance with.

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

***minimum negotiation period*** see section 324(2)(a).

***mining interest*** means—

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

***mining lease*** see the Mineral Resources Act, schedule 2.

***negotiation notice*** see section 323(1).

***noncompliance action*** means action of a type mentioned in section 379.

***notice*** means a written notice.

***notice of intention to resume***, for the proposed taking of land under a resumption law, means—

- 
- (a) if the land is taken under the process stated in the ALA (whether the land is taken under the ALA or another resumption law)—the notice of intention to resume under the ALA; or
  - (b) otherwise—the notice, however named, required to be given under the resumption law to notify persons of the proposed taking.

***notifiable road use***, for a GHG authority, see section 301(1).

***occupier***, of a place, means—

- (a) a person who, under an Act, or, for freehold land, a lease registered under the *Land Title Act 1994*, has a right to occupy the place other than under a mining interest, petroleum authority, 1923 Act petroleum tenure, GHG authority or geothermal tenure; or
- (b) a person who has been given a right to occupy the place by a person mentioned in paragraph (a).

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

***operating plant*** see the P&G Act, section 670.

***operator***, of an operating plant, see the P&G Act, section 673.

***overlapping authority*** see section 183.

***overlapping authority application period*** see section 205(2).

***overlapping authority priority*** see section 199(3)(b).

***owner***—

- 1 An *owner*, of land, means each person as follows in relation to the land—
  - (a) for freehold land—a registered owner;
  - (b) for land for which a person is, or will on performing conditions, be entitled to a deed of grant in fee simple—the person;
  - (c) if an estate in fee simple of land is being purchased from the State—the purchaser;

- (d) for a public road—the public road authority for the road;
- (e) for land that is busway land, light rail land, rail corridor land or a cane railway or other railway—the public land authority for the land;
- (f) for required land under the *Transport Infrastructure Act 1994*, section 436—the chief executive of the department in which that Act is administered;
- (g) for a forest entitlement area, State forest or timber reserve under the *Forestry Act 1959*—the chief executive of the department in which that Act is administered;
- (h) for a conservation park or resources reserve under the *Nature Conservation Act 1992* (the *NCA*) for which there are trustees—
  - (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;
- (i) for DOGIT land under the *Aboriginal Land Act 1991* or the *Torres Strait Islander Land Act 1991*—a trustee for the land;
- (j) for land held under a lease under the *Aurukun and Mornington Shire Leases Act 1978*, section 3—a relevant local government;
- (k) for Torres Strait Islander land under the *Torres Strait Islander Land Act 1991* that is taken to be a reserve because of section 84(2) or 84(4)(b) of that Act—each grantee of the land;
- (l) for land under the *Land Act 1994* for which there are trustees—a trustee;



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- (m) for transport land under the *Transport Planning and Coordination Act 1994*—the chief executive of the department in which that Act is administered;
  - (n) for land vested in the Minister administering the *Education (General Provisions) Act 2006*—that Minister;
  - (o) for land vested in the Queensland Housing Commission or another Minister or a chief executive responsible for constructing public buildings—the Minister administering the relevant Act;
  - (p) for land held from the State under another Act under an interest less than fee simple (other than occupation rights under a permit under the *Land Act 1994*)—the person who holds the interest;
  - (q) for any of the following land under the NCA—the State—
    - (i) a national park;
    - (ii) a national park (Aboriginal land);
    - (iii) a national park (scientific);
    - (iv) a national park (Torres Strait Islander land);
    - (v) a national park (recovery);
    - (vi) a forest reserve.
- 2 Also, a mortgagee of land is the *owner* of land if—
- (a) the mortgagee is acting as mortgagee in possession of the land and has the exclusive management and control of the land; or
  - (b) the mortgagee or a person appointed by the mortgagee is in possession of the land and has the exclusive management and control of the land.
- 3 If land or another thing has more than 1 owner, a reference in this Act to the owner of the land or thing is a reference to each of its owners.

***P&G Act*** see section 4.

**P&G Act safety provisions** see section 4(c).

**parties**—

- (a) for chapter 5, part 10, division 1, subdivision 4—see section 324(1); or
- (b) for chapter 6, part 1A—see section 377B.

**permit-related application** see section 113(3).

**petroleum** see the P&G Act, section 10.

**petroleum authority** see the P&G Act, section 18(2).

**petroleum discovery** includes a discovery of an underground geological formation or structure that under the P&G Act has or is likely to have commercial potential for petroleum.

**petroleum lease** means a petroleum lease under the P&G Act or a lease under the 1923 Act.

**petroleum tenure** means any ATP or petroleum lease.

**pipeline land**, for a GHG tenure, means land identified in the instrument for the tenure or the work program or development plan for the tenure as land on which pipelines are or may be constructed or operated under the tenure.

**pipeline licence** see the P&G Act, section 18(1)(f).

**place** includes land.

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

**potential storage area**, for a GHG permit, means an area declared under section 102 to be a potential storage area for the permit.

**preliminary activity**—

- 1 A *preliminary activity*, for a provision about a GHG authority, means an authorised activity for the authority that will have no impact, or only a minor impact, on the business or land use activities of any owner or occupier of the land on which the activity is to be carried out.

*Examples*—

- walking the area of the permit or licence

- 
- driving along an existing road or track in the area
  - taking soil or water samples
  - geophysical surveying not involving site preparation
  - aerial, electrical or environmental surveying
  - survey pegging
- 2 However, the following are not preliminary activities—
- (a) an authorised activity carried out on land that—
- (i) is less than 100ha; and
  - (ii) is being used for intensive farming or broadacre agriculture;

*Examples—*

- land used for dryland or irrigated cropping, plantation forestry or horticulture
  - a dairy, cattle or sheep feedlot, piggery or poultry farm
- (b) an authorised activity carried out within 600m of a school or an occupied residence;
- (c) an authorised activity that affects the lawful carrying out of an organic or bio-organic farming system.

***private land—***

- 1 *Private land* is—
- (a) freehold land; or
  - (b) an interest in land less than fee simple held from the State under another Act.
- 2 However, land is not private land to the extent of an interest in any of the following relating to the land—
- (a) a mining interest;
  - (b) a petroleum authority or 1923 Act petroleum tenure;
  - (c) a GHG authority;
  - (d) a geothermal tenure;

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

3 Also, land owned by a public land authority is not private land.

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

***provision***, of a GHG authority, means a provision of the authority as defined under section 21.

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

- (a) government policy;
- (b) environmental impacts;
- (c) employment creation;
- (d) social impacts;
- (e) the overall economic benefit for the State, or a part of the State, in the short and long term;
- (f) impacts on aesthetic, amenity or cultural values.

***public land*** means land other than—

- (a) private land; or
- (b) to the extent an interest in any of the following relates to the land—
  - (i) a mining interest;
  - (ii) a petroleum authority or 1923 Act petroleum tenure;
  - (iii) a GHG authority;
  - (iv) a geothermal tenure;
  - (v) an occupation right under a permit under the *Land Act 1994*.

***public land authority*** means—

- (a) for a public road—the road authority for the road; or

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

**public road** means an area of land that—

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

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

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

**public road authority**, for a public road, means—

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

**publish**, a notice, means to publish it in any of the following ways—

- (a) in a journal published by the department or under the Minister's authority;
- (b) in another publication the Minister considers appropriate;
- (c) on the department's website;
- (d) by placing it on a public notice board, established and maintained by the department at—
  - (i) the department's head office; and

- (ii) other places the chief executive considers appropriate.

***reasonably believes*** means to believe on grounds that are reasonable in the circumstances.

***registration***, for a dealing, means recorded in the GHG register.

***relevant arrangement***, for chapter 3, part 2, see section 118(1)(f)(ii).

***relevant environmental authority***, for a GHG authority or proposed GHG authority, means an environmental authority under the Environmental Protection Act granted for all of the authorised activities for the GHG authority or proposed GHG authority that are environmentally relevant activities under that Act.

***relevant environmental condition***, for a provision about a GHG authority or proposed GHG authority, means a condition of any relevant environmental authority for the GHG authority or proposed GHG authority.

***relevant GHG tenure***, for a GHG data acquisition authority or proposed GHG data acquisition authority, see section 233(3).

***relevant land***, for a GHG lease application, means the land the subject of the application.

***relevant lease***—

- (a) for a GHG lease application—see section 205(2); or
- (b) for a GHG coordination arrangement—see section 186(4).

***relevant owner or occupier***, for a provision about entry notices, means the owner or occupier to whom the entry notice is to be given, or would be given, other than for an exemption from the requirement to give an entry notice.

***relinquishment condition***, for a GHG permit is the relinquishment condition under section 72(1).

***relinquishment notice*** see section 72(3)(a).

***remedial powers*** see section 356(2).

**report** means a written report.

**required information**, for chapter 5, part 4, division 3, see section 260.

**required way**, for giving the chief executive reports, see section 255(4).

**requirements for grant** see section 117(1).

**resource Act** see section 26A.

**resource management decision** see section 201.

**resumption law**—

(a) means a law that provides for the compulsory acquisition of land, including, for example, the following—

- (i) the ALA, including as applied by another law providing for an entity to take land under the ALA as if the entity were a constructing authority under the ALA;

*Examples of other laws for subparagraph (i)—*

- *Electricity Act 1994*, section 116
- *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009*, section 53AY

(ii) the *Land Act 1994*, chapter 5, part 3, division 3;

(iii) the *Petroleum and Gas (Production and Safety) Act 2004*, sections 456 to 458;

(iv) the *Queensland Reconstruction Authority Act 2011*, section 99;

(v) the *State Development and Public Works Organisation Act 1971*, section 82 or 125;

(vi) the *Transport Planning and Coordination Act 1994*, section 25 or 26; but

(b) does not include the *Land Act 1994*, chapter 5, part 3, divisions 1 and 2.

**resumption notice**, for the taking of land under a resumption law, means—

- (a) if the land is taken under the process stated in the ALA (whether the land is taken under the ALA or another resumption law)—the gazette resumption notice under the ALA for the taking; or
- (b) otherwise—the instrument giving effect to the taking.

**road use direction** see section 303(1).

**safety management plan** see the P&G Act, schedule 2.

**satisfies**, the capability criteria—

- (a) for chapter 2—see section 42(3); or
- (b) for chapter 3—see section 118(3).

**second authority**, for chapter 5, part 9, see section 316(1).

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

**serious situation** see section 363.

**serious situation direction** see section 364(2).

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

**share**, of a GHG authority, means any interest held by a person as a holder of the authority in all of the area of the authority.

**significant project** means a project declared under the *State Development and Public Works Organisation Act 1971*, section 26, to be a significant project.

**special criteria**—

- (a) for a GHG permit—see section 33(2)(b); or
- (b) for a GHG lease—see section 125(2)(b).

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



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**storage capacity**, of a GHG storage reservoir, means the measure of its potential for GHG stream storage.

**storage commencement day**, for a GHG lease, see section 120(2)(c).

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

**sub-block** see section 26(2).

**submission** means a written submission.

**surrender application** see section 174(a).

**take**, in relation to land, includes acquire.

**third party transfer**, of a GHG authority, see section 347.

**unavailable land**—

- (a) for a GHG permit—see section 44(4); or
- (b) for a GHG lease—see section 135(4).

**waiver of entry notice**—

- (a) for chapter 5, part 7—means a waiver of entry notice mentioned in section 281 that complies with section 281(1); or
- (b) for chapter 5, part 8—see section 312(3).

**Water Act** means the *Water Act 2000*.

**Water Act Minister** means the Minister of the department in which the Water Act is administered.

**work program**, for a GHG permit, see section 24(1).

**work program criteria** see section 55(2).

## 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 29 August 2012. Future amendments of the Greenhouse Gas Storage Act 2009 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 included	Effective	Notes
1	none	23 February 2009	
1A	none	13 November 2009	chs 2, 3 commenced
1B	2009 Act No. 36	18 December 2009	
1C	2010 Act No. 17	21 April 2010	
1D	2010 Act No. 31	1 September 2010	
1E	2010 Act No. 31	29 October 2010	
1F	2011 Act No. 2	17 March 2011	
1G	2011 Act No. 26	9 September 2011	
1H	2010 Act No. 44	30 January 2012	
1I	2010 Act No. 31	2 March 2012	R1I withdrawn, see R2
2	—	2 March 2012	
2A	2012 Act No. 20	29 August 2012	

## 5 List of legislation

### **Greenhouse Gas Storage Act 2009 No. 3**

date of assent 23 February 2009

ss 1–2 commenced on date of assent

chs 2, 3 commenced 13 November 2009 (2009 SL No. 254)

remaining provisions commenced on date of assent

amending legislation—

### **Sustainable Planning Act 2009 No. 36 ss 1–2, 872 sch 2**

date of assent 22 September 2009

ss 1–2 commenced on date of assent

remaining provisions commenced 18 December 2009 (2009 SL No. 281)

### **Mines and Energy Legislation Amendment Act 2010 No. 17 s 1, pt 7**

date of assent 21 April 2010

commenced on date of assent

### **Geothermal Energy Act 2010 No. 31 ss 1, 2(1), (2)(b)–(c), ch 10 pt 1 div 3, pt 2 div 1, pt 3 div 3, ss 408, 437, 502, sch 2 pts 1–2, 4**

date of assent 1 September 2010

ss 1–2, ch 10 pt 1 div 3, s 408 sch 2 pt 1 commenced on date of assent (see s 2(2)(b)–(c))

ch 10 pt 2 div 1 commenced 29 October 2010 (2010 SL No. 296)

remaining provisions commenced 2 March 2012 (automatic commencement under AIA s 15DA(2) (2011 SL No. 156 s 2))

### **Personal Property Securities (Ancillary Provisions) Act 2010 No. 44 ss 1–2, ch 4 pt 23**

date of assent 14 October 2010

ss 1–2 commenced on date of assent

remaining provisions commenced 30 January 2012 (2011 SL No. 262)

### **Mines and Energy Legislation Amendment Act 2011 No. 2 s 1, pt 7**

date of assent 17 March 2011

commenced on date of assent

### **Aboriginal Land and Torres Strait Islander Land and Other Legislation Amendment Act 2011 No. 26 pt 1, s 189 sch**

date of assent 29 August 2011

ss 1–2 commenced on date of assent

remaining provisions commenced 9 September 2011 (2011 SL No. 173)

### **Mines Legislation (Streamlining) Amendment Act 2012 No. 20 chs 1, 2 pt 3, ch 3 pt 3, s 125 sch 1, s 281 sch 2, s 323 sch 3**

date of assent 29 August 2012

ss 1–2, ch 2 pt 3 commenced on date of assent

remaining provisions not yet proclaimed into force (see s 2)

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**Long title** amd 2010 No. 31 s 408 sch 2 pt 1

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**div 1 (s 377A)** ins 2010 No. 31 s 447

**Division 2—Calling conference and attendance**

**div 2 (ss 377B–377D)** ins 2010 No. 31 s 447

**Division 3—Conduct of conference**

**div 3 (ss 377E–377G)** ins 2010 No. 31 s 447

**When noncompliance action may be taken**

**s 380** amd 2010 No. 31 s 502 sch 2 pt 4; 2012 No. 20 s 125 sch 1

**Notice of proposed noncompliance action**

**prov hdg** amd 2010 No. 31 s 408 sch 2 pt 1

**s 381** amd 2010 No. 31 s 408 sch 2 pt 1; 2012 No. 20 s 125 sch 1

**Notice and taking effect of decision**

**s 384** amd 2010 No. 31 s 408 sch 2 pt 1

**Restriction on GHG storage activities**

**s 386** amd 2010 No. 31 s 515

**Executive officers must ensure corporation does not commit particular offences**

**s 393** amd 2010 No. 31 s 437 sch 2 pt 2; 2012 No. 20 s 125 sch 1

**Appeals from Land Court’s decision**

**s 402** om 2010 No. 31 s 408 sch 2 pt 1

**Other evidentiary aids**

**s 406** amd 2010 No. 31 s 408 sch 2 pt 1

**Additional information may be required about application**

**s 413** amd 2010 No. 31 s 516

**Provision for entry by State to carry out GHG storage activity**

**s 420 prov hdg** amd 2010 No. 31 s 408 sch 2 pt 1

**Practice manual**

**s 427** sub 2010 No. 31 s 419

**CHAPTER 8—TRANSITIONAL PROVISIONS**

**PART 1—TRANSITIONAL PROVISIONS FOR ACT No. 3 OF 2009**

**pt hdg** ins 2010 No. 31 s 437 sch 2 pt 2

**Definitions for pt 1**

**prov hdg** amd 2010 No. 31 s 437 sch 2 pt 2

**s 430** amd 2010 No. 31 s 437 sch 2 pt 2

**Correction of new GHG permit for Zerogen**

**s 432A** ins 2010 No. 17 s 47

**Authorised activities under Zerogen GHG permits may start from assent**

s 433 amd 2010 No. 31 s 437 sch 2 pt 2

**Functions under part may be performed before assent**

prov hdg amd 2010 No. 31 s 437 sch 2 pt 2

s 436 amd 2010 No. 31 s 437 sch 2 pt 2

**PART 2—TRANSITIONAL PROVISIONS FOR AMENDMENTS UNDER  
GEOHERMAL ENERGY ACT 2010**

pt hdg ins 2010 No. 31 s 448

**Land access code prevails over conditions**

s 437 prev s 437 om R1 (see RA s 40)

pres s 437 ins 2010 No. 31 s 448

**Existing compensation agreements other than for notifiable road uses**

s 438 prev s 438 om R1 (see RA s 40)

pres s 438 ins 2010 No. 31 s 448

**Existing entry notices**

s 439 prev s 439 om R1 (see RA s 40)

pres s 439 ins 2010 No. 31 s 448

**References to geothermal tenure**

s 440 prev s 440 om R1 (see RA s 40)

pres s 440 ins 2010 No. 31 s 448

**PART 3—TRANSITIONAL PROVISIONS FOR MINES LEGISLATION  
(STREAMLINING) AMENDMENT ACT 2012**

pt hdg ins 2012 No. 20 s 43

**Division 1—Preliminary**

div hdg ins 2012 No. 20 s 43

**Definitions for pt 3**

s 441 prev s 441 om R1 (see RA s 40)

pres s 441 ins 2012 No. 20 s 43

**Division 2—Transitional provisions for amendments in amending Act commencing  
on assent**

div hdg ins 2012 No. 20 s 43

**Land in a GHG authority's area taken before the commencement**

s 442 prev s 442 om R1 (see RA s 40)

pres s 442 ins 2012 No. 20 s 43

**Land in a GHG authority's area for which notice of intention to resume given before  
the commencement**

s 443 prev s 443 om R1 (see RA s 40)

pres s 443 ins 2012 No. 20 s 43

**CHAPTER 9—AMENDMENT OF OTHER ACTS**

ch hdg om R1 (see RA s 7(1)(k))

**PART 1—AMENDMENT OF ABORIGINAL LAND ACT 1991****pt hdg** om R1 (see RA s 7(1)(k))**PART 2—AMENDMENT OF COASTAL PROTECTION AND MANAGEMENT ACT 1995****pt hdg** om R1 (see RA s 7(1)(k))**PART 3—AMENDMENT OF DANGEROUS GOODS SAFETY MANAGEMENT ACT 2001****pt hdg** om R1 (see RA s 7(1)(k))**PART 4—AMENDMENT OF DUTIES ACT 2001****pt 4 (ss 444–445)** om R1 (see RA ss 7(1)(k) and 40)**PART 5—AMENDMENT OF ELECTRICAL SAFETY ACT 2002****pt 5 (ss 446–447)** om R1 (see RA ss 7(1)(k) and 40)**PART 6—AMENDMENT OF ELECTRICITY ACT 1994****pt 6 (ss 448–452)** om R1 (see RA ss 7(1)(k) and 40)**PART 7—AMENDMENT OF ENVIRONMENTAL PROTECTION ACT 1994****pt 7 (ss 453–472)** om R1 (see RA ss 7(1)(k) and 40)**PART 8—AMENDMENT OF FIRE AND RESCUE SERVICE ACT 1990****pt 8 (ss 473–474)** om R1 (see RA ss 7(1)(k) and 40)**PART 9—AMENDMENT OF FOREIGN OWNERSHIP OF LAND REGISTER ACT 1988****pt 9 (ss 475–476)** om R1 (see RA ss 7(1)(k) and 40)**PART 10—AMENDMENT OF FORESTRY ACT 1959****pt 10 (ss 477–484)** om R1 (see RA ss 7(1)(k) and 40)**PART 11—AMENDMENT OF GEOTHERMAL EXPLORATION ACT 2004****pt 11 (ss 485–492)** om R1 (see RA ss 7(1)(k) and 40)**PART 12—AMENDMENT OF INTEGRATED PLANNING ACT 1997****pt 12 (ss 493–499)** om R1 (see RA ss 7(1)(k) and 40)**PART 13—AMENDMENT OF LAND ACT 1994****pt 13 (ss 500–502)** om R1 (see RA ss 7(1)(k) and 40)**PART 14—AMENDMENT OF LAND PROTECTION (PEST AND STOCK ROUTE MANAGEMENT) ACT 2002****pt 14 (ss 503–504)** om R1 (see RA ss 7(1)(k) and 40)**PART 15—AMENDMENT OF LAND TITLE ACT 1994****pt 15 (ss 505–506)** om R1 (see RA ss 7(1)(k) and 40)**PART 16—AMENDMENT OF LOCAL GOVERNMENT ACT 1993****pt 16 (ss 507–508)** om R1 (see RA ss 7(1)(k) and 40)**PART 17—AMENDMENT OF MINERAL RESOURCES ACT 1989****pt 17 (ss 509–517)** om R1 (see RA ss 7(1)(k) and 40)

**PART 18—AMENDMENT OF NATURE CONSERVATION ACT 1992**

**pt 18** (ss 518–522) om R1 (see RA ss 7(1)(k) and 40)

**PART 19—AMENDMENT OF PETROLEUM ACT 1923**

**pt 19** (ss 523–532) om R1 (see RA ss 7(1)(k) and 40)

**PART 20—AMENDMENT OF PETROLEUM AND GAS (PRODUCTION AND SAFETY) ACT 2004**

**pt 20** (ss 533–585) om R1 (see RA ss 7(1)(k) and 40)

**PART 21—AMENDMENT OF QUEENSLAND COMPETITION AUTHORITY ACT 1997**

**pt 21** (ss 586–587) om R1 (see RA ss 7(1)(k) and 40)

**PART 22—AMENDMENT OF QUEENSLAND HERITAGE ACT 1992**

**pt 22** (ss 588–589) om R1 (see RA ss 7(1)(k) and 40)

**PART 23—AMENDMENT OF STATE DEVELOPMENT AND PUBLIC WORKS ORGANISATION ACT 1971**

**pt 23** (ss 590–597) om R1 (see RA ss 7(1)(k) and 40)

**PART 24—AMENDMENT OF SURVEY AND MAPPING INFRASTRUCTURE ACT 2003**

**pt 24** (ss 598–599) om R1 (see RA ss 7(1)(k) and 40)

**PART 25—AMENDMENT OF TORRES STRAIT ISLANDER LAND ACT 1991**

**pt 25** (ss 600–602) om R1 (see RA ss 7(1)(k) and 40)

**PART 26—AMENDMENT OF VALUATION OF LAND ACT 1944**

**pt 26** (ss 603–604) om R1 (see RA ss 7(1)(k) and 40)

**PART 27—AMENDMENT OF WATER SUPPLY (SAFETY AND RELIABILITY) ACT 2008**

**pt 27** (ss 605–606) om R1 (see RA ss 7(1)(k) and 40)

**PART 28—AMENDMENT OF WHISTLEBLOWERS PROTECTION ACT 1994**

**pt 28** (ss 607–608) om R1 (see RA ss 7(1)(k) and 40)

**PART 29—AMENDMENT OF WORKPLACE HEALTH AND SAFETY ACT 1995**

**pt 29** (ss 609–610) om R1 (see RA ss 7(1)(k) and 40)

**SCHEDULE 2—DICTIONARY**

def “**1923 Act petroleum tenure**” ins 2010 No. 31 s 517(2)

def “**acquired land**” ins 2012 No. 20 s 44

def “**ADR**” ins 2010 No. 31 s 449(2)

def “**advanced activity**” ins 2010 No. 31 s 449(2)

def “**ALA**” ins 2012 No. 20 s 44

def “**area**” amd 2010 No. 31 s 502 sch 2 pt 4

def “**compensation agreement**” om 2010 No. 31 s 449(1)

def “**compensation application**” sub 2010 No. 31 s 449(1)–(2)

def “**compensation liability**” sub 2010 No. 31 s 449(1)–(2)

def “**conduct and compensation agreement**” ins 2010 No. 31 s 449(2)

def “**conduct and compensation agreement requirement**” ins 2010 No. 31 s 449(2)



def **“dangerous situation”** amd 2010 No. 31 s 517(3)–(4)  
 def **“deferral agreement”** ins 2010 No. 31 s 449(2)  
 def **“election notice”** ins 2010 No. 31 s 449(2)  
 def **“eligible claimant”** sub 2010 No. 31 s 449(1)–(2)  
 def **“entry notice”** sub 2010 No. 31 s 449(1)–(2)  
 def **“entry period”** om 2010 No. 31 s 449(1)  
 def **“Geothermal Act”** sub 2010 No. 31 s 517(1)–(2)  
 def **“geothermal exploration permit”** om 2010 No. 31 s 517(1)  
 def **“geothermal lease”** ins 2010 No. 31 s 517(2)  
 def **“geothermal permit”** ins 2010 No. 31 s 517(2)  
 def **“geothermal tenure”** ins 2010 No. 31 s 517(2)  
 def **“GHG interest”** ins 2012 No. 20 s 44  
 def **“GHG storage viability report”** ins 2010 No. 31 s 408 sch 2 pt 1  
 def **“GHG viability report”** om 2010 No. 31 s 408 sch 2 pt 1  
 def **“land access code”** ins 2010 No. 31 s 449(2)  
 def **“mandatory provision”** ins 2010 No. 31 s 449(2)  
 def **“minimum negotiation period”** ins 2010 No. 31 s 449(2)  
 def **“mining lease”** amd 2010 No. 31 s 437 sch 2 pt 2  
 def **“negotiation notice”** ins 2010 No. 31 s 449(2)  
 def **“notice of intention to resume”** ins 2012 No. 20 s 44  
 def **“occupier”** sub 2010 No. 31 s 449(1)–(2)  
 def **“owner”** amd 2011 No. 26 s 189 sch  
 def **“parties”** ins 2010 No. 31 s 449(2)  
 def **“petroleum interest”** om 2010 No. 31 s 449(1)  
 def **“preliminary activity”** ins 2010 No. 31 s 449(2)  
 def **“private land”** sub 2010 No. 31 s 449(1)–(2)  
 def **“public land”** sub 2010 No. 31 s 449(1)–(2)  
 def **“relevant owner or occupier”** ins 2010 No. 31 s 449(2)  
 def **“relinquishment notice”** ins 2010 No. 31 s 408 sch 2 pt 1  
 def **“resource Act”** ins 2010 No. 31 s 517(2)  
 def **“resumption law”** ins 2012 No. 20 s 44  
 def **“resumption notice”** ins 2012 No. 20 s 44  
 def **“take”** ins 2012 No. 20 s 44  
 def **“waiver of entry notice”** sub 2010 No. 31 s 449(1)–(2)

## 7 Forms notified or published in the gazette

Lists of forms are no longer included in reprints. Now see the separate forms document published on the website of the Office of the Queensland Parliamentary Counsel at <[www.legislation.qld.gov.au](http://www.legislation.qld.gov.au)> under Information—Current annotations. This document is updated weekly and the most recent changes are marked with a change bar.