



Environmental Protection Act 1994

Current as at 28 March 2014

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Queensland

Environmental Protection Act 1994

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Environmental Protection Act 1994

[as amended by all amendments that commenced on or before 28 March 2014]

An Act about the protection of Queensland's environment

Chapter 1 Preliminary

Part 1 Introductory provisions

1 Short title

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

Part 2 Object and achievement of Act

3 Object

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

[s 4]

4 How object of Act is to be achieved

- (1) The protection of Queensland's environment is to be achieved by an integrated management program that is consistent with ecologically sustainable development.
- (2) The program is cyclical and involves the following phases—
 - (a) phase 1—establishing the state of the environment and defining environmental objectives;
 - (b) phase 2—developing effective environmental strategies;
 - (c) phase 3—implementing environmental strategies and integrating them into efficient resource management;
 - (d) phase 4—ensuring accountability of environmental strategies.
- (3) The relationship between each of the phases is shown in the figure appearing at the end of this Act.
- (4) Phase 1 is achieved by—
 - (a) researching the state of the environment, including essential ecological processes; and
 - (b) deciding environmental values to be protected or achieved by consulting industry, government departments and the community.
- (5) Phase 2 is achieved by—
 - (a) developing environmental protection policies that, among other things—
 - (i) decide environmental indicators; and
 - (ii) establish ambient and emission standards for contaminants; and
 - (iii) require waste management, including waste prevention and minimisation; and
 - (iv) advise on management practices; and
 - (b) promoting environmental responsibility and involvement within the community.

- (6) Phase 3 is achieved by—
- (a) integrating environmental values into land use planning and management of natural resources; and
 - (b) ensuring all reasonable and practicable measures are taken to protect environmental values from all sources of environmental harm; and
 - (c) monitoring the impact of the release of contaminants into the environment; and
 - (d) requiring persons who cause environmental harm to pay costs and penalties for the harm.
- (7) Phase 4 is achieved by—
- (a) reviewing the results of human activities on the environment; and
 - (b) evaluating the efficiency and effectiveness of environmental strategies; and
 - (c) reporting publicly on the state of the environment.

5 Obligations of persons to achieve object of Act

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

6 Community involvement in administration of Act

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

Part 3 Interpretation

Division 1 Dictionary

7 Definitions—dictionary

The dictionary in schedule 4 defines particular words used in this Act.

Division 2 Key concepts

Subdivision 1 The environment and its values

8 Environment

Environment includes—

- (a) ecosystems and their constituent parts, including people and communities; and
- (b) all natural and physical resources; and
- (c) the qualities and characteristics of locations, places and areas, however large or small, that contribute to their biological diversity and integrity, intrinsic or attributed scientific value or interest, amenity, harmony and sense of community; and
- (d) the social, economic, aesthetic and cultural conditions that affect, or are affected by, things mentioned in paragraphs (a) to (c).

9 Environmental value

Environmental value is—

- (a) a quality or physical characteristic of the environment that is conducive to ecological health or public amenity or safety; or
- (b) another quality of the environment identified and declared to be an environmental value under an environmental protection policy or regulation.

Subdivision 2 Environmental contamination

10 Contamination

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

11 Contaminant

A *contaminant* can be—

- (a) a gas, liquid or solid; or
- (b) an odour; or
- (c) an organism (whether alive or dead), including a virus; or
- (d) energy, including noise, heat, radioactivity and electromagnetic radiation; or
- (e) a combination of contaminants.

12 Noise

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

13 Waste

- (1) *Waste* includes any thing, other than a resource approved under the Waste Reduction Act, chapter 8, that is—

[s 14]

- (a) left over, or an unwanted by-product, from an industrial, commercial, domestic or other activity; or
- (b) surplus to the industrial, commercial, domestic or other activity generating the waste.

Example of paragraph (a)—

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

- (2) **Waste** can be a gas, liquid, solid or energy, or a combination of any of them.
- (3) A thing can be waste whether or not it is of value.
- (4) For subsection (1), if the approval of a resource under the Waste Reduction Act, chapter 8, is a specific approval, the resource stops being waste only in relation to the holder of the approval.
- (5) Despite subsection (1), a resource approved under the Waste Reduction Act, chapter 8, becomes waste—
 - (a) when it is disposed of at a waste disposal site; or
 - (b) if it is deposited at a place in a way that would, apart from its approval under that chapter, constitute a contravention of the general littering provision or the illegal dumping of waste provision under that Act—when the depositing starts.
- (6) In this section—

waste disposal site see the Waste Reduction Act, section 8A.

Waste Reduction Act means the *Waste Reduction and Recycling Act 2011*.

Subdivision 3 Environmental harm and nuisance

14 Environmental harm

- (1) *Environmental harm* is any adverse effect, or potential adverse effect (whether temporary or permanent and of

whatever magnitude, duration or frequency) on an environmental value, and includes environmental nuisance.

- (2) ***Environmental harm*** may be caused by an activity—
- (a) whether the harm is a direct or indirect result of the activity; or
 - (b) whether the harm results from the activity alone or from the combined effects of the activity and other activities or factors.

15 Environmental nuisance

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

- (a) aerosols, fumes, light, noise, odour, particles or smoke; or
- (b) an unhealthy, offensive or unsightly condition because of contamination; or
- (c) another way prescribed by regulation.

16 Material environmental harm

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

- (a) that is not trivial or negligible in nature, extent or context; or
- (b) that causes actual or potential loss or damage to property of an amount of, or amounts totalling, more than the threshold amount but less than the maximum amount; or
- (c) that results in costs of more than the threshold amount but less than the maximum amount being incurred in taking appropriate action to—
 - (i) prevent or minimise the harm; and

[s 17]

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

(2) In this section—

maximum amount means the threshold amount for serious environmental harm.

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

17 Serious environmental harm

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

- (a) that is irreversible, of a high impact or widespread; or
- (b) caused to an area of high conservation value or special significance; or
- (c) that causes actual or potential loss or damage to property of an amount of, or amounts totalling, more than the threshold amount; or
- (d) that results in costs of more than the threshold amount being incurred in taking appropriate action to—
 - (i) prevent or minimise the harm; and
 - (ii) rehabilitate or restore the environment to its condition before the harm.

(2) In this section—

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

17A Exclusions

Despite sections 14 and 15, a thing stated in schedule 1, part 2 is not environmental harm or environmental nuisance.

Subdivision 4 Environmentally relevant activities

18 Meaning of *environmentally relevant activity*

An *environmentally relevant activity* is—

- (a) an agricultural ERA as defined under section 75; or
- (b) a resource activity as defined under section 107; or
- (c) another activity prescribed under section 19 as an environmentally relevant activity.

19 Environmentally relevant activity may be prescribed

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

- (a) a contaminant will or may be released into the environment when the activity is carried out; and
- (b) the release of the contaminant will or may cause environmental harm.

Subdivision 5 Environmental management

21 Best practice environmental management

- (1) The *best practice environmental management* of an activity is the management of the activity to achieve an ongoing minimisation of the activity's environmental harm through cost-effective measures assessed against the measures currently used nationally and internationally for the activity.
- (2) In deciding the *best practice environmental management* of an activity, regard must be had to the following measures—
 - (a) strategic planning by the person carrying out, or proposing to carry out, the activity;

[s 21A]

- (b) administrative systems put into effect by the person, including staff training and monitoring and review of the systems;
 - (c) public consultation carried out by the person;
 - (d) product and process design;
 - (e) waste prevention, treatment and disposal.
- (3) Subsection (2) does not limit the measures to which regard may be had in deciding the *best practice environmental management* of an activity.

Subdivision 6 Prescribed conditions

21A Meaning of *prescribed condition*

- (1) A *prescribed condition*, for a small scale mining activity, is a condition prescribed under a regulation for the carrying out of the activity.

Example of a prescribed condition—

a condition about rehabilitating land

- (2) Without limiting subsection (1), a prescribed condition may require the holder of a mining tenure for carrying out a small scale mining activity (a *small scale mining tenure*) to give the administering authority financial assurance of an amount prescribed under a regulation—
- (a) before the relevant activity is carried out under the mining tenure; and
 - (b) as security for—
 - (i) compliance with other prescribed conditions for carrying out the small scale mining activity; and
 - (ii) costs or expenses, or likely costs or expenses, mentioned in section 298.

- (3) However, the Minister may recommend to the Governor in Council a regulation imposing a prescribed condition requiring a financial assurance to be given only if the Minister is satisfied the condition is justified having regard to the matters mentioned in section 292(2).

Part 4 Operation of Act

22 Act binds all persons

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

23 Relationship with other Acts

- (1) This Act is in addition to, and does not limit, any other Act.
- (2) If this Act conflicts with an Act as follows, that Act prevails, but only to the extent of the conflict—
- *Ambulance Service Act 1991*
 - *Disaster Management Act 2003*
 - *Exotic Diseases in Animals Act 1981*
 - *Fire and Rescue Service Act 1990*
 - *Public Safety Preservation Act 1986, part 3*
 - *Radiation Safety Act 1999*
 - *Transport Operations (Marine Pollution) Act 1995.*

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

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

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- (2) Without limiting subsection (1), compliance with this Act does not necessarily show that an obligation that exists apart from this Act has been satisfied or has not been breached.
- (3) In addition, a breach of the general environmental duty does not, of itself, give rise to a civil right or remedy.

25 Extra-territorial application of Act

A person commits an offence against this Act if—

- (a) the person causes environmental harm within the State by conduct engaged in outside the State; and
- (b) the conduct would constitute the offence against this Act if it were engaged in by the person within the State.

Chapter 2 Environmental protection policies

26 Minister may make policies

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

27 Scope of policies

- (1) An environmental protection policy may be made about the environment or anything that affects or may affect the environment.
- (2) Without limiting subsection (1), an environmental protection policy may be made about any of the following—
 - (a) a contaminant, including, for example, an ozone depleting substance;
 - (b) an industry or activity;

- (c) a technology or process;
- (d) an environmental value;
- (e) waste management;
- (f) contamination control practice;
- (g) land, air or water quality;
- (h) noise;
- (i) litter.

28 Contents of policies

- (1) An environmental protection policy must—
 - (a) state that the policy applies to the environment generally or to an aspect or part of the environment specified in the policy; and
 - (b) identify the environmental values to be enhanced or protected under the policy.
- (2) An environmental protection policy may—
 - (a) state the objectives to be achieved and maintained under the policy; or
 - (b) state indicators, parameters, factors or criteria to be used in measuring or deciding any quality or condition of the environment; or
 - (c) establish a program by which the stated objectives are to be achieved and maintained, including, for example, the following—
 - (i) quantifying ambient conditions;
 - (ii) the qualities and maximum quantities of any contaminant permitted to be released into the environment;
 - (iii) the minimum standards to be complied with in the installation or operation of vehicles, plant or equipment for the control of contaminants or waste from stated sources or places;

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- (iv) measures designed to protect the environment or minimise the possibility of environmental harm; or
- (d) provide for a program performance assessment procedure.
- (3) An environmental protection policy may make provision about anything about which a regulation may be made under this Act, and, in particular—
 - (a) prescribing offences for contraventions of the policy; and
 - (b) fixing a maximum penalty of a fine of not more than 40 penalty units for the contravention.

33 Policies are subordinate legislation

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

34 Giving effect to policies

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

Chapter 3 Environmental impact statements

Part 1 EIS process

Division 1 Preliminary

Subdivision 1 Application

37 When EIS process applies

- (1) This part applies for a project, other than a coordinated project, if—
- (a) an EIS requirement is in force in relation to an application for an environmental authority for a mining activity that is, or is part of, the project; or
 - (b) an EIS requirement is in force in relation to an application for an environmental authority for a resource activity, other than a mining activity; or
 - (c) an EIS has been required for the project under an Act as follows for which it has, under the Act, been decided or required that this part applies to the preparation of the EIS—
 - (i) the Commonwealth Environment Act;
 - (ii) the State Development Act;
- Note—*
- See the State Development Act, part 4, divisions 2 (Coordinated project) and 3 (EIS process).
- (iii) another State Act or another Commonwealth Act; or

[s 38]

- (d) the voluntary preparation of an EIS for the project has been approved under part 2; or
 - (e) the project is of a type prescribed under a regulation for which approval by a Commonwealth or State authority is required.
- (2) However, an EIS under this Act can not be used for making a decision under the Planning Act, other than a decision in relation to a project mentioned in subsection (1)(a) or (b).
- (3) In this section—

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

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

project includes—

- (a) a development or proposed development; and
- (b) an action or proposed action; and
- (c) a plan or policy.

Subdivision 2 Definitions for pt 1

38 Who is an *affected person* for a project

- (1) A person is an *affected person* for a project if the person is—
- (a) a person mentioned in subsection (2) for the operational land or any land joining it; or
 - (b) any of the following under the *Native Title Act 1993* (Cwlth) for the operational land or for an area that includes any of the land—
 - (i) a registered native title body corporate;
 - (ii) a registered native title claimant;

-
- (iii) a representative Aboriginal/Torres Strait Islander body; or
- (c) a relevant local government for the operational land.
- (2) For subsection (1)(a), the persons are as follows—
- (a) for freehold land—a registered proprietor;
 - (b) for land that is held from the State for an estate or interest less than fee simple and for which the interest is recorded in a register mentioned in the *Land Act 1994* (***Land Act***), section 276—a person recorded in the register as the registered holder of the interest;
 - (c) for land subject to a mining claim, mineral development licence or mining lease—a holder of, or an applicant for, the mining tenure;
 - (d) for land subject to a relevant tenure for an environmental authority for a resource activity, other than a mining activity—the holder of the tenure;
 - (e) for land under the Land Act or the *Nature Conservation Act 1992* (***NCA***) for which there are trustees—a trustee of the land;
 - (f) for Aboriginal land under the *Aboriginal Land Act 1991* (***ALA***) that is taken to be a reserve because of section 202(2) or (4)(b) of that Act—the trustee of the land;
 - (g) for DOGIT land under the ALA or the *Torres Strait Islander Land Act 1991*—a trustee for the land;
 - (h) for land held under a lease under the *Aurukun and Mornington Shire Leases Act 1978*, section 3—a relevant local government;
 - (i) for Torres Strait Islander land under the *Torres Strait Islander Land Act 1991* that is taken to be a reserve because of section 151(2) of that Act—the trustee of the land;
 - (j) for land that, under the *Aboriginal and Torres Strait Islander Land Holding Act 2013*, is lease land for a 1985

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- Act granted lease or a new Act granted lease—the lessee;
- (k) for land that is any of the following, the State—
- (i) unallocated State land;
 - (ii) a reserve under the Land Act for which there is no trustee;
 - (iii) a national park, national park (Aboriginal land), national park (Torres Strait Islander land) or forest reserve under the NCA;
 - (iv) a regional park (general) under the NCA for which there are no trustees;
 - (v) a State forest or timber reserve under the *Forestry Act 1959*;
 - (vi) a State-controlled road under the *Transport Infrastructure Act 1994*;
 - (vii) a fish habitat area under the *Fisheries Act 1994*;
- (l) another person prescribed under a regulation.

39 Other definitions

In this part—

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

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

environmental management plan means—

- (a) an environmental management document; or
- (b) another document, however called, that proposes conditions and mechanisms to manage the potential environmental impact of the project.

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

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

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

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

properly made submission see section 55(2).

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

submission period, for an EIS, means—

- (a) the submission period for the EIS under section 52(1)(e) and (2); or
- (b) if section 68 applies—any new submission period fixed under section 68(3)(b)(ii).

Subdivision 3 Purposes of EIS and EIS process

40 Purposes

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

- (a) to assess—
 - (i) the potential adverse and beneficial environmental, economic and social impacts of the project; and
 - (ii) management, monitoring, planning and other measures proposed to minimise any adverse environmental impacts of the project;
- (b) to consider feasible alternative ways to carry out the project;
- (c) to give enough information about the matters mentioned in paragraphs (a) and (b) to the proponent, Commonwealth and State authorities and the public;

[s 41]

- (d) to prepare or propose an environmental management plan for the project;
- (e) to help the administering authority decide an environmental authority application for which the EIS is required;
- (f) to give information to other Commonwealth and State authorities to help them make informed decisions;
- (g) to meet any assessment requirements under—
 - (i) the Commonwealth Environment Act for a project that is, or includes, a controlled action under that Act; or
 - (ii) a bilateral agreement;

Editor's note—

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

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

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

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

Division 2 Terms of reference stage

Subdivision 1 Draft terms of reference

41 Submission

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

-
- (2) The submitted draft must—
- (a) be in the approved form; and
 - (b) be accompanied by the fee prescribed under a regulation; and
 - (c) if any of the operational land for the project is in a wild river area—
 - (i) if mining activities (other than activities carried out for specified works) are to be carried out below the surface of the wild river high preservation area or wild river special floodplain management area or under a nominated waterway in the wild river area—include a statement of how the proponent proposes to decide the minimum depth below the surface of the land under which the mining activities can be carried out to comply with the wild river declaration for the area; and
 - (ii) include any other matter that the wild river declaration states must be included in the draft terms of reference for the EIS; and
 - (d) include any matter prescribed under a regulation.
- (3) Also, if an approval has not been given under part 2 for the project, the submitted draft must be accompanied by the following—
- (a) a written description of the project and the operational land;
 - (b) a list stating the name and address of each person the proponent proposes as an interested person for the project;

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

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

[s 42]

- (c) a statement of how the proponent proposes to consult with the interested persons;
- (d) a list of the names and addresses of the affected persons for the project.

Subdivision 2 Public notification of draft terms of reference

42 Preparation of TOR notice

- (1) The chief executive must, within 15 business days after the draft terms of reference are submitted, give the proponent written notice about the draft (the ***TOR notice***) for public notification.
- (2) The notice must state the following—
 - (a) a description of the project and the operational land;
 - (b) that the proponent has prepared draft terms of reference for the EIS;
 - (c) where or how the draft may be obtained;
Editor's note—
See section 65 (Public access to draft terms of reference or submitted EIS).
 - (d) that anyone may make written comments to the chief executive about the draft;
 - (e) a period decided by the chief executive (the ***comment period***) during which comments may be made;
 - (f) another matter prescribed under a regulation.
- (3) The comment period must not end before 30 business days after the notice is published.

43 Public notification

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

Editor's note—

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

- (2) The proponent must, if asked by the chief executive, pay the chief executive's reasonable costs incurred in publishing the notice.
- (3) The proponent must, within the 5 business days, give a copy of the notice to—
 - (a) each affected person for the project; and
 - (b) each interested person; and
 - (c) any other person decided by the chief executive.
- (4) The chief executive may decide another person for subsection (3)(c) only by giving the proponent an information notice about the decision before the notice is published.

44 Proponent to be given comments

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

45 Advice to chief executive

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

- (a) a written summary of the comments; and
- (b) a statement of the proponent's response to the comments; and
- (c) any amendments of the draft terms of reference the proponent proposes because of the comments.

Subdivision 3 Final terms of reference

46 Finalising terms of reference

- (1) The chief executive must, within the period prescribed under a regulation, do the following—
 - (a) consider the documents mentioned in section 45;
 - (b) prepare the final terms of reference;
 - (c) give the proponent a copy of the final terms of reference;
 - (d) publish the final terms of reference.
- (2) The proponent must, if asked by the chief executive, pay the chief executive's reasonable costs incurred in publishing the final terms of reference.

Division 3 Submission stage

47 When EIS may be submitted

- (1) The proponent may submit the EIS to the chief executive only within—
 - (a) 2 years after the final terms of reference are given to the proponent; or
 - (b) any longer period decided by the chief executive before or after the 2 years ends.
- (2) The submitted EIS must be accompanied by the fee prescribed under a regulation.
- (3) If an EIS is not submitted under subsection (1)—
 - (a) the final terms of reference cease to have effect; and
 - (b) division 2 must be complied with again before the EIS may be submitted.

48 Chief executive may require copies of EIS

- (1) The chief executive may, at any time before the submission period ends, by written notice require the proponent to give the chief executive a stated number of copies of the submitted EIS that the chief executive reasonably requires.
- (2) The notice may require—
 - (a) the copies to be in hard copy form or in an electronic form or forms; and
 - (b) a stated part of the stated number to be given in hard copy form and a stated part of the number to be given in an electronic form or forms.

49 Decision on whether EIS may proceed

- (1) The chief executive must, within the period prescribed under a regulation, consider the submitted EIS and decide whether to allow it to proceed under division 4.
- (2) The chief executive may allow the EIS to proceed only if the chief executive considers it addresses the final terms of reference in an acceptable form.
- (3) If the decision is to allow the EIS to proceed, the chief executive may also fix a minimum period for the making of submissions about the EIS.
- (4) However, the period fixed must be at least 30 business days and must end at least 30 business days after the EIS notice is published.
- (5) The chief executive must, within 10 business days after the decision is made, give the proponent written notice of the decision and of any submission period fixed.
- (6) If the decision is to refuse to allow the EIS to proceed, the notice must also state—
 - (a) the reasons for the decision; and
 - (b) that the proponent may, under section 50, apply to the Minister to review the decision; and

[s 50]

- (c) how to apply for a review.

50 Ministerial review of refusal to allow to proceed

- (1) If the chief executive decides to refuse to allow the EIS to proceed, the proponent may, by written notice, apply to the Minister to review the decision.
- (2) The notice must—
 - (a) state why the proponent considers the EIS should be allowed to proceed; and
 - (b) be given within 10 business days after the proponent receives a notice under section 49(6) about the decision.
- (3) However, the Minister may, at any time, extend the time for giving the notice.
- (4) In reviewing the decision, the Minister—
 - (a) has the same powers as the chief executive; and
 - (b) may confirm the chief executive's decision or decide to allow the EIS to proceed under division 4.
- (5) The Minister's decision on the review is taken for this part, other than section 49(6), to be the chief executive's decision.
- (6) The chief executive must give the proponent written notice of the Minister's decision within 10 business days after it is made.
- (7) If the Minister's decision is to confirm the chief executive's decision, the notice must state reasons for the Minister's decision.

Division 4 Notification stage

Subdivision 1 Public notice requirements

51 Public notification

- (1) This section applies if the chief executive has given the proponent a notice, under section 49(5), that the EIS may proceed under this division.
- (2) Within 20 business days after the giving of the notice, the proponent must—
 - (a) give written notice about the EIS (the *EIS notice*) to—
 - (i) each affected person for the project; and
 - (ii) each interested person; and
 - (iii) any other person decided by the chief executive; and
 - (b) after giving the EIS notice under paragraph (a), publish the EIS notice—
 - (i) at least once in a newspaper circulating in the locality of the operational land; and
 - (ii) in another way prescribed under a regulation or decided by the chief executive; and
 - (c) make a copy of the submitted EIS available on a website.
- (3) The chief executive may decide another person for subsection (2)(a)(iii) or another way of publishing the EIS notice for subsection (2)(b)(ii) only by giving the proponent an information notice about the decision before the notice is published.
- (4) The proponent must keep the information mentioned in subsection (2)(c) available on a website from the start of the submission period until—

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- (a) if the proponent is given notice by the chief executive under section 56A(4) that the submitted EIS may not proceed and the proponent does not apply to the Minister to review the decision—the day the notice is given; or
 - (b) if the proponent is given notice by the chief executive under section 50(6), as applied by section 56B(2), that the submitted EIS may not proceed—the day the notice is given; or
 - (c) if paragraphs (a) and (b) do not apply—the day that is 1 year after the chief executive gives the proponent an EIS assessment report under section 57(2).
- (5) This section is subject to section 68.

52 Required content of EIS notice

- (1) The EIS notice must be in the approved form and state the following—
- (a) a description of the project and the operational land;
 - (b) where the submitted EIS may be inspected;
 - (c) where copies of, or extracts from, the submitted EIS may be obtained;
 - (d) that anyone may make a submission to the chief executive about the submitted EIS;
 - (e) the period (the *submission period*) during which submissions may be made;
 - (f) how to make a properly made submission;
 - (g) another matter prescribed under a regulation.

Editor's note—

For paragraphs (b) and (c), see sections 65 (Public access to draft terms of reference or submitted EIS), 540A (Registers to be kept by chief executive) and 542 (Inspection of register).

- (2) The submission period must be at least 30 business days and must end after the later of the following to end—
 - (a) any minimum period for the making of submissions about the EIS fixed by the chief executive under section 49(3) before the notice is published under section 51(2)(b);
 - (b) 20 business days after the publication.

53 Declaration of compliance

- (1) The proponent must, within 10 business days after the EIS notice is published, give the chief executive a statutory declaration declaring—
 - (a) whether or not the proponent has complied with the notice requirements under sections 51 and 52; and
 - (b) the name and address of each person to whom the EIS notice was given under section 51.
- (2) A copy of the EIS notice must be attached to the declaration.
- (3) The proponent is taken to have complied with the requirements if—
 - (a) a declaration is given under this section; and
 - (b) the declaration states the proponent has complied with the notice requirements.

Editor's note—

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

Subdivision 2 Submissions

54 Right to make submission

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

55 Acceptance of submissions

- (1) The chief executive must accept a submission if it—
 - (a) is written; and
 - (b) is signed by or for each person (*signatory*) who made the submission; and
 - (c) states the name and address of each signatory; and
 - (d) is made to the chief executive; and
 - (e) is received on or before the last day of the submission period.
- (2) A submission that complies with subsection (1) is called a *properly made submission*.
- (3) The chief executive may accept a written submission even if it is not a properly made submission.

56 Response to submissions

- (1) The chief executive must, within 10 business days after the submission period ends, give the proponent a copy of all submissions accepted by the chief executive.
- (2) The proponent must, within the relevant period, consider the submissions and give the chief executive—
 - (a) a summary of the submissions; and
 - (b) a statement of the proponent's response to the submissions; and

-
- (c) any amendments of the submitted EIS because of the submissions, together with an EIS amendment notice under section 66 for the amendments.
- (3) In this section—
- relevant period* means—
- (a) generally—20 business days after the proponent is given a copy of all submissions accepted by the chief executive; or
- (b) if the chief executive and the proponent have, within the 20 business days, agreed to a different period—the different period.

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

- (1) This section applies only if, under section 55, a submission has been accepted by the chief executive.
- (2) The chief executive must, within 20 business days after the relevant period under section 56—
- (a) consider the submitted EIS and the documents given under section 56(2); and
- (b) decide whether to allow the submitted EIS to proceed under divisions 5 and 6.
- (3) The chief executive may allow the submitted EIS to proceed only if the chief executive considers—
- (a) the proponent's response to the submission is adequate; and
- (b) the proponent has made all appropriate amendments to the submitted EIS because of the submission.
- (4) The chief executive must, within 10 business days after the decision is made, give the proponent written notice of the decision.

[s 56B]

- (5) If the decision is to refuse to allow the submitted EIS to proceed, the notice must also state—
 - (a) the reasons for the decision; and
 - (b) that the proponent may, under section 56B, apply to the Minister to review the decision; and
 - (c) how to apply for a review.

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

- (1) If, under section 56A, the chief executive decides to refuse to allow the submitted EIS to proceed, the proponent may, by written notice, apply to the Minister to review the decision.
- (2) Section 50 applies to the notice and the review as if—
 - (a) they were a notice and review under that section; and
 - (b) the reference to division 4 in section 50(4)(b) were a reference to divisions 5 and 6; and
 - (c) the reference to section 49(6) in section 50(2)(b) were a reference to section 56A(4).

Division 5 EIS assessment report

57 EIS assessment report

- (1) This section applies only if the chief executive has given the proponent a notice under section 56A(4), or under 50(6) as applied by section 56B(2), of a decision that the submitted EIS may proceed under this division and division 6.
- (2) The chief executive must give the proponent a report (an *EIS assessment report*) about the submitted EIS within 30 business days after—

- (a) if, at the end of the submission period, the chief executive has accepted any submissions—the day the notice mentioned in subsection (1) was given; or
- (b) if, under section 56A, the chief executive originally decided to refuse to allow the submitted EIS to proceed but, under section 56B, the Minister decided to allow it to proceed—the giving to the proponent of notice of the Minister's decision; or
- (c) otherwise—the end of the submission period.

Editor's note—

For public inspection of the EIS assessment report, see sections 540A (Registers to be kept by chief executive) and 542 (Inspection of register).

58 Criteria for preparing report

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

- (a) the final terms of reference for the EIS;
- (b) the submitted EIS;
- (c) all properly made submissions and any other submissions accepted by the chief executive;
- (d) the standard criteria;
- (e) another matter prescribed under a regulation.

59 Required content of report

An EIS assessment report must—

- (a) address the adequacy of the EIS in addressing the final terms of reference; and
- (b) address the adequacy of any environmental management plan for the project; and
- (c) make recommendations about the suitability of the project; and

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- (d) recommend any conditions on which any approval required for the project may be given; and
- (e) contain another matter prescribed under a regulation.

Division 6 Completion of process

60 When process is completed

- (1) The process under this part is completed for an EIS when the proponent is given an EIS assessment report for the EIS.
- (2) The process is taken to have been completed for a coordinated project if the Coordinator-General's report for the project has been given to the project's proponent.
- (3) The process is taken to have been completed for another project if—
 - (a) an EIS or a similar statement, however called, for the project has been—
 - (i) finalised under the Commonwealth Environment Act, section 104(1); or
 - (ii) completed under another Commonwealth Act or a State Act; and
 - (b) the chief executive decides the process under this part has been complied with, or substantially complied with, for the EIS or statement.

Division 7 Miscellaneous provisions

Subdivision 1 Inquiries by chief executive

61 Application of sdiv 1

This subdivision applies during—

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

Example of when subdivision applies—

- 1 when the chief executive is preparing the final terms of reference
- 2 when the proponent is preparing the EIS
- 3 when the administering authority is preparing an EIS assessment report

62 Chief executive may seek advice, comment or information

- (1) The chief executive may seek and consider relevant advice, comment or information from the proponent or another person.
- (2) The request may be by public notice.
- (3) If the request is made of the proponent, it must be written, and must state a reasonable period for the giving of the advice, comment or information sought.

63 Disclosure of relevant documents or information

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

- (a) is mentioned in this part, required to be given to the chief executive under this part or relates to the project or to the process under this part; and
- (b) is not subject to a disclosure exemption.

64 Making of inquiry does not of itself alter EIS process

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

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

[s 65]

- (b) extend or reduce the period required to take a step or make a decision under divisions 2 to 6; or
- (c) affect or limit a provision of divisions 2 to 6 that allows the chief executive and the proponent to agree about the period for the taking of a step under the EIS process.

Note—

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

Subdivision 2 Public inspection

65 Public access to draft terms of reference or submitted EIS

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

Editor's note—

See also sections 540A (Registers to be kept by chief executive) and 542 (Inspection of register).

For the appropriate fee, see section 543 (Appropriate fee for copies).

Subdivision 3 Amending EIS

66 Amending EIS

- (1) The proponent may amend or replace the submitted EIS (the *original EIS*) at any time before the EIS assessment report is given to the proponent.
- (2) However, the submitted EIS can not be amended during the submission period for the EIS.

- (3) Also, an amendment may be made only by giving the chief executive written notice of the amendment (an *EIS amendment notice*).
- (4) An EIS amendment notice must be accompanied by the fee prescribed under a regulation.
- (5) The submitted EIS is taken to be the original EIS, as amended from time to time by an EIS amendment notice given for the original EIS.

Subdivision 4 Effects of noncompliance with process

67 Process is suspended

- (1) This section applies if the proponent—
 - (a) does not comply with a requirement under the EIS process for an EIS; or
 - (b) becomes entitled to take the next step under the process and has not taken the step.
- (2) The following are suspended until the requirement is complied with or the step is taken—
 - (a) the EIS process for the EIS;
 - (b) any obligations of the chief executive under this part for the EIS.
- (3) The proponent's draft terms of reference or submitted EIS lapse on the later of the following days if the requirement has not been complied with or the step has not been taken—
 - (a) the first anniversary of the suspension;
 - (b) if the chief executive and the proponent have, before the first anniversary, agreed to a later day—the later day.
- (4) This section is subject to sections 47 and 68.

[s 68]

68 Substantial compliance with notice requirements may be accepted

- (1) If the proponent has not complied with the notice requirements under division 2, subdivision 2 or division 4, subdivision 1, the chief executive must decide whether to allow the EIS to proceed under this part as if the noncompliance had not happened.
- (2) The chief executive may decide to allow the EIS to proceed only if the chief executive is satisfied there has been substantial compliance with the requirements.
- (3) If the chief executive decides not to allow the EIS to proceed, the chief executive must, within 10 business days after the decision is made—
 - (a) fix a new period for compliance with the requirements (the *new notice period*); and
 - (b) either fix—
 - (i) if the noncompliance was with division 2, subdivision 2—a new comment period; or
 - (ii) if the noncompliance was with division 4, subdivision 1—a new submission period; and
 - (c) give the proponent an information notice about the decision not to allow the EIS to proceed and the decision about the new notice period.
- (4) The information notice must state the new notice period and the new comment or submission period.
- (5) The new notice period applies despite the period for giving the notice under section 43(3) or 51(2).

Part 2 Voluntary preparation of EIS

69 Purpose of pt 2

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

70 Projects that may be approved for EIS

- (1) The proponent for a project may apply to the chief executive for approval to prepare an EIS for a project.
- (2) However, an application can not be made for a project if—
 - (a) an EIS requirement is in force for an application under this Act relating to the project; or
 - (b) the Commonwealth Environment Act requires the project to be assessed under chapter 4, part 8 of that Act and the EIS process has not been decided as an accredited process under the Commonwealth Environment Act; or

Editor's note—

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

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

71 Requirements for application

An approval application must be—

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- (a) in the approved form; and
- (b) supported by enough information to allow the chief executive to decide whether an EIS is appropriate for the project; and
- (c) supported by enough documents or information to establish that the applicant may enter land to which the project relates to carry out any necessary studies for the EIS; and
- (d) accompanied by—
 - (i) the documents that, under section 41(3), must accompany a submitted draft terms of reference for an EIS; and
 - (ii) the fee prescribed under a regulation.

72 Deciding application

- (1) The chief executive must consider the application and decide either to grant or refuse the approval.
- (2) However, the chief executive may grant the approval only if the chief executive considers an EIS is appropriate for the project.
- (3) The chief executive must, within 10 business days after the decision is made, give the proponent a written notice stating the decision, and the reasons for it.

Chapter 4A Great Barrier Reef protection measures

Part 1 Preliminary

74 Purpose of ch 4A

The purpose of this chapter is to—

- (a) reduce the impact of agricultural activities on the quality of water entering the reef; and
- (b) contribute to achieving the targets about water quality improvement for the reef under agreements between the State and the Commonwealth from time to time.

Note—

At the commencement of this section the current agreement was the ‘Reef Water Quality Protection Plan: For catchments adjacent to the Great Barrier Reef World Heritage Area October 2003’.

75 What is an *agricultural ERA*

(1) An activity is an *agricultural ERA* if—

- (a) it is—
 - (i) commercial sugar cane growing; or
 - (ii) cattle grazing carried out on an agricultural property of more than 2000ha; and

Note—

For part 3, see also section 87A (Extended meaning of agricultural ERA for pt 3).

- (b) it is carried out on an agricultural property in 1 or more of the following catchments (each a *priority catchment*)—
 - (i) the Wet Tropics catchment;

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- (ii) the Mackay–Whitsunday catchment;
 - (iii) the Burdekin dry tropics catchment.
- (2) However, if only part of the agricultural property is in 1 or more of the priority catchments, the activity is only an agricultural ERA if—
 - (a) more than 75% of the lot on which it is carried out is in 1 or more of the priority catchments; or
 - (b) the part of the lot within 1 or more of the priority catchments is more than 20000ha.
- (3) For subsection (1)(b), the priority catchments—
 - (a) are identified on the map held by the department called ‘Map of Great Barrier Reef Catchments covered by the Queensland Government Reef Protection Package’, Map No. g090514-01; but
 - (b) also include any other land prescribed under a regulation.
- (4) A regulation may be made under subsection (3)(b) only if—
 - (a) the other land forms part of an agricultural property that is only partly within any of the catchments identified on the map; and
 - (b) each priority catchment will, after the making of the regulation, be a contiguous parcel of land.
- (5) In this section—

lot means—

 - (a) a lot under the *Land Title Act 1994*; or
 - (b) a separate, distinct parcel of land for which an interest is recorded in a register under the *Land Act 1994*.

76 Who carries out an agricultural ERA

A person *carries out* an agricultural ERA only if the person—

- (a) carries it out personally; or

- (b) employs or engages someone else to carry it out on the person's behalf.

77 Other definitions for ch 4A

In this chapter—

accredited, for an ERMP, means accredited under part 3.

agricultural chemicals means agricultural chemical products, as defined under the Agvet Code of Queensland applying under the *Agricultural and Veterinary Chemicals (Queensland) Act 1994*.

agricultural ERA record see section 83(1)(a).

agricultural property means a parcel or parcels of land, managed as one unit to carry out an agricultural activity.

cattle means beef cattle of all ages.

ERMP means environmental risk management plan.

ERMP direction see section 88(b).

optimum amount, for the application of nitrogen and phosphorus to soil on an agricultural property, means the highest amount of nitrogen and phosphorus that can be applied without over-fertilising the property.

over-fertilisation, of an agricultural property, means that fertiliser has been applied to soil on the property at above the needs of the plants being or to be fertilised.

priority catchment see section 75(1)(b).

production requirement see section 85(1).

reef means the Great Barrier Reef.

relevant agricultural property for—

- (a) a provision about an agricultural ERA—means the agricultural property on which the agricultural ERA is carried out; or

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- (b) a provision about an ERMP—means the agricultural property on which the agricultural ERA the subject of the ERMP is carried out.

relevant primary documents, for an agricultural ERA record, see section 84(2).

sugar cane growing means a system for growing sugar cane, whether or not it includes the rotation of other crops.

Part 2 Requirements for carrying out agricultural ERAs

Division 1 Fertiliser application requirements

Subdivision 1 Offence

78 Offence about fertiliser application

A person who carries out an agricultural ERA must not apply nitrogen or phosphorus to soil on the relevant agricultural property unless—

- (a) all of the conditions under subdivision 2 have been complied with; or
- (b) the person has an accredited ERMP for the agricultural ERA and the ERMP—
- (i) provides for an alternative procedure to prevent over-fertilisation of the property; and
- (ii) states that the procedure is an alternative to compliance with the conditions.

Maximum penalty—100 penalty units.

Note—

Noncompliance with an accredited ERMP is not, in itself, an offence. However, the noncompliance may be the subject of a direction notice. See section 363B.

Subdivision 2 Conditions to prevent over-fertilisation

79 Application of sdiv 2

This subdivision applies to a person carrying out an agricultural ERA.

80 Working out optimum amount

- (1) The person must work out the optimum amount of nitrogen and phosphorus that can be applied to soil on the relevant agricultural property.
- (2) The working out must use the results of soil tests required under section 81.
- (3) A regulation may prescribe a methodology for working out the optimum amount.
- (4) If a prescribed methodology applies for the application of nitrogen or phosphorus to soil on the property, the optimum amount must be worked out under the methodology.

81 Soil testing

- (1) The person must cause—
 - (a) soil tests of the relevant agricultural property to be carried out to test the characteristics of the soil to allow the optimum amount to be worked out; and
 - (b) reports to be prepared for each of the tests that shows its results.

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- (2) The tests and the reports must be carried out or prepared by a person with appropriate experience or qualifications.
- (3) A regulation may prescribe—
 - (a) the intervals at which the tests must be carried out; and
 - (b) a methodology for carrying out the tests.
- (4) The carrying out of the tests must comply with the regulation.

82 Restriction on application of fertiliser

Fertiliser containing nitrogen or phosphorus must not be applied to soil on the relevant agricultural property if doing so may result in more than the optimum amount of nitrogen or phosphorus being applied to the soil.

Division 2 Document requirements

Subdivision 1 Documents that must be kept

83 Required record

- (1) A person who carries out an agricultural ERA must unless the person has a reasonable excuse—
 - (a) make or cause to be made within the required period a record (an *agricultural ERA record*) in the approved form about the matters mentioned in subsection (2); and
 - (b) keep the record for at least 5 years.Maximum penalty—100 penalty units.
- (2) For subsection (1)(a) the matters are all of the following—
 - (a) any of the following applied on the relevant agricultural property—
 - (i) agricultural chemicals;

- (ii) fertilisers;
 - (iii) soil conditioners;
 - (b) soil test reports prepared under section 81;
 - (c) optimum amounts worked out under section 80;
 - (d) any other matter prescribed under a regulation.
- (3) In this section—

required period means 10 business days after the happening of the event mentioned in subsection (2) for which the record must be made.

84 Obligation to keep relevant primary documents

- (1) A person who makes an agricultural ERA record must keep all relevant primary documents for the record for at least 5 years after making it unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

- (2) The *relevant primary documents*, for an agricultural ERA record, are—

- (a) documents relating to the carrying out of the agricultural ERA the subject of the record from which information in the record was obtained; and

Example—

invoices for the purchase of fertiliser

- (b) soil test reports mentioned in the record.

Subdivision 2 Production of documents

85 Power to require production of documents

- (1) An authorised person may, by written notice, require (a *production requirement*) a person carrying out an agricultural

[s 86]

ERA (the *operator*) to produce to the authorised person for inspection within 10 business days—

- (a) the operator's current agricultural ERA records; or
 - (b) the relevant primary documents for the records.
- (2) A production requirement may be for—
- (a) all of the operator's current agricultural ERA records; or
 - (b) the operator's current agricultural ERA records for a stated period; or
 - (c) a stated current agricultural ERA record of the operator.
- (3) If the record or document produced is a hard copy, the authorised person—
- (a) may keep the record or document to take an extract from, or make a copy of, it; but
 - (b) must return it to the operator as soon as practicable after taking the extract or making the copy.
- (4) This section does not limit section 466.
- (5) In this section—

current agricultural ERA records, for the operator, means any of the operator's agricultural ERA records that are still subject to the requirement under section 83(1)(b).

86 Offence not to comply with production requirement

A person of whom a production requirement has been made must comply with the requirement unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

87 Derivative use immunity for production

- (1) It is not a defence to a proceeding for an offence against section 86 that the relevant document contains information that might tend to incriminate the defendant.

-
- (2) However, if the defendant is an individual, incriminating evidence is not admissible in evidence against the defendant in a civil or criminal proceeding.
- (3) Subsection (2) does not apply to a proceeding for an offence for which the falsity or misleading nature of the relevant document is relevant.
- (4) In this section—
- incriminating evidence* means evidence of, or evidence directly or indirectly derived from a relevant document or information it contains that might tend to incriminate the defendant.
- relevant document* means a record, or a relevant primary document for a record, the subject of the relevant document production requirement.

Part 3 Environmental risk management plans

Division 1AA Preliminary

87A Extended meaning of *agricultural ERA* for pt 3

- (1) This section applies to cattle grazing carried out on an agricultural property carrying more than 100 standard cattle units.
- (2) For this part, the cattle grazing is an *agricultural ERA* if, disregarding the size of the property, the cattle grazing would be an agricultural ERA under section 75.
- (3) This section does not limit what is an agricultural ERA under section 75 for this part.
- (4) In this section—

[s 88]

standard cattle units means units of measurement based on the live weight of cattle as follows—

Live weight of head (kg)	Number of standard cattle units
up to 350	0.67
more than 350 to 400	0.74
more than 400 to 450	0.81
more than 450 to 500	0.87
more than 500 to 550	0.94
more than 550 to 600	1.00
more than 600 to 650	1.06
more than 650 to 700	1.12
more than 700	1.18

Division 1 General matters

88 When an accredited ERMP is required

A person who carries out an agricultural ERA must have an accredited ERMP for the agricultural ERA if—

- (a) it consists of—
 - (i) sugar cane growing on more than 70ha in the Wet Tropics catchment under section 75; or
 - (ii) cattle grazing on more than 2000ha in the Burdekin dry tropics catchment under section 75; or

Note—

See however section 657 (Deferral of automatic ERMP requirement for existing agricultural ERAs).

- (b) the person is the recipient of a direction given under this division (an *ERMP direction*).

Note—

An ERMP may also be voluntarily submitted for accreditation. See section 97.

89 When ERMP direction may be given

The Minister may give a person carrying out an agricultural ERA an ERMP direction only if—

- (a) the Minister considers an ERMP is necessary or desirable—
 - (i) to improve the quality of water being released from the relevant agricultural property; or
 - (ii) because the agricultural ERA is causing or may cause unlawful environmental harm; and
- (b) the direction complies with section 90; and
- (c) if it has more than 1 recipient—section 91 is complied with.

90 Form of ERMP direction and what it may require

- (1) An ERMP direction must—
 - (a) be written; and
 - (b) identify the recipient; and
 - (c) state each of the following—
 - (i) the agricultural ERA for which an ERMP is required;
 - (ii) the relevant agricultural property;
 - (iii) the recipient's obligations under section 92;
 - (iv) that it is an offence for the recipient not to comply with the obligations under section 92 unless the recipient has a reasonable excuse;
 - (v) the maximum penalty for the offence; and

[s 91]

- (d) be accompanied by or include an information notice about the decision to give the direction.
- (2) Despite section 92, an ERMP direction may provide that the ERMP need not include the matters mentioned in section 94(d).
- (3) An ERMP direction may require the recipient to include in the ERMP any matter that the Minister reasonably considers is necessary or desirable to reduce the impact of the agricultural ERA on the quality of water entering the reef.

91 Public notice of ERMP directions with multiple recipients

- (1) This section applies if an ERMP direction has more than 1 recipient.
- (2) As well as giving the ERMP direction to each of the recipients individually, the Minister must also publish it in a modified form—
 - (a) in a newspaper circulating generally in the State; and
 - (b) in another newspaper published generally in the relevant priority catchment.
- (3) The modified form—
 - (a) must not include any of the recipient's names; but
 - (b) must include enough detail about the area or a type of agricultural ERA to which the ERMP direction applies to allow each recipient to be aware that it applies to them.

92 Obligations if accredited ERMP required

If, under section 88, a person must have an accredited ERMP, the person must unless the person has a reasonable excuse—

- (a) prepare, for the person's agricultural ERA, an ERMP that complies with the requirements under division 2 (the *ERMP content requirements*); and

- (b) within 3 months submit it to the administering authority for accreditation.

Maximum penalty—300 penalty units.

93 Unaccredited ERMP has no effect

Other than for the purpose of submission to seek accreditation, an ERMP has no effect unless it has been accredited.

Division 2 ERMP content requirements

94 General content requirements

An ERMP must—

- (a) state each of the following—
- (i) the person who prepared it;
 - (ii) the agricultural ERA the subject of the ERMP;
 - (iii) the person carrying out the agricultural ERA;
 - (iv) a description of the relevant agricultural property;
 - (v) the period for which the ERMP applies; and
- (b) identify any hazards of the property that may cause the release of contaminants into water entering the reef; and

Examples of things that may be a hazard—

- the application of fertiliser or agricultural chemicals
 - erosion zones
 - low levels of ground cover
- (c) include measurable targets and performance indicators for improving the quality of water being discharged from the property; and

[s 95]

- (d) subject to sections 90(2) and 95, include a management plan for the agricultural ERA that provides for the management of—
 - (i) the application of agricultural chemicals on the property; and
 - (ii) nutrients applied to soil on the property; and
 - (iii) sediment loss from the property, including the management of ground cover and erosion zones to prevent sediment loss; and
- (e) if an ERMP direction has been given—provide for any matter that, under section 90(3), must be included in the ERMP; and
- (f) provide for any matter that is reasonably necessary to reduce the impact of the agricultural ERA on the quality of water entering the reef; and
- (g) any other matter prescribed under an environmental protection policy or a regulation.

95 Exceptions for management plan requirement

- (1) Section 94(d)(i) does not apply if the person carrying out the agricultural ERA has been certified as an organic operator by the Australian Quarantine Inspection Service.
- (2) If the agricultural ERA the subject of the ERMP is cattle grazing, section 94(d)(ii) only applies for pastures on the relevant agricultural property that are to be fertilised.

96 Documents that may make up ERMP

- (1) The ERMP content requirements may be complied with in any number of documents or by incorporating the provisions of other documents into the ERMP.
- (2) The documents may be documents prepared for another purpose.

- (3) An ERMP need not be called an environmental risk management plan.

Example for section 96—

A person carrying out an agricultural ERA will comply with the ERMP content requirements if—

- (a) for good business practice, the person prepares a document called a ‘farm management system’ that includes an environmental management component; and
- (b) the component consists of a land management agreement under the *Land Act 1994* and other documents; and
- (c) the agreement and the other documents, when read together, comply with the ERMP content requirements, but they are not identified as an ERMP; and
- (d) the person submits the component for accreditation as an ERMP.

Division 3 Accreditation of ERMPs

97 Application of div 3

This division applies if a person has submitted an ERMP to the administering authority for accreditation, whether or not the person was required to do so under section 92.

98 Request for further information

The administering authority may, by written notice, ask the person to give the authority further information or documents about the ERMP content requirements by the reasonable date stated in the notice.

99 Deciding whether to accredit

- (1) The administering authority must decide to accredit or refuse to accredit the ERMP—
 - (a) if additional information is not required—within 60 business days after receiving the ERMP; or

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- (b) if additional information is required—within 60 business days after the information is received or should have been given, whichever is earlier.
- (2) The administering authority may decide to accredit the ERMP only if the authority is satisfied it complies with the ERMP content requirements.

100 Notice of decision

Within 10 business days after making the decision, the administering authority must give the person—

- (a) if the decision is to accredit—a written notice of the decision; or
- (b) if the decision is to refuse to accredit—an information notice about the decision.

101 Amended ERMP required if accreditation refused

- (1) If the decision is to refuse to accredit, the person must—
 - (a) amend the ERMP to address the reasons for the decision; and
 - (b) within 20 business days after receiving notice of the decision or of any extended period under subsection (2), give the administering authority the amended ERMP.

Maximum penalty—100 penalty units.

- (2) The administering authority may extend the period of 20 business days mentioned in subsection (1).
- (3) This division applies to the amended ERMP—
 - (a) as if a reference to the ERMP were a reference to the amended ERMP; and
 - (b) with other necessary changes.

Division 4 Amendment of accredited ERMPs

102 Application of div 4

This division applies to a person carrying out an agricultural ERA for which there is an accredited ERMP.

103 Voluntary amendment

- (1) The person may at any time—
 - (a) amend the ERMP; and
 - (b) submit it to the administering authority for accreditation.
- (2) Division 3 applies to the amended ERMP—
 - (a) as if a reference to the ERMP were a reference to the amended ERMP; and
 - (b) as if a reference to accreditation of an ERMP were a reference to accreditation of the amended ERMP; and
 - (c) with other necessary changes.

104 Direction to amend

- (1) This section applies if the administering authority considers it is necessary or desirable to amend the ERMP—
 - (a) because it no longer complies with ERMP content requirements; or
 - (b) to improve the quality of water being discharged from the relevant agricultural property; or
 - (c) because the agricultural ERA the subject of the ERMP is causing or may cause unlawful environmental harm.
- (2) The administering authority may give the person carrying out the agricultural ERA a written direction to—

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- (a) amend the ERMP in a stated way so as to comply with ERMP content requirements; and
 - (b) within 3 months submit it to the administering authority for accreditation.
- (3) Divisions 1 to 3 apply—
- (a) as if the direction were an ERMP direction; and
 - (b) as if a reference to an ERMP were a reference to the amended ERMP; and
 - (c) as if a reference to accreditation of an ERMP were a reference to accreditation of the amended ERMP; and
 - (d) with other necessary changes.

Division 5 Annual reporting

105 Annual reporting requirement

- (1) This section applies to a person carrying out an agricultural ERA for which there is an accredited ERMP.
- (2) The person must, within 2 months after the end of each financial year, give the administering authority an annual report in the approved form about the implementation of the ERMP unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

Chapter 5 Environmental authorities and environmentally relevant activities

Note—

The *Strategic Cropping Land Act 2011*, chapter 3, part 4, division 2 imposes restrictions on the issuing of environmental authorities for SCL and potential SCL under that Act.

Part 1 Preliminary

Division 1 Key definitions for chapter 5

106 What is a *prescribed ERA*

A *prescribed ERA* is an environmentally relevant activity prescribed under section 19.

107 What is a *resource activity*

A *resource activity* is an activity that involves—

- (a) a geothermal activity; or
- (b) a GHG storage activity; or
- (c) a mining activity; or
- (d) a petroleum activity.

108 What is a *geothermal activity*

A *geothermal activity* is an activity that, under the Geothermal Act, is an authorised activity for a geothermal tenure.

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109 What is a *GHG storage activity*

A *GHG storage activity* is an activity that, under the GHG storage Act, is an authorised activity for a GHG authority under that Act.

110 What is a *mining activity*

A *mining activity* is—

- (a) an activity that is an authorised activity for a mining tenement under the Mineral Resources Act; or
- (b) another activity that is authorised under an approval under the Mineral Resources Act that grants rights over land.

111 What is a *petroleum activity*

A *petroleum activity* is—

- (a) an activity that, under the *Petroleum Act 1923*, is an authorised activity for a 1923 Act petroleum tenure under that Act; or
- (b) an activity that, under the P&G Act, is an authorised activity for a petroleum authority under that Act; or
- (c) exploring for, exploiting or conveying petroleum resources under a licence, permit, pipeline licence, primary licence, secondary licence or special prospecting authority granted under the *Petroleum (Submerged Lands) Act 1982*.

112 Other key definitions for ch 5

In this chapter—

application stage, for an application, means the stage of the assessment process carried out for the application under part 2.

decision stage, for an application, means the stage of the assessment process carried out for the application under part 5.

eligibility criteria, for an environmentally relevant activity, means the eligibility criteria that are in effect for the activity under section 318, 707A or 707B.

eligible ERA means an environmentally relevant activity—

- (a) that complies with the eligibility criteria in effect for the activity; and
- (b) that is not carried out as part of a coordinated project.

ERA project means a prescribed ERA project or a resource project.

ineligible ERA means an environmentally relevant activity—

- (a) that does not comply with the eligibility criteria in effect for the activity; or
- (b) for which eligibility criteria are not in effect; or
- (c) that is carried out as part of a coordinated project.

information stage, for an application, means the stage of the assessment process carried out for the application under part 3.

notification stage, for an application, means the stage of the assessment process carried out for the application under part 4.

prescribed ERA project means all prescribed ERAs carried out, or proposed to be carried out, as a single integrated operation.

resource project means resource activities carried out, or proposed to be carried out, under 1 or more resource tenures, in any combination, as a single integrated operation.

Division 2 Single integrated operations

113 Single integrated operations

Environmentally relevant activities are carried out as a single integrated operation if—

- (a) the activities are carried out under the day-to-day management of a single responsible individual, for example, a site or operations manager; and
- (b) the activities are operationally interrelated; and
- (c) the activities are, or will be, carried out at 1 or more places; and
- (d) the places where the activities are carried out are separated by distances short enough to make feasible the integrated day-to-day management of the activities.

Division 3 Stages of assessment process

114 Stages of assessment process

- (1) The assessment process for applications for environmental authorities involve the following possible stages—
 - application stage
 - information stage
 - notification stage
 - decision stage.
- (2) Not all stages, or all parts of a stage, apply to all applications.

Division 4 Relationship with the Planning Act

115 Development application taken to be application for environmental authority in particular circumstances

- (1) This section applies if—
 - (a) a development application is made for a development permit for a material change of use of premises under the Planning Act; and
 - (b) the development application relates to a prescribed ERA; and
 - (c) the administering authority is the assessment manager or a concurrence agency for the development application.
- (2) The development application is taken to also be an application for an environmental authority for the prescribed ERA.
- (3) However, parts 2, other than division 2, to 4 do not apply to the application for the environmental authority.
- (4) A properly made submission under the Planning Act about the development application is, to the extent it relates to the prescribed ERA, taken to be a properly made submission about the application for the environmental authority.
- (5) If the development application lapses or is changed or withdrawn under the Planning Act, the application for an environmental authority for the prescribed ERA is also taken to have lapsed or been changed or withdrawn.

Part 2 Application stage

Division 1 Preliminary

116 Who may apply for an environmental authority

- (1) An entity may apply for an environmental authority to carry out 1 or more environmentally relevant activities.

Note—

See also section 426 (Environmental authority required for particular environmentally relevant activities).

- (2) An application under subsection (1) may also be made jointly by 2 or more entities.
- (3) This section is subject to sections 117 to 120.

117 Restriction for applications for resource activities

An entity may apply for an environmental authority for a resource activity only if the entity is the applicant for a relevant tenure for the resource activity.

118 Single application required for ERA projects

- (1) This section applies if an entity proposes to carry out environmentally relevant activities as an ERA project.
- (2) The entity may only make a single application for a single environmental authority for all relevant activities that form the project.

119 Single environmental authority required for ERA projects

- (1) This section applies if an environmental authority has been issued for an ERA project.

- (2) The holder of the authority can not apply for a separate environmental authority for additional activities proposed to be carried out as part of the project.
- (3) Subsection (2) applies whether or not the additional activity is a resource activity that is proposed to be carried out under another relevant tenure as part of the project.
- (4) This section does not prevent the holder from applying to amend or transfer the environmental authority, or amalgamate the authority with another authority of the holder.

120 Application for environmental authority can not be made in particular circumstances

- (1) An application for an environmental authority for a prescribed ERA can not be made if, under the Planning Act—
 - (a) a development permit for a material change of use of premises relating to the activity is necessary under the Planning Act for the carrying out of the activity; and
 - (b) a development application for the development permit has not been made under the Planning Act.
- (2) Also, an application for an environmental authority can not be made if—
 - (a) it is for a prescribed ERA that is an extractive activity; and
 - (b) it relates to the North Stradbroke Island Region; and
 - (c) it involves dredging or extracting more than 10000 tonnes of material a year.
- (3) Also, an application for an environmental authority for a prescribed ERA can not be made if—
 - (a) the activity is to be carried out on a parcel of land within a State development area; and
 - (b) under the State Development Act, the approved development scheme for the area does not state a particular use for the parcel of land; and

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- (c) either of the following apply—
 - (i) the applicant has not applied for an approval for the use under the State Development Act, section 84(4)(b);
 - (ii) the applicant's approval for the use, under the State Development Act, section 84(4)(b), has lapsed under section 84A of that Act.
- (4) In this section—

extractive activity means an activity prescribed under a regulation as an extractive activity.

North Stradbroke Island Region see the *North Stradbroke Island Protection and Sustainability Act 2011*, section 5.

State development area see the State Development Act, schedule 2.

Division 2 Types of applications

121 Types of applications

The types of applications for an environmental authority are—

- (a) standard applications; and
- (b) variation applications; and
- (c) site-specific applications.

122 What is a *standard application*

An application for an environmental authority is a *standard application* if—

- (a) the environmental authority is to be subject to the standard conditions for the authority or the environmentally relevant activity for the authority; and

- (b) all proposed environmentally relevant activities for the environmental authority are eligible ERAs.

123 What is a *variation application*

An application for an environmental authority is a *variation application* if—

- (a) the application seeks to change the standard conditions for the environmental authority or the environmentally relevant activity for the authority; and
- (b) all proposed environmentally relevant activities for the environmental authority are eligible ERAs.

124 What is a *site-specific application*

An application for an environmental authority is a *site-specific application* if any of the proposed environmentally relevant activities for the authority are ineligible ERAs.

Division 3 Applying for environmental authorities

125 Requirements for applications generally

- (1) An application for an environmental authority must—
 - (a) be made to the administering authority; and
 - (b) be made in the approved form; and
 - (c) describe all environmentally relevant activities for the application; and
 - (d) describe the land on which each activity will be carried out; and
 - (e) be accompanied by the fee prescribed under a regulation; and

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- (f) if 2 or more entities (*joint applicants*) jointly make the application—nominate 1 joint applicant as the principal applicant; and
- (g) state whether the application is—
 - (i) a standard application; or
 - (ii) a variation application; or
 - (iii) a site-specific application; and
- (h) state whether the applicant is a registered suitable operator; and
- (i) if a development permit under the Planning Act, or an approval of the Coordinator-General under section 84(4)(b) of the State Development Act, is required under either of those Acts for carrying out the environmentally relevant activities for the application—describe the permit or approval; and
- (j) if the application is a standard or variation application—include a declaration that each relevant activity complies with the eligibility criteria; and
- (k) if the application is a variation application—state the standard conditions for the activity or authority the applicant seeks to change; and
- (l) if the application is a variation or site-specific application—
 - (i) include an assessment of the likely impact of each relevant activity on the environmental values, including—
 - (A) a description of the environmental values likely to be affected by each relevant activity; and
 - (B) details of any emissions or releases likely to be generated by each relevant activity; and
 - (C) a description of the risk and likely magnitude of impacts on the environmental values; and

- (D) details of the management practices proposed to be implemented to prevent or minimise adverse impacts; and
 - (E) details of how the land the subject of the application will be rehabilitated after each relevant activity ceases; and
 - (ii) include a description of the proposed measures for minimising and managing waste generated by each relevant activity; and
 - (iii) include details of any site management plan that relates to the land the subject of the application; and
 - (m) if the application is for a prescribed ERA—state whether the applicant wants any environmental authority granted for the application to take effect on a day nominated by the applicant; and
 - (n) include any other document relating to the application prescribed under a regulation.
- (2) Despite subsection (1)(l), if the application is a variation application, it need only include the matters mentioned in that subsection to the extent it seeks to change the standard conditions for the activity or authority.
- (3) Subsection (1)(l) does not apply for an application if—
- (a) the EIS process for an EIS for each relevant activity the subject of the application has been completed; and
- Note—*
- For when the EIS process is complete, see section 60.
- (b) an assessment of the environmental risk of each activity would be the same as the assessment in the EIS.

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126 Requirements for site-specific applications—CSG activities

- (1) A site-specific application for a CSG activity must also state the following—
 - (a) the quantity of CSG water the applicant reasonably expects will be generated in connection with carrying out each relevant CSG activity;
 - (b) the flow rate at which the applicant reasonably expects the water will be generated;
 - (c) the quality of the water, including changes in the water quality the applicant reasonably expects will happen while each relevant CSG activity is carried out;
 - (d) the proposed management of the water including, for example, the use, treatment, storage or disposal of the water;
 - (e) the measurable criteria (the *management criteria*) against which the applicant will monitor and assess the effectiveness of the management of the water, including, for example, criteria for each of the following—
 - (i) the quantity and quality of the water used, treated, stored or disposed of;
 - (ii) protection of the environmental values affected by each relevant CSG activity;
 - (iii) the disposal of waste, including, for example, salt, generated from the management of the water;
 - (f) the action proposed to be taken if any of the management criteria are not complied with, to ensure the criteria will be able to be complied with in the future.
- (2) The proposed management of the water can not provide for using a CSG evaporation dam in connection with carrying out a relevant CSG activity unless—
 - (a) the application includes an evaluation of—

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- (i) best practice environmental management for managing the CSG water; and
 - (ii) alternative ways for managing the water; and
- (b) the evaluation shows there is no feasible alternative to a CSG evaporation dam for managing the water.

127 When application is a *properly made application*

An application for an environmental authority under section 116(1) is a *properly made application* if it complies with this division.

Division 4 Notices about not properly made applications

128 Notice about application that is not a properly made application

- (1) This section applies if an application is not a properly made application.
- (2) The administering authority must, within 10 business days after receiving the application, give the applicant a notice stating the following—
 - (a) it is not a properly made application;
 - (b) the reasons the administering authority is satisfied it is not a properly made application;
 - (c) the action the administering authority is satisfied the applicant must take for the application to be a properly made application;
 - (d) the period of at least 20 business days after the notice is given within which the applicant must give written notice to the administering authority that the action has been taken;

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- (e) that, if the applicant does not give the notice mentioned in paragraph (d) within the stated period, the application will lapse under section 129.

129 When application lapses

- (1) This section applies if the applicant is given a notice under section 128(2).
- (2) The application lapses if the applicant does not, within the stated period or the further period agreed between the administering authority and the applicant—
 - (a) take the action mentioned in section 128(2)(c); and
 - (b) give the administering authority written notice that the action has been taken.

Division 5 Joint applicants

130 Nomination of principal applicant

- (1) This section applies if joint applicants jointly apply for 1 or more environmental authorities.
- (2) The entity nominated in the application as the principal applicant for the application may, for all applicants for the application, give to the administering authority a notice or other document relating to the application.
- (3) The administering authority may—
 - (a) give a notice or other document relating to the application to all the applicants, by giving it to the principal applicant nominated in the application; or
 - (b) make a requirement under this chapter relating to the application of all the applicants, by making it of the principal applicant nominated in the application.

Division 6 Changing applications

Subdivision 1 Preliminary

131 Meaning of *minor change*

A *minor change*, for an application, is any of the following changes to the application—

- (a) a change that merely corrects a mistake about the name or address of the applicant;
- (b) a change of applicant;
- (c) a change that merely corrects a spelling or grammatical error;
- (d) a change that the administering authority is satisfied would not adversely affect the ability of the authority to assess the changed application, unless the change would have the effect that the type of application is changed.

Subdivision 2 Procedure for changing applications

132 Changing application

- (1) Before an application is decided, the applicant may change the application by giving the administering authority—
 - (a) written notice of the change; and
 - (b) the fee prescribed under a regulation.
- (2) An applicant can not change an application if the change would, if the application were remade including the change, result in the application not being a properly made application.

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- (3) Subsection (2) does not apply to the applicant if the applicant takes the action that would be necessary to make the application a properly made application if it were remade.
- (4) If the change to the application is, or includes, a change of applicant, the notice of the change—
 - (a) may be given to the administering authority by the entity proposing to become the applicant; and
 - (b) must be accompanied by the written consent of the entity who is the applicant immediately before the change.

Subdivision 3 Changed applications—effect on assessment process

133 Effect on assessment process—minor changes and agreed changes

- (1) The assessment process does not stop for a changed application if—
 - (a) the change is a minor change of the application; or
 - (b) the administering authority gives its written agreement to the change.
- (2) For the changed application, the notification stage does not again apply, and is not required to restart, if—
 - (a) the notification stage applied to the original application; and
 - (b) the change was made during the notification stage or after the notification stage ended.

134 Effect on assessment process—other changes

- (1) Subsection (2) applies to a changed application if—
 - (a) the change is not a minor change; and

- (b) the administering authority has not given its written agreement to the change.
- (2) The assessment process stops on the day the notice of the change is received by the administering authority and starts again from the end of the application stage.
- (3) Subsection (4) applies to a changed application if—
 - (a) the assessment process has stopped under subsection (2) for the application; and
 - (b) the notification stage applied to the original application; and
 - (c) the change was made during the notification stage or after the notification stage ended.
- (4) The notification stage must be repeated unless the administering authority is satisfied the change would not be likely to attract a submission objecting to the thing the subject of the change, if the notification stage were to apply to the change.

Division 7 Withdrawing applications

135 Withdrawing an application

At any time before an environmental authority is issued, the applicant may withdraw the application by giving written notice of the withdrawal to the administering authority.

Division 8 End of application stage

136 When does application stage end

The application stage for an application ends—

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- (a) if the applicant is given a notice under section 128(2)—the day the administering authority receives the notice mentioned in section 128(2)(d); or
- (b) otherwise—10 business days after the administering authority receives the application.

Part 3 Information stage

Division 1 Preliminary

137 Purpose of information stage

The information stage for an application gives the administering authority the opportunity to ask the applicant for further information needed to assess the application.

138 When information stage applies

Subject to section 139, the information stage applies to—

- (a) variation applications; and
- (b) site-specific applications.

139 Information stage does not apply if EIS process complete

- (1) This section applies if—
 - (a) the EIS process for an EIS for each relevant activity the subject of the application has been completed; and
 - (b) the environmental risks of the activity and the way the activity will be carried out have not changed since the EIS was completed.
- (2) The information stage does not apply to the application.

Division 2 Information requests

140 Information request to applicant

- (1) The administering authority may ask the applicant, by written request (an *information request*), to give further information needed to assess the application.
- (2) An information request must state that the application will lapse unless the applicant gives the administering authority a response under section 146.

141 Content of information request

- (1) The administering authority must state in an information request the period (the *information response period*) within which the applicant must give a response under section 146.
- (2) The information response period must be—
 - (a) if an EIS is required for the application under section 142(2) or 143(2)—a period of at least 2 years after the final terms of reference are given to the proponent under section 46(1); or
 - (b) otherwise—a period of at least 6 months after the giving of the information request.

142 EIS must be required for particular applications

- (1) This section applies for a site-specific application if—
 - (a) the application is for a mining activity, other than a mining activity carried out for specified works—
 - (i) below the surface of a wild river high preservation area or a wild river special floodplain management area; or
 - (ii) under a nominated waterway in a wild river preservation area; and

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- (b) the application does not relate to a coordinated project; and
 - (c) an EIS relating to the activity has not been submitted under chapter 3, part 1.
- (2) The administering authority must include in an information request a requirement that the applicant provide an EIS for the application.
- (3) A requirement under subsection (2) ceases to have effect if a relevant activity or tenure for the application is, or is included in, a coordinated project.

143 EIS may be required

- (1) This section applies for a site-specific application for a resource activity if—
- (a) section 142 does not apply to the application; and
 - (b) the application does not relate to a coordinated project; and
 - (c) an EIS relating to the activity has not been submitted under chapter 3, part 1.
- (2) Without limiting section 140(1), the administering authority may include in an information request a requirement that the applicant provide an EIS for the application.
- (3) In deciding whether an EIS is required for an application, the administering authority must consider the standard criteria.
- (4) A requirement under subsection (2) ceases to have effect if a relevant activity or tenure for the application is, or is included in, a coordinated project.

144 When information request must be made

An information request must be made—

-
- (a) for a site-specific application—within 20 business days after the day the application stage ends for the application (the *information request period*); or
 - (b) for a variation application—within 10 business days after the day the application stage ends for the application (also the *information request period*).

145 Extending information request period

- (1) The administering authority may, by written notice given to the applicant and without the applicant's agreement, extend the information request period by not more than 10 business days.
- (2) Only 1 notice may be given by the administering authority under subsection (1) and the notice must be given before the information request period ends.
- (3) The information request period may be further extended if the applicant, at any time, gives written agreement to the extension.

Division 3 Responding to information request

146 Applicant responds to any information request

- (1) If the applicant receives an information request from the administering authority, the applicant must respond by giving the authority—
 - (a) all of the information requested; or
 - (b) part of the information requested together with a written notice asking the authority to proceed with the assessment of the application; or
 - (c) a written notice—
 - (i) stating that the applicant does not intend to supply any of the information requested; and

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- (ii) asking the authority to proceed with the assessment of the application.
- (2) Despite subsection (1), if the information request requires the applicant to provide an EIS for the application under section 142(2) or 143(2), the EIS process under chapter 3 must be completed and the EIS provided.

147 Lapsing of applications if no response to information request

- (1) An application lapses if the applicant does not comply with section 146 within—
 - (a) the information response period stated in the information request; or
 - (b) the further period agreed between the applicant and the administering authority.
- (2) If the applicant asks the administering authority to agree to extend the information response period, the request must be made at least 10 business days before the last day of the information response period.
- (3) The administering authority must, within 5 business days after receiving the request—
 - (a) decide whether to agree to the extension; and
 - (b) give an information notice of the decision.

Division 4 End of information stage

148 When does information stage end

The information stage ends when—

- (a) if an information request has been made—the applicant has finished responding to the request and the administering authority has received the response; or

- (b) if an information request has not been made—the information request period has ended.

Part 4 Notification stage

Division 1 Preliminary

149 When notification stage applies

Subject to section 150, the notification stage applies to an application if—

- (a) any part of the application is for a mining activity relating to a mining lease; or
- (b) the application is a site-specific application and any part of the application is for a geothermal activity, GHG storage activity or petroleum activity.

150 Notification stage does not apply if EIS process complete

- (1) This section applies if—
 - (a) the process under chapter 3 for an EIS for each relevant activity the subject of the application was completed before the application was made; and
 - (b) the environmental risks of the activity have not changed since the EIS was completed; and
 - (c) if the application proposes a change to the way the relevant activity is to be carried out—the administering authority is satisfied the change would not be likely to attract a submission objecting to the thing the subject of the change, if the notification stage were to apply to the change.
- (2) The notification stage does not apply to the application.

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- (3) However, a properly made submission about the EIS is taken to be a properly made submission about the application.

151 When notification stage can start

The applicant may start the notification stage as soon as the application stage ends for the application.

Division 2 Public notice

152 Public notice of application

- (1) The applicant must give and publish a notice about the application (the *application notice*).
- (2) The application notice must be given and published—
 - (a) simultaneously or together with, and in the same way as, any public notice for an application under resource legislation for a relevant tenure for the application; or
 - (b) if public notice is not required to be given for an application under resource legislation for a relevant tenure for the application—
 - (i) in a newspaper circulating generally in the area where the relevant resource activity is proposed to be carried out; and
 - (ii) before the day that is 10 business days after the end of the information stage for the application; or
 - (c) in another way prescribed under a regulation.
- (3) The administering authority may decide an additional or substituted way to give or publish the application notice if it gives the applicant an information notice about the decision before the application notice is given.
- (4) This section is subject to section 159.

153 Required content of application notice

- (1) An application notice must be in the approved form and state the following—
 - (a) a description of each relevant resource activity;
 - (b) the land on which each activity is to be carried out;
 - (c) for a standard or variation application—where copies of the standard conditions for the relevant activity or authority may be obtained;
 - (d) where the application documents may be inspected or accessed;
 - (e) where copies of, or extracts from, the application may be obtained;
 - (f) that any entity may make a submission to the administering authority about the application;
 - (g) the period (the *submission period*) during which submissions may be given;
 - (h) how to make a properly made submission;
 - (i) another matter prescribed under a regulation.
- (2) This section is subject to section 159.

154 Submission period for application—mining activities

The submission period for an application for a mining activity must end on—

- (a) if there is only 1 relevant mining tenure application—the last objection day under the Mineral Resources Act for the application; or
- (b) if there is more than 1 relevant mining tenure application—the later of the last objection days under the Mineral Resources Act for the applications.

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Note—

For the last objection day under the Mineral Resources Act, see section 252A (Issue of certificate of public notice) of that Act.

155 Submission period for application—other resource activities

The submission period for an application for a resource activity other than a mining activity can not end before the later of the following—

- (a) a day or time fixed by the administering authority before the notice is published;
- (b) 20 business days after the application notice is published under section 152.

156 Publication of application notice and documents on website

- (1) This section applies for a site-specific application.
- (2) The applicant must keep copies of all the following documents for the application available on a website—
 - (a) the application notice;
 - (b) the application documents;
 - (c) the response to any information request.
- (3) A document mentioned in subsection (2) must be kept available on the website from the day the document is given to the administering authority until the end of the access period for the application.
- (4) In this section—
access period see section 157(2).

157 Public access to application

- (1) The administering authority must, for all of the access period—
 - (a) keep the application open for inspection by members of the public during office hours on business days at—
 - (i) the authority’s head office; or
 - (ii) the office of the authority located nearest to the land to which the application relates; or
 - (iii) other places the chief executive considers appropriate; and
 - (b) permit a person to take extracts from the application or, on payment of the appropriate fee to the authority, give the person a copy of the application, or a part of the application; and
 - (c) keep a copy of, or a link to, the application available on its website.

- (2) In this section—

access period means the period that—

- (a) starts the day after the application stage for the application ends; and
- (b) ends on the earlier of the following—
 - (i) the day the application lapses or is withdrawn;
 - (ii) if the application is for a mining activity relating to a mining lease and the application is referred to the Land Court under section 185—the day a final decision about the application is made under section 194(2);
 - (iii) if the application is for a mining activity relating to a mining lease and the application is not referred to the Land Court—20 business days after the notice is given under section 181;
 - (iv) otherwise—the review date.

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158 Declaration of compliance

- (1) The applicant must give the administering authority a declaration about whether or not the applicant has complied with the following requirements (the *public notice requirements*)—
 - (a) the notice requirements under sections 152 and 153;
 - (b) if the application is a site-specific application—the requirement to make a copy of the application notice and the application documents available on a website from the start of the submission period under section 156(3).
- (2) The declaration must be given within 5 business days after the submission period ends.
- (3) A copy of the application notice must be attached to the declaration.
- (4) The applicant is taken to have complied with the public notice requirements if—
 - (a) a declaration is given within the period mentioned in subsection (2); and
 - (b) the declaration states the applicant has complied with the requirements.

159 Substantial compliance may be accepted

- (1) This section applies if the applicant—
 - (a) has not complied with the public notice requirements; or
 - (b) has given a declaration under section 158(1), but not within the period mentioned in section 158(2).
- (2) The administering authority must, within 10 business days after receiving the declaration, decide whether to allow the application to proceed under this part as if the noncompliance had not happened.

- (3) The authority may decide to allow the application to proceed only if it is satisfied there has been substantial compliance with the public notice requirements.
- (4) If the decision is that the application may proceed, the authority must, within 10 business days after the decision is made, give the applicant written notice of the decision.
- (5) If the authority decides not to allow the application to proceed—
 - (a) any steps purportedly taken to comply with the public notice requirements are of no effect; and
 - (b) the authority must, within 10 business days after the decision is made—
 - (i) fix a substituted way to give or publish the application notice and give the applicant written notice of the substituted way; and
 - (ii) fix a new submission period for the application and give the applicant written notice of the period; and
 - (iii) give the applicant an information notice about the decision.
- (6) The stated substituted way to give or publish the application notice applies instead of the requirements for giving or publishing the notice under section 152.
- (7) If the administering authority states a substituted way to give or publish the application notice, section 158 applies to the applicant as if—
 - (a) a reference to section 152 were a reference to the notice given under subsection (5)(b)(i); and
 - (b) a reference to the submission period were a reference to the submission period fixed under subsection (5)(b)(ii).
- (8) Despite subsection (5)(a), if the administering authority decides not to allow the application to proceed, any properly made submissions for the application continue to have effect.

Division 3 Submissions about applications

160 Right to make submission

An entity may, within the submission period, make a submission to the administering authority about the application.

161 Acceptance of submission

- (1) The administering authority must accept a submission if it—
 - (a) is written or made electronically; and
 - (b) states the name and address of each submitter; and
 - (c) is made to the administering authority; and
 - (d) is received on or before the last day of the submission period; and
 - (e) states the grounds of the submission and the facts and circumstances relied on in support of the grounds.
- (2) A submission that complies with subsection (1) is a *properly made submission*.
- (3) The authority may accept a written submission even if it is not a properly made submission.

162 Amendment of submission

- (1) If the administering authority has accepted a submission, the entity that made the submission may, by written notice, amend or replace the submission.
- (2) A notice under subsection (1) must be given to the administering authority before the submission period ends.

163 Particular submissions apply for later applications

- (1) This section applies if—

- (a) an application is withdrawn; and
 - (b) within 1 year after the withdrawal, the applicant makes a later application; and
 - (c) each relevant activity for the later application is the same, or substantially the same, as the withdrawn application.
- (2) Any properly made submission about the withdrawn application is taken to be a properly made submission about the later application.

Division 4 End of notification stage

164 When does notification stage end

The notification stage for an application to which the notification stage applies ends—

- (a) if the applicant gives a declaration under section 158(1) within the period mentioned in section 158(2)—when the administering authority receives the declaration; or
- (b) if paragraph (a) does not apply and the administering authority decides under section 159(2) to allow the application to proceed—when notice of the decision is given under section 159(4).

Part 5 **Decision stage**

Division 1 **Preliminary**

165 **When does decision stage start—general**

- (1) The decision stage for an application starts the day after all other stages applying to the application have ended.
- (2) This section only applies for an application if sections 166 and 167 do not apply to the application.

166 **When does decision stage start—application relating to development applications**

- (1) This section applies if, under section 115, a development application is taken to also be an application for an environmental authority.
- (2) The decision stage for the application for the environmental authority starts—
 - (a) if the administering authority is the assessment manager for the development application under the Planning Act—the day the decision stage for the development application starts under the Planning Act; or
 - (b) if the administering authority is a concurrence agency for the development application under the Planning Act—the day the referral agency’s assessment period for the development application starts under the Planning Act.

167 **When does decision stage start—site-specific application relating to coordinated project**

- (1) This section applies for a site-specific application that relates to a coordinated project for which an EIS is required under the State Development Act.

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- (2) The decision stage for the application starts on the later of the following days—
- (a) the day the Coordinator-General gives the proponent a copy of the Coordinator-General's report under the State Development Act;
 - (b) the day after all other stages applying to the application have ended.

Division 2 Deciding application

Subdivision 1 Decision period

168 When decision must be made—generally

- (1) If section 169 does not apply, a decision under subdivision 2 must be made within 20 business days after the day the decision stage for the application starts.
- (2) The administering authority may, by written notice given to the applicant and without the applicant's agreement, extend the period mentioned in subsection (1) by not more than 20 business days.
- (3) Only 1 notice may be given under subsection (2) and it must be given before the period ends.
- (4) However, the period may be further extended if the applicant, at any time before the decision is made, gives written agreement to the extension.

169 When decision must be made—particular applications

- (1) This section applies if, under section 115, a development application is taken to also be an application for an environmental authority.
- (2) If the administering authority is the assessment manager for the development application under the Planning Act, a

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decision under subdivision 2 must be made within the decision-making period for the development application under the Planning Act, including any extension of that period.

- (3) If the administering authority is a concurrence agency for the development application under the Planning Act, a decision under subdivision 2 must be made within the referral agency's assessment period for the development application under the Planning Act, including any extension of that period.

Subdivision 2 Decision

170 Deciding standard application

- (1) This section applies for a standard application.
- (2) The administering authority must decide—
 - (a) that the application be approved subject to the standard conditions for the relevant activity or authority; or
 - (b) if the application is for a mining activity relating to a mining lease and a properly made submission is made for the application—that the applicant be issued an environmental authority on conditions that are different to the standard conditions for the activity or authority.
- (3) However, the administering authority may only make a decision under subsection (2)(b) if the properly made submission relates to the subject of the standard condition to be changed.

171 Deciding variation application

- (1) This section applies for a variation application.
- (2) The administering authority must decide—
 - (a) that the application be approved subject to conditions that are different to the standard conditions for the activity or authority; or

- (b) that the applicant be issued an environmental authority subject to the standard conditions for the activity or authority.

172 Deciding site-specific application

- (1) This section applies for a site-specific application.
- (2) The administering authority must decide that the application—
 - (a) be approved subject to conditions; or
 - (b) be refused.

173 When particular applications must be refused

- (1) The administering authority must refuse an application if—
 - (a) the applicant is not a registered suitable operator; and
 - (b) an application for registration made by the applicant under section 318F is refused.
- (2) Subsection (3) applies if—
 - (a) under section 115, a development application is taken to also be an application for an environmental authority; and
 - (b) either—
 - (i) if the administering authority is a concurrence agency for the development application—the authority tells the assessment manager to refuse the development application or that any approval must be a preliminary approval only under the Planning Act, section 287; or
 - (ii) if the administering authority is the assessment manager for the development application—the authority refuses the development application or gives a preliminary approval only under the Planning Act, section 324.

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- (3) The administering authority must refuse the application for an environmental authority.
- (4) This section applies despite sections 170, 171, 172 and 174.

174 Applications relating to wild river areas

- (1) This section applies to an application for a prescribed ERA to the extent it relates to a wild river area, other than an application for—
 - (a) a sewage ERA or water treatment ERA in a designated urban area; or
 - (b) an exempt prescribed ERA in a designated urban area.
- (2) The administering authority's decision must comply with the applicable code mentioned in the wild river declaration for the area.
- (3) For an activity that is a sewage ERA or water treatment ERA in a wild river high preservation area, the administering authority must, in deciding the application, be satisfied there is no viable location for the activity outside the wild river high preservation area.
- (4) In this section—

applicable code see the Planning Act, schedule 3.

designated urban area see the *Wild Rivers Act 2005*, schedule.

exempt prescribed ERA means a prescribed ERA prescribed under a regulation for this definition.

sewage ERA means a prescribed ERA prescribed under a regulation for this section, relating to sewage treatment.

water treatment ERA means a prescribed ERA prescribed under a regulation for this section, relating to water treatment.

175 Criteria for decision—standard application

- (1) This section applies for a standard application for a mining activity relating to a mining lease if a properly made submission is made for the application.
- (2) In deciding the application, the administering authority must—
 - (a) comply with any relevant regulatory requirement; and
 - (b) subject to paragraph (a), have regard to each of the following—
 - (i) the application;
 - (ii) the standard conditions for the relevant activity or authority;
 - (iii) the standard criteria.

176 Criteria for decision—variation or site-specific application

- (1) This section applies for a variation or site-specific application.
- (2) In deciding the application, the administering authority must—
 - (a) comply with any relevant regulatory requirement; and
 - (b) subject to paragraph (a), have regard to each of the following—
 - (i) the application;
 - (ii) any standard conditions for the relevant activity or authority;
 - (iii) any response given for an information request;
 - (iv) the standard criteria.
- (3) Despite subsection (2)(b), if the application is a variation application, the matters mentioned in subsection (2)(b) may only be considered to the extent they relate to the subject of the condition to be changed.

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177 Automatic decision for standard application in particular circumstances

If the administering authority does not decide a standard application within the period required under subdivision 1 for the application—

- (a) the administering authority is taken to have decided to approve the application on the standard conditions for the relevant activity or authority under section 170(2)(a); and
- (b) the decision is taken to have been made on the last day of the period.

178 Automatic decision for variation application in particular circumstances

If the administering authority does not decide a variation application within the period required under subdivision 1 for the application—

- (a) the administering authority is taken to have decided to issue an environmental authority subject to the standard conditions for the activity or authority under section 171(2)(b); and
- (b) the decision is taken to have been made on the last day of the period.

179 Automatic decision for site-specific application in particular circumstances

If the administering authority does not decide a site-specific application within the period required under subdivision 1 for the application—

- (a) the administering authority is taken to have refused the application under section 172(2)(b); and
- (b) the decision is taken to have been made on the last day of the period.

Division 3 Applications for mining activities relating to a mining lease

Subdivision 1 Preliminary

180 Application of div 3

This division applies for an application for a mining activity relating to a mining lease.

Subdivision 2 Notice of decision

181 Notice of decision

- (1) Within 5 business days after making a decision under division 2, subdivision 2, the administering authority must give the applicant and any submitters written notice of the decision.
- (2) The notice must—
 - (a) state the decision and the reasons for the decision; and
 - (b) if the decision is to approve the application or is a decision under section 170(2)(b)—
 - (i) be accompanied by a draft environmental authority in the approved form; and
 - (ii) state that a submitter may, by written notice to the administering authority, request that its submission be taken to be an objection to the application; and
 - (c) state that the applicant may, by written notice to the administering authority, request that the administering authority refer the application to the Land Court.

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182 Submitter may give objection notice

- (1) This section applies if the administering authority decides to approve the application or makes a decision under section 170(2)(b).
- (2) A submitter may, by written notice (the *objection notice*) to the administering authority, request that its submission be taken to be an objection to the application.
- (3) The objection notice must—
 - (a) be given to the administering authority within 20 business days after the notice under section 181(1) is given; and
 - (b) state the grounds for the objection.
- (4) The objection notice ceases to have effect if the objection notice is withdrawn by giving written notice to—
 - (a) the administering authority; and
 - (b) the Land Court.

183 Applicant may request referral to Land Court

- (1) The applicant may, by written notice to the administering authority, request that the administering authority refer the application to the Land Court.
- (2) The request must be given to the administering authority within 20 business days after the notice under section 181(1) is given.
- (3) This section does not apply for a decision made by the administering authority to refuse an application under section 173(1).

Subdivision 3 Referrals to Land Court

184 Application of sdiv 3

This subdivision applies to an application for a mining activity relating to a mining lease if—

- (a) an objection notice for a submission about the application is given to the administering authority under section 182(2); or
- (b) the applicant has requested under section 183(1) that the application be referred to the Land Court.

185 Referral to Land Court

- (1) The administering authority must refer the application to the Land Court for a decision under this subdivision (the *objections decision*).
- (2) The referral must be made within 10 business days after the later of the following—
 - (a) the receipt of the last objection notice under section 182;
 - (b) the receipt of a request for referral under section 183.
- (3) The referral must be made by filing with the registrar of the Land Court—
 - (a) a notice, in the approved form, referring the application to the Land Court; and
 - (b) a copy of the application; and
 - (c) a copy of any response to an information request; and
 - (d) a copy of any submission for the application; and
 - (e) a copy of the notice given under section 181(1), including any draft environmental authority for the application; and
 - (f) a copy of any objection notice given under section 182(2); and

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- (g) a copy of any request for referral made by the applicant under section 183.
- (4) The referral starts a proceeding before the Land Court for it to make the objections decision.

186 Parties to Land Court proceedings

The parties to the Land Court proceeding are as follows—

- (a) the administering authority;
- (b) the applicant;
- (c) any objector for the application;
- (d) anyone else decided by the Land Court.

187 Notice of referral

The administering authority must, within 10 business days after making the referral—

- (a) give the applicant a copy of—
 - (i) the notice mentioned in section 185(3)(a); and
 - (ii) if an objection notice was given—the objection notice and the submission to which the objection notice relates; and
- (b) give any objector a copy of the notice mentioned in section 185(3)(a).

188 Objections decision hearing

- (1) The Land Court may, of its own initiative, make orders or directions it considers appropriate for a hearing for the objections decision (the *objections decision hearing*).
- (2) Without limiting subsection (1), the Land Court may make an order or direction that the objections decision hearing happen at the same time as a hearing under the Mineral Resources Act for the relevant mining tenure.

189 Land Court mediation of objections

- (1) At any time before the objections decision is made, any party to the proceeding may ask the Land Court to conduct or provide mediation for the objector's submission.
- (2) The mediation must be conducted by the Land Court or a mediator chosen by the Land Court.

190 Nature of objections decision

- (1) The objections decision for the application must be a recommendation to the administering authority that—
 - (a) if a draft environmental authority was given for the application—
 - (i) the application be approved on the basis of the draft environmental authority for the application; or
 - (ii) the application be approved, but on stated conditions that are different to the conditions in the draft environmental authority; or
 - (iii) the application be refused; or
 - (b) if a draft environmental authority was not given for the application—
 - (i) the application be approved subject to conditions; or
 - (ii) the application be refused.
- (2) However, if a relevant mining lease is, or is included in, a coordinated project, any stated conditions under subsection (1)(a)(ii) or (b)(i)—
 - (a) must include the Coordinator-General's conditions; and
 - (b) can not be inconsistent with a Coordinator-General's condition.

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191 Matters to be considered for objections decision

In making the objections decision for the application, the Land Court must consider the following—

- (a) the application;
- (b) any response given for an information request;
- (c) any standard conditions for the relevant activity or authority;
- (d) any draft environmental authority for the application;
- (e) any objection notice for the application;
- (f) any relevant regulatory requirement;
- (g) the standard criteria;
- (h) the status of any application under the Mineral Resources Act for each relevant mining tenure.

192 Notice of objections decision

The Land Court must, as soon as practicable after the objections decision is made, give a copy of the decision to—

- (a) the MRA Minister; and
- (b) if a relevant mining lease is, or is included in, a coordinated project—the State Development Minister.

193 Advice from MRA and State Development Ministers about objections decision

- (1) This section applies if the MRA Minister or State Development Minister is given a copy of the objections decision under section 192.
- (2) The MRA Minister or State Development Minister must advise the administering authority about any matter the MRA Minister or State Development Minister considers may help the administering authority to make a decision under subdivision 4 about the application.

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- (3) The advice must be given within the period ending at the later of the following—
 - (a) 10 business days after the copy of the decision is received;
 - (b) if the relevant Minister and the administering authority have, within the 10 business days, agreed to a longer period—the longer period.
 - (4) In giving the advice, the MRA Minister or State Development Minister may seek advice from any entity.
 - (5) A contravention of this section does not invalidate—
 - (a) a decision made about an application under subdivision 4; or
 - (b) an environmental authority issued under division 4 for the application.

Subdivision 4 Final decision on application

194 Final decision on application

- (1) This section applies if—
 - (a) the administering authority referred the application to the Land Court under section 185 and an objections decision is made about the application; or
 - (b) the administering authority referred the application to the Land Court under section 185 because of an objection notice but, before an objections decision is made about the application, all objection notices for the application are withdrawn.
- (2) The administering authority must decide—
 - (a) if a draft environmental authority was given for the application—

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- (i) that the application be approved on the basis of the draft environmental authority for the application; or
 - (ii) that the application be approved, but on stated conditions that are different to the conditions in the draft environmental authority; or
 - (iii) that the application be refused; or
 - (b) if a draft environmental authority was not given for the application—
 - (i) that the application be approved subject to conditions; or
 - (ii) that the application be refused.
- (3) The administering authority must make a final decision on the application—
 - (a) if the MRA Minister or State Development Minister is given a copy of the objections decision under section 192—within 10 business days after the end of the longer period within which either Minister must give advice relating to the application under section 193; or
 - (b) otherwise—within 10 business days after receipt by the authority of notice under section 182(4) that the last remaining objection notice for the application is withdrawn.
- (4) In making the decision, the administering authority must—
 - (a) have regard to—
 - (i) the objections decision, if any; and
 - (ii) all advice, if any, given by the MRA Minister or the State Development Minister to the administering authority under section 193; and
 - (iii) if a draft environmental authority was given for the application—the draft environmental authority; and

- (b) if a draft environmental authority was not given for the application—
 - (i) comply with any relevant regulatory requirement; and
 - (ii) subject to subparagraph (i), have regard to the following—
 - (A) the application;
 - (B) any standard conditions for the relevant activity or authority;
 - (C) any response given for an information request;
 - (D) the standard criteria.

Division 4 Steps after deciding application

195 Issuing environmental authority

If the administering authority decides to approve an application or makes a decision under section 170(2)(b) or 171(2)(b), it must issue an environmental authority to the applicant—

- (a) if the application for the authority is referred to the Land Court under section 185—within 5 business days after a final decision is made under section 194(2); or
- (b) if notice of the decision is given under section 181 and the application for the authority is not referred to the Land Court under section 185—within 25 business days after the notice is given under section 181; or
- (c) if a development application is taken, under section 115, to also be an application for an environmental authority—
 - (i) if the administering authority is the assessment manager for the development application under the

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Planning Act—when the decision notice is given under the Planning Act for the development application; or

- (ii) if the administering authority is a concurrence agency for the development application under the Planning Act—when the administering authority gives a copy of its concurrence agency’s response to the applicant for the development application; or
- (d) otherwise—within 5 business days after a decision is made under division 2, subdivision 2.

196 Copy of environmental authority to be given to assessment manager in particular circumstances

- (1) This section applies if—
 - (a) a development application is taken to also be an application for an environmental authority under section 115; and
 - (b) the administering authority is not the assessment manager for the development application.
- (2) A copy of any environmental authority for the application must be given to the assessment manager when the environmental authority is issued to the applicant.

197 Inserting environmental authority in register

After an environmental authority is issued, the administering authority must include a copy of the environmental authority in the relevant register.

198 Information notice about particular decisions

- (1) Subsection (2) applies if the administering authority—
 - (a) decides to refuse an application; or

-
- (b) decides to impose a condition on an environmental authority and the applicant has not agreed in writing to the condition or a condition to the same effect.
 - (2) The authority must give the applicant an information notice about the decision.
 - (3) The information notice must be given—
 - (a) for a decision mentioned in subsection (1)(a)—within 10 business days after the decision is made; or
 - (b) for a decision mentioned in subsection (1)(b)—when the environmental authority is issued to the applicant.
 - (4) If the administering authority decides to approve an application, it must, within 10 business days after the decision is made, give any submitter for the application an information notice about the decision.
 - (5) This section does not apply for a decision about an application for a mining activity relating to a mining lease.

Division 5 Environmental authorities

199 Requirements for environmental authority

An environmental authority must—

- (a) be in the approved form; and
- (b) contain all conditions imposed on the authority; and
- (c) identify any conditions that are standard conditions.

200 When environmental authority takes effect

- (1) An environmental authority has effect—
 - (a) if the authority is for a prescribed ERA and it states that it takes effect on the day nominated by the holder of the authority in a written notice given to the administering authority—on the nominated day; or

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- (b) if the authority states a day or an event for it to take effect—on the stated day or when the stated event happens; or
 - (c) otherwise—on the day the authority is issued.
- (2) However, the day an environmental authority takes effect may not be before—
- (a) if the authority is for a resource activity—the day the relevant tenure is granted to the applicant; or
 - (b) if a development permit for a material change of use of premises is necessary under the Planning Act for carrying out an activity that relates to the authority—the day the development permit takes effect; or
 - (c) if an approval of the Coordinator-General under section 84(4)(b) of the State Development Act is necessary under that Act for carrying out an activity that relates to the authority—the day the approval takes effect.

201 Term of environmental authority

An environmental authority continues in force until the earlier of the following to happen—

- (a) if the environmental authority states it will lapse after a stated period—the end of the stated period;
- (b) the authority is cancelled, surrendered or suspended under this chapter.

202 Environmental authority includes conditions

An environmental authority includes the conditions of the authority.

Division 6 Conditions

203 Conditions generally

- (1) The administering authority may only impose a condition on an environmental authority or draft environmental authority if—
 - (a) it considers the condition is necessary or desirable; and
 - (b) if the authority is for an application to which section 115 applies—the condition relates to the carrying out of the relevant prescribed ERA.
- (2) Despite subsection (1), if a regulatory requirement requires the administering authority to impose a condition on an environmental authority or draft environmental authority, the administering authority must impose the condition.
- (3) Subsection (1) only applies for a proposed condition for an environmental authority given for a standard application if—
 - (a) the application relates to a mining lease; and
 - (b) a properly made submission was made for the application; and
 - (c) the condition is not a standard condition for the relevant activity or authority.

204 Conditions that must be imposed for standard or variation applications

- (1) Subsection (2) applies for an environmental authority or draft environmental authority given for a standard or variation application.
- (2) The administering authority must impose on the authority a condition requiring the holder of the authority to take all reasonable steps to ensure the relevant activity complies with the eligibility criteria for the activity.

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- (3) A condition imposed under subsection (2) is taken to be a standard condition imposed on the authority.

205 Conditions that must be imposed for site-specific applications

- (1) This section applies for a site-specific application if—
 - (a) the administering authority decides to approve the application subject to conditions; and
 - (b) the application relates to a coordinated project.
- (2) The administering authority must impose on the environmental authority or draft environmental authority any conditions for the authority stated in the Coordinator-General's report for the relevant activity (*Coordinator-General's conditions*).
- (3) Any other condition imposed on the authority can not be inconsistent with a Coordinator-General's condition.

206 Environmental authority for particular resource activities includes condition prohibiting use of restricted stimulation fluids

- (1) This section applies for an environmental authority issued for a resource activity other than a mining activity.
- (2) The environmental authority is taken to include a condition prohibiting the use of restricted stimulation fluids.

Example for subsection (2)—

the use of hydrocarbon chemicals to stimulate the fracturing of coal seams

- (3) The condition mentioned in subsection (2) is taken to be a standard condition imposed on the environmental authority.
- (4) In this section—

restricted stimulation fluids means fluids used for the purpose of stimulation, including fracturing, that contain the

following chemicals in more than the maximum amount prescribed under a regulation—

- (a) petroleum hydrocarbons containing benzene, ethylbenzene, toluene or xylene;
- (b) chemicals that produce, or are likely to produce, benzene, ethylbenzene, toluene or xylene as the chemical breaks down in the environment.

207 Conditions that may be imposed

- (1) A condition imposed on an environmental authority or draft environmental authority may—
 - (a) be a standard condition for the authority or the relevant activity; or
 - (b) require the holder of the authority to give the administering authority a written notice (a *statement of compliance*) about a document or work relating to a relevant activity; or
 - (c) if the administering authority is satisfied all cost-effective on-site mitigation measures for a relevant activity have been, or will be, undertaken—require or otherwise relate to an environmental offset (an *environmental offset condition*); or
 - (d) relate to access to land on which the relevant activity for the authority is being carried out; or
 - (e) relate to rehabilitating or remediating environmental harm because of a relevant activity; or
 - (f) relate to action taken to prevent environmental harm because of a relevant activity.

Note—

For conditions about financial assurance, see section 292.

- (2) Subsection (1) does not limit the conditions that may be imposed on an authority.

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- (3) A condition imposed on an authority may state that the condition continues to apply after the authority has ended or ceased to have effect.

208 Condition requiring statement of compliance

- (1) This section applies if a condition of an environmental authority or draft environmental authority requires the holder to give the administering authority a statement of compliance about a document or work relating to a relevant activity.
- (2) The condition must also state—
 - (a) the criteria (the *compliance criteria*) the document or work must comply with; and
 - (b) that the statement of compliance must state whether the document or work complies with the compliance criteria; and
 - (c) the information (the *supporting information*) that must be provided to the administering authority to demonstrate compliance with the compliance criteria; and
 - (d) when the statement of compliance and supporting information must be given to the administering authority.

209 Environmental offset conditions

- (1) An environmental offset condition may require works or activities to be carried out on land on which a relevant activity for the environmental authority is carried out or on other land in the State.
- (2) An environmental offset condition may require a monetary payment to an environmental offset trust.
- (3) If the environmental authority holder has entered into an agreement about an environmental offset for this section, an

environmental offset condition may require the holder to comply with the agreement.

- (4) The environmental authority holder may enter into an agreement with the administering authority or another entity to establish the obligations, or secure the performance, of a party to the agreement about a condition.
- (5) A reference in subsection (3) or (4) to the holder of an environmental authority entering into an agreement includes the holder entering into an agreement before the environmental authority is issued.

210 Inconsistencies between particular conditions

- (1) Subsection (2) applies if—
 - (a) an environmental authority contains conditions identified in the authority as standard conditions and other conditions (the *non-standard conditions*); and
 - (b) there is any inconsistency between the standard conditions and the non-standard conditions.
- (2) The non-standard conditions prevail to the extent of the inconsistency.
- (3) Subsection (4) applies if there is any inconsistency between—
 - (a) a native title issues condition; and
 - (b) a condition of an environmental authority.
- (4) The native title issues condition prevails to the extent of the inconsistency.
- (5) In this section—

native title issues condition means a condition imposed or made under, or as part of, the native title issues decision under the Mineral Resources Act.

Part 6 **Amending environmental authorities by administering authority**

Division 1 **Amendments**

211 **Corrections**

The administering authority may amend an environmental authority to correct a clerical or formal error if—

- (a) the amendment does not adversely affect the interests of the environmental authority holder or anyone else; and
- (b) the holder has been given written notice of the amendment.

212 **Amendment of particular environmental authorities to reflect NNTT conditions**

- (1) This section applies for an environmental authority for a mining or petroleum activity.
- (2) The administering authority may amend the environmental authority to ensure compliance with conditions included in a determination made by the NNTT under the Commonwealth Native Title Act, section 38(1)(c).
- (3) The administering authority must give written notice of the amendment to the environmental authority holder.

213 **Amendment of environmental authorities to reflect new standard conditions**

- (1) This section applies if—
 - (a) an environmental authority (the *existing authority*) is subject to conditions identified in the authority as

- standard conditions (the *existing standard conditions*) for the activity or authority; and
- (b) after the existing authority is issued, the chief executive makes new standard conditions for the authority, or the activity to which the authority relates, under section 318D; and
 - (c) the gazette notice for the new standard conditions states the conditions may apply to existing authorities that are subject to standard conditions for the activity or authority to which the new standard conditions relate; and
 - (d) the new standard conditions are different to the existing standard conditions.
- (2) The administering authority may amend the existing authority to replace the existing standard conditions with the new standard conditions.
 - (3) The administering authority must give written notice of the amendment to the environmental authority holder.
 - (4) The amendment of the environmental authority does not take effect until 1 year after the administering authority gives the holder notice under subsection (3).

214 Amendment of particular environmental authorities relating to development applications

- (1) This section applies if—
 - (a) a development application is taken under section 115 to also be an application for an environmental authority; and
 - (b) the administering authority issues an environmental authority for the application; and
 - (c) under the Planning Act, section 321(4)(b) or 420(3), the planning chief executive or Planning Minister directs the administering authority to reissue the environmental authority.

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- (2) The administering authority must amend the environmental authority.
- (3) The administering authority must give—
 - (a) an information notice about the amendment to the holder of the environmental authority; and
 - (b) written notice of the amendment to the assessment manager for the development application.
- (4) In this section—

planning chief executive means the chief executive of the department for the time being administering the Planning Act.

planning Minister means the Minister for the time being administering the Planning Act.

215 Other amendments

- (1) The administering authority may amend an environmental authority at any time if—
 - (a) it considers the amendment is necessary or desirable because of a matter mentioned in subsection (2) and the procedure under division 2 is followed; or
 - (b) the holder of the authority has agreed in writing to the amendment.
- (2) For subsection (1)(a), the matter is any of the following—
 - (a) a contravention of this Act or an environmental offence committed by the holder of the environmental authority;
 - (b) for an environmental authority issued for a standard or variation application—the relevant activity does not comply with the eligibility criteria for the activity;
 - (c) the authority was issued because of a materially false or misleading representation or declaration, made either orally or in writing;
 - (d) the authority was issued on the basis of a miscalculation of—

- (i) the environmental values affected or likely to be affected by the relevant activity; or
 - (ii) the quantity or quality of contaminant permitted to be released into the environment; or
 - (iii) the effects of the release of a quantity or quality of contaminant permitted to be released into the environment;
- (da) the issue of a temporary emissions licence;
 - (e) the approval of an environmental protection policy or the approval of an amendment of an environmental protection policy;
 - (f) an environmental audit, investigation or report under chapter 7, part 2;
 - (g) a compliance statement given under this chapter;
 - (h) a report made by or for, or approved by, a recognised entity if the report—
 - (i) is relevant to the environmental authority or an activity carried out under it; and
 - (ii) if the administering authority is not the chief executive—has been accepted by the chief executive;
 - (i) an annual return required under part 12, division 3;
 - (j) a significant change in the way in which, or the extent to which, the activity is being carried out;

Example of significant change for paragraph (j)—

The conditions of an environmental authority for a mining activity authorised under a mining lease were imposed on the basis that a particular method for removing contaminants from a waste stream for a relevant mining activity would be used. The mining lease is transferred and the transferee changes the method.

- (k) for an environmental authority for a resource activity—a relevant tenure (the *old tenure*) for the authority is

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replaced with a new resource tenure of the same type for all or part of the old tenure's area under the resource legislation;

- (l) a surrender application under part 10 is approved for a partial surrender of an environmental authority and the administering authority considers it is appropriate to amend the environmental authority to reflect the partial surrender;
- (m) another circumstance prescribed under a regulation.

Division 2 Procedure for particular amendments

216 Application of div 2

This division applies if the administering authority proposes to amend an environmental authority, other than—

- (a) to make an amendment under section 211, 212, 213 or 214; or
- (b) with the written agreement of the environmental authority holder.

217 Notice of proposed amendment

- (1) The administering authority must give the environmental authority holder a written notice (the *proposed amendment notice*) stating the following—
 - (a) the amendment (the *proposed amendment*) the administering authority proposes to make;
 - (b) the grounds for the proposed amendment;
 - (c) the facts and circumstances that are the basis for the grounds;

- (d) that the holder may, within a stated period, make written representations to show why the proposed amendment should not be made.
- (2) The stated period must end at least 20 business days after the holder is given the proposed amendment notice.
- (3) The proposed amendment notice must be accompanied by a copy of the environmental authority showing the changes.

218 Considering representations

The administering authority must consider any written representation made within the period stated in the proposed amendment notice by the holder of the environmental authority.

219 Decision on proposed amendment

- (1) If, after complying with section 218, the administering authority still believes a ground exists to make the proposed amendment, it may make the amendment.
- (2) The decision under subsection (1) is the *amendment decision*.
- (3) If the administering authority at any time decides not to make the proposed amendment, it must promptly give the holder written notice of the decision.

220 Notice of amendment decision

The administering authority must, within 10 business days after the amendment decision is made, give the environmental authority holder an information notice about the decision.

Division 3 Steps for amendments

221 Steps for amendment

- (1) Subsection (2) applies if the administering authority amends an environmental authority under this part.
- (2) The administering authority must, within the relevant period—
 - (a) amend the environmental authority to give effect to the amendment; and
 - (b) issue the amended environmental authority to the holder; and
 - (c) include a copy of the amended environmental authority in the relevant register.
- (3) If the amendment is made under section 214, the administering authority must also give the assessment manager for the development application a copy of the amended environmental authority within the relevant period.
- (4) In this section—

relevant period means—

 - (a) if the administering authority gives a notice under section 211, 212(3) or 213(3)—10 business days after the notice is given; or
 - (b) if the administering authority gives a notice under section 214(3)—any period for complying with the direction under the Planning Act, section 321(4)(b) or 420(3), stated in the direction; or
 - (c) if the administering authority amends the environmental authority with the environmental authority holder's agreement—10 business days after the agreement is given; or

- (d) if the administering authority gives notice of an amendment decision under section 220—10 business days after the notice is given.

Part 7 Amendment of environmental authorities by application

Division 1 Preliminary

222 Exclusions from amendment under pt 7

The requirements of this part do not apply for—

- (a) a partial surrender of an environmental authority allowed under section 261; or
- (b) an amendment under which the holder of 2 or more environmental authorities seeks an amalgamated environmental authority for all activities for the authorities; or
- (c) a transfer by the holder of all or part of an environmental authority to an entity.

223 Definitions for pt 7

In this part—

major amendment, for an environmental authority, means an amendment that is not a minor amendment.

minor amendment, for an environmental authority, means an amendment that the administering authority is satisfied—

- (a) is not a change to a condition identified in the authority as a standard condition; and

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- (b) does not significantly increase the level of environmental harm caused by the relevant activity; and
- (c) does not change any rehabilitation objectives stated in the authority in a way likely to result in significantly different impacts on environmental values than the impacts previously permitted under the authority; and
- (d) does not significantly increase the scale or intensity of the relevant activity; and
- (e) does not relate to a new relevant resource tenure for the authority that is—
 - (i) a new mining lease; or
 - (ii) a new petroleum lease; or
 - (iii) a new geothermal lease under the Geothermal Energy Act; or
 - (iv) a new GHG injection and storage lease under the GHG storage Act; and
- (f) involves an addition to the surface area for the relevant activity of no more than 10% of the existing area; and
- (g) for an environmental authority for a petroleum activity—
 - (i) if the amendment involves constructing a new pipeline—the new pipeline does not exceed 150km; and
 - (ii) if the amendment involves extending an existing pipeline—the extension does not exceed 10% of the existing length of the pipeline; and
- (h) if the amendment relates to a new relevant resource tenure for the authority that is an exploration permit or GHG permit—the amendment application under section 224 seeks an amended environmental authority that is subject to the standard conditions for the relevant activity or authority, to the extent it relates to the permit.

Division 2 Making amendment application

224 Who may apply

The holder of an environmental authority may, at any time, apply to the administering authority to amend the environmental authority (an *amendment application*).

Examples of when the holder may wish to make an amendment application—

- an environmental authority has been issued for a resource project and the holder proposes to carry out additional resource activities as part of the project
- to complement an application under the P&G Act, chapter 4, part 6 to amend a relevant pipeline licence

225 Amendment application can not be made in particular circumstances

Despite section 224, an amendment application for an environmental authority for a prescribed ERA can not be made if—

- (a) the proposed amendment involves changes to the relevant activity; and
- (b) under the Planning Act—
 - (i) a development permit for a material change of use of premises relating to the changed activity is necessary under the Planning Act for the carrying out of the changed activity; and
 - (ii) a development application for the development permit has not been made under the Planning Act.

226 Requirements for amendment application generally

- (1) An amendment application must—
 - (a) be made to the administering authority; and

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- (b) be made in the approved form; and
- (c) be accompanied by the fee prescribed under a regulation; and
- (d) describe the proposed amendment; and
- (e) describe the land that will be affected by the proposed amendment; and
- (f) describe any development permits in effect under the Planning Act for the carrying out of the relevant activity for the authority; and
- (g) state whether each relevant activity will, if the amendment is made, comply with any eligibility criteria for the activity; and
- (h) if the application states that each relevant activity will, if the amendment is made, comply with any eligibility criteria for the activity—include a declaration that the statement is correct; and
- (i) state whether the application seeks to change a condition identified in the authority as a standard condition; and
- (j) if the application relates to a new relevant resource tenure for the authority that is an exploration permit or GHG permit—state whether the applicant seeks an amended environmental authority that is subject to the standard conditions for the relevant activity or authority, to the extent it relates to the permit; and
- (k) include an assessment of the likely impact of the proposed amendment on the environmental values, including—
 - (i) a description of the environmental values likely to be affected by the proposed amendment; and
 - (ii) details of any emissions or releases likely to be generated by the proposed amendment; and

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- (iii) a description of the risk and likely magnitude of impacts on the environmental values; and
 - (iv) details of the management practices proposed to be implemented to prevent or minimise adverse impacts; and
 - (v) details of how the land the subject of the application will be rehabilitated after each relevant activity ceases; and
- (l) include a description of the proposed measures for minimising and managing waste generated by any amendments to the relevant activity; and
 - (m) include details of any site management plan or environmental protection order that relates to the land the subject of the application; and
 - (n) include any other document relating to the application prescribed under a regulation.
- (2) Subsection (1)(k) does not apply for an application if—
 - (a) the process under chapter 3 for an EIS for the proposed amendment has been completed; and
 - (b) an assessment of the environmental risk of the proposed amendment would be the same as the assessment in the EIS.

227 Requirements for amendment applications—CSG activities

- (1) This section applies for an amendment application if—
 - (a) the application relates to an environmental authority for a CSG activity; and
 - (b) the proposed amendment would result in changes to the management of CSG water; and
 - (c) the CSG activity is an ineligible ERA.
- (2) The application must also—

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- (a) state the matters mentioned in section 126(1); and
- (b) comply with section 126(2).

Division 3 Assessment level decisions

228 Assessment level decision for amendment application

- (1) The administering authority must, within 10 business days after receiving the amendment application, decide whether the proposed amendment is a major or minor amendment.
- (2) The decision under subsection (1) is the *assessment level decision* for the application.

229 Notice of assessment level decision

The administering authority must, within 10 business days after the assessment level decision is made, give the applicant a written notice stating—

- (a) the assessment level decision; and
- (b) if the decision is that the proposed amendment is a major amendment—the reasons for the decision.

230 Administering authority may require public notification for particular amendment applications

- (1) This section applies if—
 - (a) an amendment application is for an environmental authority for a resource activity, other than a mining activity; and
 - (b) the assessment level decision is that the amendment is a major amendment.
- (2) The notice given under section 229 may state that part 4 applies to the amendment application if the administering authority is satisfied that—

-
- (a) there is likely to be a substantial increase in the risk of environmental harm under the amended environmental authority; and
 - (b) the risk is the result of a substantial change in—
 - (i) the quantity or quality of contaminant permitted to be released into the environment; or
 - (ii) the results of the release of a quantity or quality of contaminant permitted to be released into the environment.
- (3) Without limiting subsection (2)(b), each of the following is taken to be a substantial change—
- (a) an increase of 10% or more in the quantity of a contaminant to be released into the environment;
 - (b) if the amendment application is for an environmental authority for a resource project, an amendment to add an ineligible ERA for the authority.
- (4) If a notice given under section 229 includes a statement under subsection (2), the notice must also state the reasons for the decision.

Division 4 Process if proposed amendment is a major amendment

231 Application of div 4

This division applies if the assessment level decision for an amendment application is that the proposed amendment is a major amendment.

232 Relevant application process applies

- (1) Parts 3 to 5 apply to the amendment application as if it were a site-specific application.

[s 233]

- (2) Despite subsection (1), part 4 only applies to an amendment application for an environmental authority for a resource activity, other than a mining activity, if the notice given under section 229 states that it applies.
- (3) The provisions applied under this section apply—
 - (a) as if a reference in sections 144 and 151 to the end of the application stage were a reference to the day notice of the assessment level decision is given; and
 - (b) with any other necessary changes; and
 - (c) subject to subsection (4) and sections 233 to 235.
- (4) To remove any doubt, it is declared that a submission made under section 160, as applied under subsection (1)—
 - (a) may be made about an existing provision of the environmental authority only to the extent the provision is proposed to be amended under the amendment application; and
 - (b) can not be made about activities carried out under the environmental authority before the deciding of the amendment application.

233 Public notice of amendment application

- (1) This section, and not section 152, applies for publication of the application notice for an amendment application if—
 - (a) the amendment application is for an environmental authority for a mining activity authorised under a mining lease; and
 - (b) there is no certificate of public notice under the Mineral Resources Act, section 252A, for a relevant mining lease for the amendment application.
- (2) Before the day that is 10 business days after the end of the information stage for the amendment application, the applicant must—
 - (a) give the application notice to—

- (i) each owner of land to which the amendment relates (the *relevant land*) and any other land necessary for access to the relevant land; and
 - (ii) each holder, or applicant for, an exploration permit or mineral development licence over the relevant land for a mineral other than a mineral to which the proposed amendment relates; and
 - (iii) the relevant local government; and
- (b) publish the notice—
- (i) at least once in a newspaper circulating in the locality of the land to which the mining lease relates; and
 - (ii) in another way decided by the administering authority or prescribed under a regulation.
- (3) The administering authority may decide another way of publishing the notice for subsection (2)(b)(ii) only if it gives the applicant an information notice about the decision before the notice is published.

234 Submission period

- (1) This section applies only if there is no certificate of public notice under the Mineral Resources Act, section 252A, for a relevant mining lease for an amendment application.
- (2) Despite sections 153(1)(g) and 154, the submission period for the application is the period fixed by the administering authority by written notice to the applicant.
- (3) However, the period must be at least 20 business days and must end at least 20 business days after the publication of the application notice under section 233.

[s 235]

235 Criteria for deciding amendment application

Despite section 176(2)(b), the matters mentioned in section 176(2)(b) may only be considered to the extent they relate to the proposed amendment.

236 Changing amendment application

Before the amendment application is decided, the applicant may change the application by giving the administering authority—

- (a) written notice of the change; and
- (b) the fee prescribed under a regulation.

237 Effect on assessment of amendment application—minor change

- (1) The assessment of a changed amendment application under parts 3 to 5, as applied under section 232(1), does not stop if—
 - (a) the change is a minor change of the application; or
 - (b) the administering authority gives its written agreement to the change.
- (2) For the changed application, the notification stage does not again apply, and is not required to restart, if—
 - (a) the notification stage applied to the original amendment application; and
 - (b) the change was made during the notification stage or after the notification stage ended.

238 Effect on assessment of amendment application—other changes

- (1) Subsections (2) to (5) apply to a changed amendment application if—
 - (a) the change is not a minor change; and

- (b) the administering authority has not given its written agreement to the change.
- (2) The assessment of the application under parts 3 to 5, as applied under section 232(1), stops on the day notice of the change is received.
- (3) If the information stage applies to the changed application—
 - (a) the administering authority may, within 10 business days after notice of the change is received, ask the applicant to give further information needed to assess the application; and
 - (b) a request under paragraph (a) is taken to be an information request under section 140, as applied under section 232; and
 - (c) if no information request is made under paragraph (a)—the information stage for the changed application is taken to have ended; and
 - (d) if the notification stage also applies to the changed application—the applicant may start the notification stage the day notice of the change is given.
- (4) If the information stage does not apply to the changed application, but the notification stage applies, the assessment of the application restarts from section 152.
- (5) If neither the information stage nor the notification stage apply to the changed application, the assessment of the application restarts from the start of the decision stage.
- (6) Subsection (7) applies to a changed application if—
 - (a) the assessment of the application has stopped under subsection (2); and
 - (b) the notification stage applied to the original application; and
 - (c) the change was made during the notification stage or after the notification stage ended.

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- (7) The notification stage must be repeated unless the administering authority is satisfied the change would not be likely to attract a submission objecting to the thing the subject of the change, if the notification stage were to apply to the change.

Division 5 Process if proposed amendment is minor amendment

239 Application of div 5

This division applies if the assessment level decision for an amendment application is that the proposed amendment is a minor amendment.

240 Deciding amendment application

- (1) The administering authority must, within 10 business days after notice of the assessment level decision is given, decide either to approve or refuse the application.
- (2) The administering authority may approve the amendment application if it is satisfied the proposed amendment is necessary or desirable.
- (3) If the administering authority decides to approve the application, it may also make any other amendments to the conditions of the environmental authority it considers—
 - (a) relate to the subject matter of the proposed amendment; and
 - (b) are necessary or desirable.

241 Criteria for deciding amendment application

In deciding the application, the administering authority must—

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

- (b) subject to paragraph (a), have regard to each of the following—
 - (i) the amendment application;
 - (ii) the existing environmental authority;
 - (iii) the standard criteria.

Division 6 Steps after deciding amendment application

242 Steps after deciding amendment application

- (1) If the administering authority decides to approve the amendment application, it must, within 5 business days after the decision is made—
 - (a) amend the environmental authority to give effect to the amendment; and
 - (b) issue the amended environmental authority to the applicant; and
 - (c) include a copy of the amended environmental authority in the relevant register.
- (2) Subsection (3) applies if the administering authority decides to—
 - (a) refuse the application; or
 - (b) make an amendment, other than an amendment agreed to by the applicant.
- (3) The administering authority must, within 10 business days after the decision is made, give the applicant an information notice about the decision.

Part 8 Amalgamating environmental authorities

Division 1 Preliminary

243 Definitions for pt 8

In this part—

amalgamated corporate authority means an amalgamated environmental authority that is not an amalgamated local government authority or an amalgamated project authority.

amalgamated local government authority means an amalgamated environmental authority for which the holder is a local government.

amalgamated project authority means an amalgamated environmental authority for which the relevant activities are carried out as a single integrated operation.

amalgamation application means an application under section 245.

existing environmental authority means an environmental authority the subject of an amalgamation application.

244 Types of amalgamated environmental authorities

The types of amalgamated environmental authorities are—

- (a) amalgamated corporate authorities; and
- (b) amalgamated local government authorities; and
- (c) amalgamated project authorities.

245 Who may apply

- (1) The holder of 2 or more environmental authorities may, at any time, apply to the administering authority for a new

environmental authority (an *amalgamated environmental authority*) for all activities for the authorities.

- (2) However, if an environmental authority is held jointly by 2 or more entities, the environmental authority can not be the subject of an amalgamation application unless all of the environmental authorities, the subject of the application, are held jointly by the same entities.

246 Requirements for amalgamation application

An amalgamation application must—

- (a) be made in the approved form; and
- (b) state whether the application is for—
 - (i) an amalgamated corporate authority; or
 - (ii) an amalgamated local government authority; or
 - (iii) an amalgamated project authority; and
- (c) be supported by enough information to allow the administering authority to decide the application; and
- (d) be accompanied by the fee prescribed under a regulation.

Division 2 Deciding amalgamation application

247 Deciding amalgamation application

- (1) Subject to subsections (2) and (3), the administering authority must, within 20 business days after the day the amalgamation application is received, decide to—
- (a) approve the application; or
 - (b) if the application is for an amalgamated local government authority or amalgamated project authority—refuse the application.

[s 248]

- (2) The administering authority may only approve an application for an amalgamated local government authority if—
 - (a) the applicant is a local government; and
 - (b) the relevant activities for the existing environmental authorities do not constitute a significant business activity; and
 - (c) the administering authority is satisfied there is an appropriate degree of integration between the activities.
- (3) The administering authority may only approve an application for an amalgamated project authority if it is satisfied the relevant activities for the existing environmental authorities are being carried out as a single integrated operation.
- (4) In this section—

significant business activity has the meaning given by the *Local Government Act 2009*, section 43.

Division 3 Miscellaneous provisions

248 Steps after deciding amalgamation application

If the administering authority decides to approve an amalgamation application, it must, within 5 business days after the decision is made—

- (a) amalgamate the existing environmental authorities to give effect to the amalgamation; and
- (b) issue to the applicant—
 - (i) if the application is for an amalgamated corporate authority—an amalgamated corporate authority; or
 - (ii) if the application is for an amalgamated local government authority—an amalgamated local government authority; or
 - (iii) if the application is for an amalgamated project authority—an amalgamated project authority; and

- (c) include a copy of the amalgamated environmental authority in the relevant register.

249 Information notice about particular decisions

The administering authority must, within 10 business days after refusing an amalgamation application, give the applicant an information notice about the decision.

250 Relationship between amendment application and amalgamation application

- (1) This section applies if an amendment application for an environmental authority is made, but not decided, before an amalgamation application for the authority is decided.
- (2) If the amalgamation application is approved, the amendment application is taken to be an amendment application for the amalgamated environmental authority.

Part 9 Transferring environmental authorities for prescribed ERAs

251 Application of pt 9

This part applies for an environmental authority for a prescribed ERA.

252 Who may apply for transfer

The holder (the *existing holder*) of the environmental authority may make an application (a *transfer application*) to transfer all or part of the authority to an entity.

[s 253]

Examples of when a transfer application may be made—

- An environmental authority is held by 3 joint holders. The joint holders may make a transfer application to transfer the authority to 2 only of the joint holders. Alternatively, the joint holders may seek to transfer the authority to another entity, so that the authority will be held by 4 joint holders.
- It is proposed that a new entity will carry out part of the relevant activity for an environmental authority. The holder of the authority may make a transfer application to transfer to the new entity that part of the authority that relates to the activity to be carried out by the new entity.

253 Requirements for transfer application

A transfer application must—

- (a) be made to the administering authority in the approved form; and
- (b) include the name and address of the proposed holder of the environmental authority or each part of the environmental authority; and
- (c) be signed by the existing holder and the proposed holder; and
- (d) state whether the proposed holder is a registered suitable operator; and
- (e) if the proposed holder is not a registered suitable operator—be accompanied by an application for registration as a suitable operator under chapter 5A, part 4, division 1; and
- (f) be accompanied by the fee prescribed under a regulation.

254 Deciding transfer application

- (1) The administering authority must consider each transfer application and decide to—
 - (a) approve the transfer; or

- (b) refuse the transfer.
- (2) Despite subsection (1), the application must be approved if the proposed holder is a registered suitable operator.
- (3) The decision under subsection (1) must be made—
 - (a) if the proposed holder is a registered suitable operator—within 10 business days after the transfer application is received; or
 - (b) if the proposed holder is not a registered suitable operator—when an application for registration as a suitable operator is decided under chapter 5A, part 4, division 1.

255 Steps after deciding transfer application

- (1) If the administering authority decides to approve a transfer application under section 254(1)(a), it must, within 5 business days after the decision is made—
 - (a) amend the relevant environmental authority to give effect to the transfer; and
 - Example for paragraph (a)—*

For a transfer application for an environmental authority that is an amalgamated corporate authority, the proposed holders may be the existing holder for part of the authority and a new holder for part of the authority. The administering authority must amend the existing authority by dividing it into 2 new authorities.
 - (b) issue the amended environmental authority (the ***transferred environmental authority***) to each holder; and
 - (c) include a copy of the transferred environmental authority in the relevant register.
- (2) If the administering authority decides to refuse a transfer application, it must, within 10 business days after the decision is made, give the existing holder and the proposed holder written notice of the decision.

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256 Notice to owners of transfer

- (1) This section applies if—
 - (a) an entity is issued a transferred environmental authority under section 255(1)(b); and
 - (b) the entity is not the owner of the land to which the authority relates.
- (2) The entity must, within 10 business days after receiving the authority, give each owner of the land to which the authority relates written notice it has been issued the authority.

Maximum penalty—10 penalty units.

Part 10 Surrender of environmental authorities

Division 1 Preliminary

257 Who may apply for surrender

- (1) The holder of an environmental authority may apply to the administering authority to surrender the environmental authority (a *surrender application*).
- (2) Subsection (3) applies if—
 - (a) the environmental authority relates to a mining activity; and
 - (b) under the Mineral Resources Act, the holder of the environmental authority has sought a conditional surrender of all or part of a relevant mining tenure.
- (3) A surrender application may only be made for the part of the environmental authority relating to land to which a new

mining tenure will not apply if the conditional surrender is approved.

- (4) Subsection (5) applies if a relevant tenure for the environmental authority is to be surrendered under resource legislation.
- (5) A surrender application for the authority may only be made if an application to surrender the relevant tenure is also made under resource legislation.
- (6) Subsections (3) and (5) apply despite subsection (1).
- (7) In this section—

conditional surrender, of a mining tenure, means a surrender in relation to the tenure of a type mentioned in the Mineral Resources Act, section 107(7), 161(4), 210(13) or 309(12).

258 Notice by administering authority to make surrender application

- (1) This section applies for an environmental authority for—
 - (a) a mining activity; or
 - (b) a petroleum activity; or
 - (c) a geothermal activity.
- (2) The administering authority may, by written notice (a *surrender notice*), require the holder of the environmental authority to make a surrender application if—
 - (a) a relevant tenure for the authority is cancelled; or
 - (b) a relevant tenure for the authority is, according to its provisions, to end other than by cancellation; or
 - (c) if the authority is for a petroleum activity—the area of a relevant tenure for the authority is reduced under a requirement of noncompliance action taken under resource legislation; or
 - (d) part of the area of a relevant tenure for the authority is relinquished, other than under a requirement of

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- noncompliance action taken under resource legislation;
or
- (e) part of the area of a relevant tenure for the authority is surrendered.
- (3) The surrender notice must—
- (a) state the period of at least 30 business days within which the surrender application must be made; and
 - (b) be accompanied by, or include, an information notice about the authority's decisions to require the surrender application and to fix the stated period.
- (4) A surrender application under subsection (2) must be for the environmental authority to the extent it relates to the relevant tenure cancelled, expired or affected by a relinquishment, reduction in area or partial surrender.

259 When surrender notice ceases to have effect

A surrender notice ceases to have effect if, within the period stated in the notice—

- (a) the relevant tenure is, under resource legislation—
 - (i) renewed or continued in force; or
 - (ii) consolidated with another relevant tenure; or
- (b) if the relevant tenure is a mining tenure—the tenure is replaced with a new tenure of the same type in respect of all or part of the land included in the relevant tenure; or
- (c) a replacement environmental authority is issued to the holder, and the replacement environmental authority has taken effect.

Note—

For when an environmental authority takes effect, see section 200.

260 Failure to comply with surrender notice

The holder of an environmental authority to whom a surrender notice has been given must comply with the notice unless the holder has a reasonable excuse.

Maximum penalty—100 penalty units.

261 Surrender may be partial

- (1) This section applies for an environmental authority for—
 - (a) a mining activity; or
 - (b) a petroleum activity; or
 - (c) a geothermal activity.
- (2) The administering authority may approve a surrender application for a part of the environmental authority.

Examples for subsection (2)—

- 1 An environmental authority relates to a mining claim and a mining lease. Under the Mineral Resources Act, the holder of the authority seeks to surrender the mining lease. The holder may, under this part, seek to surrender that part of the authority that relates to the mining lease.
- 2 An environmental authority relates to 1 mining tenure. Under the Mineral Resources Act, the holder of the tenure may seek to surrender part of the tenure. The holder of the authority may, under this part, seek to surrender that part of the authority that relates to the part of the resource tenure to be surrendered.

Division 2 Surrender applications

262 Requirements for surrender application

- (1) A surrender application must—
 - (a) be in the approved form; and
 - (b) be supported by enough information to allow the administering authority to decide the application; and

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- (c) if the relevant activity was not carried out—be accompanied by a declaration stating that the activity was not carried out; and
 - (d) if the relevant activity was carried out—be accompanied by—
 - (i) if the environmental authority contains conditions about rehabilitation—a final rehabilitation report for the authority that complies with section 264; and
 - (ii) a compliance statement for the environmental authority; and
 - (iii) the fee prescribed under a regulation.
- (2) The compliance statement must—
- (a) be made by or for the environmental authority holder; and
 - (b) state the extent to which—
 - (i) activities carried out under the environmental authority have complied with its conditions; and
 - (ii) any final rehabilitation report is accurate.

263 Amending surrender application

- (1) The applicant may, at any time before the administering authority decides the surrender application, amend the application.
- (2) However, the amendment may be made only by giving the administering authority a written notice stating the amendment.
- (3) The notice must be accompanied by the fee prescribed under a regulation.
- (4) If an application is amended under this section, the process for assessing and deciding the application restarts from section 265.

Division 3 Final rehabilitation reports

264 Requirements for final rehabilitation report

- (1) A final rehabilitation report must—
 - (a) be in the approved form; and
 - (b) include enough information to allow the administering authority to decide whether—
 - (i) the conditions of the environmental authority have been complied with; and
 - (ii) the land on which each relevant activity for the environmental authority has been carried out has been satisfactorily rehabilitated; and
 - (c) describe any ongoing environmental management needs for the land; and
 - (d) for an environmental authority for a resource activity—
 - (i) state details of—
 - (A) the monitoring program and the results of monitoring rehabilitation indicators required under any condition of the environmental authority; and
 - (B) any consultation with affected owners and occupiers, members of the public, community groups, government agencies, and other bodies about any completion criteria for rehabilitation stated in the environmental authority; and
 - (ii) state an environmental risk assessment of the land; and
 - (iii) propose the residual risks associated with the rehabilitation of the land, worked out under a guideline or other document publicly available from the administering authority; and

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Examples of proposed residual risks—

- the present value of the future costs of likely repairs
 - necessary monitoring and maintenance costs
 - ongoing management costs
- (e) include another matter prescribed under a regulation.
- (2) The environmental risk assessment must—
- (a) use a methodology agreed to by the administering authority; and
 - (b) show any part of the land that is likely to change or fail to the extent that monitoring, maintenance, reconstruction or other remedial action may be necessary.

Division 4 Requests for information

265 Administering authority may request further information

- (1) The administering authority may ask the applicant, by written request, to give further information needed to assess the surrender application.
- (2) The request must be made within 10 business days after the application is received.

Division 5 Deciding surrender applications

266 Deciding surrender application

- (1) The administering authority must decide to—
 - (a) approve the surrender application; or
 - (b) refuse the surrender application.

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- (2) Of the following periods that apply to a surrender application, a decision under subsection (1) about the application must be made within the later of the periods to end—
- (a) if the administering authority requests further information under section 265(1)—40 business days after the further information is received by the authority;
 - (b) if the administering authority does not request further information under section 265(1)—40 business days after the application is made;
 - (c) if the environmental authority is for a resource activity and the relevant tenure is an exploration permit or mineral development licence—60 business days after the relevant tenure ends;
 - (d) if the environmental authority is for a resource activity and the relevant tenure is a mining lease or petroleum lease—90 business days after the relevant tenure ends.

267 Advice from MRA chief executive about surrender application

- (1) The administering authority may, before it makes a decision to refuse a surrender application for an environmental authority for a mining activity, seek advice from the chief executive of the MRA department.
- (2) The advice may be sought in the way the administering authority considers appropriate.
- (3) If the advice is given, it must be given within the period required under section 266(2) for the administering authority to make the decision.

268 Criteria for decision

In deciding a surrender application, the administering authority must—

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

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- (b) subject to paragraph (a), consider each of the following—
 - (i) the application;
 - (ii) any monitoring results relating to the rehabilitated area the subject of the application;
 - (iii) the final rehabilitation report for the environmental authority;
 - (iv) the compliance statement for the environmental authority, or the part of the environmental authority the subject of the application;
 - (v) any advice given by the chief executive of the MRA department under section 267;
 - (vi) another matter prescribed under an environmental protection policy or a regulation; and
- (c) if a progressive certification has been given for a relevant tenure for the environmental authority—
 - (i) confirm that the certified rehabilitated area for the relevant tenure still meets the criteria under section 318ZI against which it was certified; and
 - (ii) if the confirmation is made—give full effect to the certification; and
- (d) if the environmental authority relates to land for which particulars are or were recorded in the environmental management register—consider whether or not the land has been removed from the environmental management register or the land has a site management plan approved for it.

269 Restrictions on giving approval

The administering authority may only approve a surrender application if—

- (a) the authority is satisfied the conditions of the environmental authority have been complied with; and

- (b) if the environmental authority is subject to conditions requiring rehabilitation—
 - (i) the authority is satisfied the land on which each relevant activity for the environmental authority has been carried out has been satisfactorily rehabilitated; or
 - (ii) the authority has approved a transitional environmental program and it is satisfied the land will be satisfactorily rehabilitated under the program; and
- (c) if a regulation has prescribed another circumstance for this section—the administering authority is satisfied of the circumstance.

270 When application may be refused

- (1) This section applies if—
 - (a) a surrender application for a partial surrender of an environmental authority for an ERA project is made; and
 - (b) if the application was approved, the environmental authority would not apply to all remaining areas that form the project.
- (2) Without limiting sections 266(1) and 268, the administering authority may refuse the surrender application.

Division 6 Residual risk requirements

271 Payment may be required for residual risks of rehabilitation

- (1) This section applies for a surrender application for an environmental authority for a resource activity.

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- (2) The administering authority may, by written notice, require the applicant to pay it a stated amount within a stated reasonable period for the residual risks of the area the subject of the environmental authority (the *relevant area*).
- (3) A requirement under subsection (2) is a *residual risks requirement*.
- (4) If a progressive certification has previously been given for a relevant tenure for the environmental authority, the administering authority must, in deciding to require the payment—
 - (a) confirm that the area still meets the criteria under section 318ZI against which it was certified; and
 - (b) take into account any previous payment for the progressive certification.

Note—

See chapter 5A (General provisions about environmentally relevant activities), part 6 (Progressive rehabilitation), division 2 (Payment for residual risks of rehabilitation).

272 Criteria for decision to make residual risks requirement

The administering authority may make a residual risks requirement for the surrender application only if it is satisfied the requirement is justified having regard to—

- (a) the degree of risk of environmental harm likely to happen if the relevant area is managed under the relevant requirements of this Act and instruments made under it; and
- (b) the likelihood of action being needed to—
 - (i) reinstate rehabilitation that fails to establish a safe, stable and self-sustaining ecosystem; or
 - (ii) maintain environmental management processes needed to protect the environment; or

Example of an action for subparagraph (ii)—

plugging a GHG well that is found to be leaking GHG into an overlying aquifer

- (iii) restore the environment because of environmental harm resulting from relevant resource activities for the environmental authority; and

Example of an action for subparagraph (iii)—

pumping contaminated water to the surface for treatment

- (c) the cost of likely action in comparison with the cost of best practice environmental management of the similar use of land that has not previously been affected by the activities.

273 Amount and form of payment

- (1) The administering authority must decide the amount and form of the payment required.
- (2) The administering authority may decide the amount by reference to a guideline or other publicly available document.
- (3) Despite subsections (1) and (2), the administering authority can not require a payment of an amount more than the amount that, in the authority's opinion, represents the likely rehabilitation costs.
- (4) In this section—

likely rehabilitation costs means all likely costs and expenses that may be incurred in taking action to rehabilitate or restore and protect the environment because of environmental harm that may be caused by the residual risks of the relevant area.

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Division 7 Directions about rehabilitation

274 Directions to carry out rehabilitation may be given if surrender refused

- (1) This section applies if the administering authority decides to refuse a surrender application for an environmental authority for a resource activity.
- (2) The administering authority may give the applicant a written direction (the *rehabilitation direction*) to carry out further stated rehabilitation within a stated reasonable period.
- (3) The direction must be given to the applicant with the notice of the refusal of the application required under section 275(b).
- (4) The notice of refusal must also include an information notice about the decision to give the direction.
- (5) In this section—
rehabilitation includes environmental management.

Division 8 Miscellaneous provisions

275 Steps after deciding surrender application

The administering authority must, within 10 business days after deciding a surrender application—

- (a) if the decision is to approve the surrender—
 - (i) record the surrender in the relevant register; and
 - (ii) give the applicant—
 - (A) written notice of the decision; and
 - (B) an information notice about any decision under section 271 for the application; or
- (b) if the decision is to refuse the surrender—give the applicant an information notice about the decision.

276 Restriction on surrender taking effect if payment required for residual risks

- (1) This section applies if the applicant has, under section 271, been required to pay an amount for residual risks of the area the subject of a surrender application.
- (2) Despite section 275, a decision to approve the surrender does not take effect until the requirement has been complied with.

Part 11 Cancellation or suspension of environmental authorities by administering authority

Division 1 Preliminary

277 Automatic cancellation if replacement environmental authority given

- (1) An environmental authority is cancelled if a replacement environmental authority for the authority has taken effect.
- (2) The administering authority must, as soon as practicable after the replacement environmental authority takes effect, record particulars of the cancellation in the relevant register.

277A Cancellation of particular environmental authority on holder's request

- (1) This section applies to an environmental authority that—
 - (a) is in effect on the commencement of the section; and
 - (b) is for a mining activity that—
 - (i) is an eligible ERA; and
 - (ii) is a small scale mining activity; and

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- (iii) is carried out under a mining claim or an exploration permit, including a mining claim that, under the Mineral Resources Act, section 816, has been converted from a mining lease.
- (2) The holder of the environmental authority may give the chief executive a notice in the approved form asking the chief executive to cancel the authority.
- (3) On receiving a notice under this section, the chief executive must cancel the environmental authority.
- (4) If the chief executive cancels an environmental authority, the chief executive must—
 - (a) give the holder notice of the cancellation; and
 - (b) record the cancellation in the relevant register.
- (5) Divisions 2 and 3 do not apply to a cancellation of an environmental authority under this section.
- (6) No amount of any annual fee paid by the holder is refundable to the holder because of a cancellation under this section.

278 Cancellation or suspension by administering authority

- (1) The administering authority may cancel or suspend an environmental authority if an event mentioned in subsection (2) has happened and the procedure under division 2 is followed.
- (2) For subsection (1), the events are as follows—
 - (a) the environmental authority was issued because of a materially false or misleading certificate, declaration or representation, made either orally or in writing;
 - (b) financial assurance required under a condition of the environmental authority has not been given in the amount or in the form required under the notice given under section 296;
 - (ba) the administering authority has, under section 306, required the holder of the environmental authority to

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- change the amount of financial assurance and the holder has not complied with the requirement;
- (c) the administering authority has, under section 307(2)(b), directed the holder to replenish financial assurance for the environmental authority and the holder has not complied with the direction;
 - (d) the environmental authority holder is, after the giving of the environmental authority, convicted of an environmental offence;
 - (e) the environmental authority holder's registration as a suitable operator is cancelled or suspended, or is proposed to be cancelled or suspended, under chapter 5A, part 4, division 2;
 - (f) the holder has been given an annual notice, audit notice or surrender notice and the notice has not been complied with;
 - (g) if an approval of the Coordinator-General under the State Development Act, section 84(4)(b) is necessary under that Act for carrying out an environmentally relevant activity for the authority—the approval lapses or otherwise ends, or the Coordinator-General refuses to give the approval;
 - (h) if the authority is for a prescribed ERA—a development application for any necessary development permit for a material change of use of premises relating to the prescribed ERA lapses or is refused or withdrawn;
 - (i) if the authority is for a resource activity—a relevant tenure for the authority has not been granted under resource legislation.

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Division 2 Procedure for cancellation or suspension by administering authority

279 Application of div 2

This division applies if the administering authority proposes to cancel or suspend an environmental authority.

280 Notice of proposed action

- (1) The administering authority must give the environmental authority holder a written notice stating each of the following—
 - (a) the action (the *proposed action*) the administering authority proposes taking under this division;
 - (b) the grounds for the proposed action;
 - (c) the facts and circumstances that are the basis for the grounds;
 - (d) if the proposed action is to suspend the environmental authority—the proposed suspension period;
 - (e) that the holder may, within a stated period, make written representations to show why the proposed action should not be taken.
- (2) The stated period must end at least 20 business days after the holder is given the notice under subsection (1).
- (3) For subsection (1)(d), the proposed suspension period may be fixed by reference to a stated event.

Example for subsection (3)—

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

281 Considering representations

The administering authority must consider any written representation made within the stated period by the environmental authority holder.

282 Decision on proposed action

- (1) If, after complying with section 281, the administering authority still believes a ground exists to take the proposed action, it may—
 - (a) suspend the environmental authority for no longer than the proposed suspension period; or
 - (b) if the proposed action was to cancel the environmental authority—either cancel the environmental authority or suspend it for a fixed period.
- (2) The decision under subsection (1) is the *proposed action decision*.
- (3) If the administering authority at any time decides not to take the proposed action, it must promptly give the environmental authority holder written notice of the decision.

283 Notice of proposed action decision

- (1) The administering authority must, within 10 business days after the proposed action decision is made, give the environmental authority holder an information notice about the decision.
- (2) If the proposed action decision relates to an environmental authority for resource activities, the administering authority must also give written notice of the decision to the chief executive administering the resource legislation.
- (3) The decision takes effect on the later of the following—
 - (a) the day the notice is given to the holder;
 - (b) a later day of effect stated in the notice.

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- (4) However, if the decision was to cancel or suspend the environmental authority because of the conviction of the holder for an offence, the cancellation or suspension—
 - (a) does not take effect until—
 - (i) the period to appeal against the conviction ends; and
 - (ii) if the appeal is made against the conviction—the appeal is finally decided or is otherwise ended; and
 - (b) has no effect if the conviction is quashed on appeal.

Division 3 Steps after making decision

284 Steps for cancellation or suspension

- (1) This section applies if the proposed action decision is to take action and the decision has taken effect.
- (2) The administering authority must, as soon as practicable—
 - (a) take the action; and
 - (b) record the action in the relevant register.
- (3) Also, if the action is suspension of an environmental authority, the administering authority must record when the suspension period starts and ends in the relevant register.
- (4) A suspension of an environmental authority ends at the end of the day recorded in the relevant register as the end of the suspension period.

Part 11A Suspension of environmental authorities by application

Division 1 Preliminary

284A Who may apply

The holder of an environmental authority may, at any time, apply to the administering authority to suspend the environmental authority (a *suspension application*).

Division 2 Suspension applications

284B Requirements for suspension application

- (1) A suspension application must—
 - (a) be made to the administering authority; and
 - (b) be made in the approved form; and
 - (c) be accompanied by the fee prescribed under a regulation; and
 - (d) nominate the period of the proposed suspension.
- (2) The nominated period of the proposed suspension—
 - (a) must be for at least 1 year from the next anniversary day of the environmental authority; and
 - (b) can not be for longer than 3 years from the next anniversary day of the environmental authority.

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Division 3 Deciding suspension applications

284C Deciding suspension application

The administering authority must, within 20 business days after receiving the suspension application, decide whether to—

- (a) approve the application; or
- (b) refuse the application.

284D Criteria for deciding suspension application

In deciding the application, the administering authority must consider—

- (a) the degree of risk of environmental harm that has already been caused by the relevant activity, or that might reasonably be expected to be caused during the suspension of the relevant activity; and
- (b) the likelihood of action being required to rehabilitate or restore and protect the environment because of environmental harm being caused during the suspension of the relevant activity; and
- (c) the environmental record of the holder.

284E Restrictions on giving approval

The administering authority may approve the application only if the environmental authority is not subject to conditions requiring rehabilitation.

284F Steps after deciding suspension application

- (1) The administering authority must, within 5 business days after deciding a suspension application—

- (a) if the decision is to approve the suspension of the environmental authority—
 - (i) record the suspension in the appropriate register, including when the suspension period starts and ends; and
 - (ii) give the holder of the environmental authority written notice of the decision; or
 - (b) if the decision is to refuse the suspension—give the holder an information notice about the decision.
- (2) The environmental authority is suspended for the period stated in the decision notice, unless the holder of the environmental authority terminates the suspension before the end of the suspension period.

Division 4 Termination of suspension

284G Termination of suspension

- (1) The holder of an environmental authority that has been suspended under this part may, by notice given to the administering authority, terminate the suspension of the environmental authority.
- (2) The notice—
 - (a) may be given—
 - (i) before the suspension takes effect; or
 - (ii) during the suspension period; and
 - (b) must be accompanied by the fee prescribed under a regulation.

Part 12 General provisions

Division 1 Plan of operations for environmental authority relating to mining lease or petroleum lease

285 Definitions for div 1

In this division—

plan of operations, for a relevant lease, includes any plan of operations given to the administering authority for a proposed lease substantially the same as the relevant lease.

relevant lease means—

- (a) for an environmental authority for a mining activity authorised under a mining lease—the mining lease; or
- (b) for an environmental authority for a petroleum activity authorised under a petroleum lease—the petroleum lease.

286 Application of div 1

This division applies for an environmental authority if—

- (a) the environmental authority is for—
 - (i) a mining activity authorised under a mining lease;
or
 - (ii) a petroleum activity authorised under a petroleum lease; and
- (b) any relevant activity for the authority is an ineligible ERA.

287 Plan of operations required before acting under relevant lease

The environmental authority holder must not carry out, or allow the carrying out of, an activity under the relevant lease unless—

- (a) a plan of operations for all relevant activities has been given to the administering authority; and
- (b) at least 20 business days, or a shorter period agreed in writing by the administering authority and the holder, have passed since the plan was submitted; and
- (c) the plan complies with section 288.

Maximum penalty—100 penalty units.

288 Requirements for plan of operations

- (1) A plan of operations must—
 - (a) describe the following—
 - (i) each relevant lease for the environmental authority;
 - (ii) the land to which each relevant lease applies;
 - (iii) the land to which the plan applies; and
 - (b) state the period to which the plan applies (the *plan period*); and
 - (c) include the following—
 - (i) a plan showing where all activities are to be carried out on the land;
 - (ii) an action program for complying with the conditions of the environmental authority;
 - (iii) a rehabilitation program for land disturbed or proposed to be disturbed under each relevant lease;
 - (iv) another matter prescribed under an environmental protection policy or a regulation; and

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- (d) be accompanied by a compliance statement for the plan;
and
 - (e) be accompanied by the fee prescribed under a regulation.
- (2) A rehabilitation program under subsection (1)(c)(iii) must state a proposed amount of financial assurance for the environmental authority for the plan period.
- (3) A compliance statement under subsection (1)(d) must—
- (a) be made by or for the environmental authority holder;
and
 - (b) state the extent to which the plan complies with the conditions of the environmental authority; and
 - (c) state whether or not the amount of the financial assurance for the environmental authority has been calculated in accordance with the guideline under section 295(3)(b).
- (4) The plan period can not be more than 5 years.
- (5) A plan of operations may relate to 1 or more relevant leases.

289 Amending or replacing plan

- (1) This section applies if—
- (a) the environmental authority holder has given the administering authority a plan of operations (the *original plan*); and
 - (b) the plan period for the plan under section 288(1)(b) has not ended.
- (2) The holder may amend or replace the original plan at any time before the plan period ends by giving the administering authority a written notice that—
- (a) states—
 - (i) the amendment of the original plan; or

- (ii) that the original plan is replaced; and
- (b) is accompanied by—
 - (i) for a replacement—the replacement plan; and
 - (ii) a compliance statement for the original plan, as amended, or for the replacement plan; and
 - (iii) the fee prescribed under a regulation.
- (3) The compliance statement must comply with section 288(3).
- (4) The holder's plan of operations is taken to be the original plan, as amended from time to time by any amendment under this section.
- (5) However, an amendment can not extend the plan period.
- (6) The original plan ceases to apply if it is replaced.
- (7) A replacement plan may apply for a period of no more than 5 years from when notice of it is given under this section.

290 Failure to comply with plan of operations

The environmental authority holder must, when carrying out an activity under the relevant lease, comply with the plan of operations.

Maximum penalty—100 penalty units.

291 Environmental authority overrides plan

- (1) This section applies if there is any inconsistency between the environmental authority and a plan of operations.
- (2) The authority prevails to the extent of the inconsistency.
- (3) The environmental authority holder must, within 15 business days after the holder becomes aware of the inconsistency, amend the plan to remove the inconsistency.

Maximum penalty for subsection (3)—100 penalty units.

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Division 2 Financial assurance

Subdivision 1 Requiring financial assurance

292 Requirement to give financial assurance for environmental authority

- (1) The administering authority may, by condition of an environmental authority, require the holder of the environmental authority to give the administering authority financial assurance—
 - (a) before the relevant activity is carried out under the environmental authority; and
 - (b) as security for—
 - (i) compliance with the environmental authority; and
 - (ii) costs or expenses, or likely costs or expenses, mentioned in section 298.
- (2) However, the administering authority may impose a condition requiring a financial assurance to be given only if it is satisfied the condition is justified having regard to—
 - (a) the degree of risk of environmental harm being caused, or that might reasonably be expected to be caused, by the relevant activity; and
 - (b) the likelihood of action being required to rehabilitate or restore and protect the environment because of environmental harm being caused by the activity; and
 - (c) the environmental record of the holder.
- (3) The administering authority may require a financial assurance to remain in force until it is satisfied no claim is likely to be made on the assurance.

293 New holder must give financial assurance before acting under environmental authority or small scale mining tenure

- (1) This section applies if—
- (a) a condition of an environmental authority or a prescribed condition requires the holder of the authority or a small scale mining tenure to give the administering authority financial assurance; and
 - (b) any of the following apply—
 - (i) the environmental authority is for a prescribed ERA and a transfer application for the transfer of the authority is approved;
 - (ii) the environmental authority is for a resource activity and the holder of the relevant tenure for the authority changes;
 - (iii) the holder of the small scale mining tenure changes.
- (2) The new holder of the environmental authority or small scale mining tenure must not carry out, or allow the carrying out of, an activity under the environmental authority or tenure unless the financial assurance has been given to the administering authority.

Maximum penalty—1665 penalty units.

Subdivision 2 Amount and form of financial assurance for environmental authorities

294 Application for decision about amount and form of financial assurance

- (1) This section applies if a condition requiring financial assurance is imposed on an environmental authority, other

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than an authority for which a plan of operations is required under section 287.

Note—

A proposed amount of financial assurance for a plan of operations must be stated in the rehabilitation program for the plan of operations under section 288(2).

- (2) The holder of the authority may apply to the administering authority for a decision about the amount and form of financial assurance.
- (3) The application must—
 - (a) be made in the approved form; and
 - (b) include any other information required to be included in the application under a guideline—
 - (i) made by the chief executive; and
 - (ii) prescribed under a regulation.

295 Deciding amount and form of financial assurance

- (1) The administering authority must decide the amount and form of financial assurance required under a condition of an environmental authority.
- (2) The decision must be made within—
 - (a) if an application is made under section 294(2)—10 business days after the application is received; or
 - (b) if the decision relates to an environmental authority for which a plan of operations is required under section 287—15 business days after the plan of operations is received; or
 - (c) the further period agreed between the holder of the environmental authority and the administering authority.
- (3) In making the decision, the administering authority must have regard to—
 - (a) the regulatory requirements; and

- (b) any criteria stated in a guideline made by the chief executive and prescribed under a regulation.
- (4) Despite subsections (1) and (3), the administering authority can not require financial assurance of an amount more than the amount that, in the authority's opinion, represents the total of likely costs and expenses that may be incurred taking action to rehabilitate or restore and protect the environment because of environmental harm that may be caused by the activity.
- (5) In this section—
costs and expenses includes monitoring and maintenance costs and expenses.

296 Notice of decision

The administering authority must, within 5 business days after making a decision under section 295(1), give an information notice about the decision to the holder of the environmental authority.

Subdivision 3 Claiming or realising financial assurance

297 Definitions for sdiv 3

In this subdivision—

environmental authority includes a cancelled or surrendered environmental authority.

small scale mining tenure includes a cancelled or surrendered small scale mining tenure.

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298 Application of sdiv 3

This subdivision applies if the administering authority incurs, or might reasonably incur, costs or expenses in taking action to—

- (a) prevent or minimise environmental harm or rehabilitate or restore the environment, in relation to the carrying out of an activity for which financial assurance has been given; or
- (b) secure compliance with an environmental authority or small scale mining tenure for which financial assurance has been given.

299 Administering authority may claim or realise financial assurance

- (1) The administering authority may recover the reasonable costs or expenses of taking the action by making a claim on or realising the financial assurance or part of it.
- (2) Before making the claim on or realising the financial assurance or part of it, the administering authority must give written notice to the entity who gave the financial assurance.
- (3) The notice must—
 - (a) state details of the action proposed to be taken; and
 - (b) state the amount of the financial assurance to be claimed or realised; and
 - (c) invite the entity to make written representations to the administering authority to show why the financial assurance should not be claimed or realised as proposed; and
 - (d) state the period within which the representations may be made.
- (4) The stated period must end at least 20 business days after the entity is given the notice.

300 Considering representations

The administering authority must consider any written representations made within the stated period by the entity who gave the financial assurance.

301 Decision

- (1) The administering authority must, within 10 business days after the end of the stated period, decide whether to make a claim on or realise the financial assurance.
- (2) If the administering authority decides to make a claim on or realise the financial assurance, it must, within 5 business days after making the decision, give the entity an information notice about the decision.

Subdivision 4 Amending or discharging financial assurance

302 Who may apply

- (1) The holder of an environmental authority for which financial assurance has been given to the administering authority may apply to the authority to—
 - (a) amend the amount or form of the financial assurance as stated in a notice given under section 296; or
 - (b) discharge the financial assurance.
- (2) The holder of a small scale mining tenure for which financial assurance has been given to the administering authority may apply to the authority to discharge the financial assurance.

303 Requirements for application

An application made under section 302 must—

- (a) be made in the approved form; and

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- (b) state whether the application is seeking to—
 - (i) amend the amount or form of financial assurance stated in a notice given under section 296; or
 - (ii) discharge the financial assurance; and
- (c) if the application is to amend the amount or form of financial assurance—include details of the proposed amendment; and
- (d) include the information required under a guideline—
 - (i) made by the chief executive; and
 - (ii) prescribed under a regulation.

304 Administering authority may require compliance statement

- (1) The administering authority may, by written notice, require the applicant to give it a compliance statement for the financial assurance before deciding the application.
- (2) The compliance statement must—
 - (a) be made by or for the applicant; and
 - (b) state the extent to which activities carried out under the environmental authority or small scale mining tenure to which the application relates have complied with the conditions of the environmental authority or the prescribed conditions for the small scale mining activities for the tenure; and
 - (c) for financial assurance given for an environmental authority—state whether or not the amount of the financial assurance has been calculated having regard to the criteria stated in a guideline mentioned in section 295(3)(b).

305 Deciding application

- (1) The administering authority must, within the relevant period—
 - (a) approve or refuse the application; and
 - (b) if the decision is to refuse the application—give the applicant an information notice about the decision.
- (2) If the administering authority is deciding an application to amend the amount or form of financial assurance, the authority must consider the criteria mentioned in section 295(3).
- (3) Despite subsection (1), the authority may only approve an application to discharge a financial assurance if the authority is satisfied no claim is likely to be made on the assurance.
- (4) Subsection (5) applies if the application is to amend or discharge financial assurance and either—
 - (a) if the application relates to an environmental authority for a prescribed ERA—the application was made because of a transfer application for the authority; or
 - (b) if the application relates to an environmental authority for a resource activity or to a small scale mining tenure—the application was made because of a transfer application under resource legislation for the relevant tenure.
- (5) Despite subsection (1), the administering authority may withhold making a decision under subsection (1) until—
 - (a) the transfer application has been approved; and
 - (b) any financial assurance for the environmental authority or small scale mining tenure required to be given by the new holder of the authority or tenure has been given; and
 - (c) the transfer has taken effect.
- (6) In this section—

[s 306]

relevant period means—

- (a) if the applicant is required to give a compliance statement under section 304—20 business days after the statement is received; or
- (b) otherwise—20 business days after the application is received.

306 Power to require a change to financial assurance

- (1) The administering authority may, at any time, require the holder of an environmental authority or small scale mining tenure for which financial assurance has been given to change the amount of the financial assurance.
- (2) However, a requirement to change the financial assurance for a small scale mining tenure may only be made to ensure the amount of the financial assurance is in compliance with a prescribed condition about financial assurance for the tenure.
- (3) Before making a requirement under this section, the administering authority must give written notice to the holder of the environmental authority or small scale mining tenure.
- (4) The notice must—
 - (a) state details of the proposed requirement; and
 - (b) invite the holder to make, within a stated period, submissions about the proposed requirement.
- (5) The stated period must end at least 20 business days after the holder is given the notice.
- (6) The administering authority must, before deciding to make the requirement, consider any written submissions made by the holder within the stated period.
- (7) The requirement does not take effect until—
 - (a) the holder is given an information notice about the decision; or

- (b) if the information notice states a later day of effect—the later day.
- (8) In this section—
- change*, financial assurance, includes to decrease or increase its amount.
- financial assurance*, given, includes financial assurance changed because of a requirement previously made under this section.

Subdivision 5 Replenishing financial assurance

307 Replenishment of financial assurance

- (1) This section applies if—
 - (a) under subdivision 3, all or part of the financial assurance for an environmental authority for a resource activity, other than a mining activity, has been realised; and
 - (b) the environmental authority is still in force.
- (2) The administering authority must give the environmental authority holder a notice—
 - (a) stating how much of the financial assurance has been used; and
 - (b) directing the holder to, within 20 business days after the giving of the notice, replenish the financial assurance so that its amount and form comply with the financial assurance required under a notice given under section 296.
- (3) It is a condition of the environmental authority that the holder must comply with the direction.

[s 307A]

Subdivision 6 Directions about rehabilitation

307A Direction to carry out rehabilitation may be given for small scale mining tenure

- (1) This section applies if the administering authority decides to refuse an application to discharge financial assurance for small scale mining activities carried out under a small scale mining tenure.
- (2) The administering authority may give the holder of the small scale mining tenure a written direction to carry out stated rehabilitation within a stated reasonable period.
- (3) The direction must be given to the holder with the notice of refusal required under section 305(1)(b).
- (4) The notice of refusal must also include an information notice about the decision to give the direction.
- (5) In this section—
rehabilitation includes environmental management.

Division 3 Annual fees and returns

Subdivision 1 Annual notices

308 Annual fee and return

- (1) This section applies for an environmental authority for which an annual fee is prescribed under a regulation.
- (2) At least 20 business days before each anniversary day for the environmental authority, the administering authority must give the environmental authority holder a written notice complying with subsection (3) (an *annual notice*).
- (3) An annual notice must state—

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- (a) whether or not the holder must give the administering authority an annual return in the approved form; and
 - (b) that the holder must pay the authority the appropriate annual fee, other than in a circumstance prescribed under a regulation; and
 - (c) that the annual fee payable under the notice must be paid to the administering authority within a stated reasonable time, of at least 20 business days, after the day the notice is given; and
 - (d) that if the holder does not comply with the notice, the environmental authority may be cancelled or suspended.

Note—

See section 278 (Cancellation or suspension by administering authority).

- (4) The holder must comply with the notice.
- (5) If the holder does not pay the annual fee within the time stated for payment in the annual notice, the administering authority may recover it as a debt.
- (6) A failure to give the notice by the time stated in subsection (2) does not invalidate or otherwise affect the validity of the notice.

309 Particular requirement for annual return for CSG environmental authority

- (1) This section applies if the holder of an environmental authority for a CSG activity is required to give an annual return under section 308(3)(a).
- (2) The annual return must include an evaluation of the effectiveness of the management of CSG water under the criteria mentioned in section 126(1)(e) for carrying out each relevant CSG activity.
- (3) Without limiting subsection (2), the evaluation must state—

[s 309A]

- (a) whether or not the CSG water has been effectively managed having regard to the criteria; and
- (b) if the water has not been effectively managed—
 - (i) the action that will be taken to ensure the water will in the future be effectively managed having regard to the criteria; and
 - (ii) when the action will be taken.

309A Particular requirement for annual return for existing petroleum tenure under P&G Act

- (1) This section applies if—
 - (a) immediately before the commencement of this section, an authority to prospect or petroleum lease is in effect; and
 - (b) an environmental authority for the authority to prospect or lease has been issued; and
 - (c) after the commencement, the holder of the authority to prospect or lease carries out an incidental activity under the P&G Act in the area of the authority or lease that is reasonably necessary for, or incidental to, an authorised activity for another authority to prospect or petroleum lease; and
 - (d) the holder must give the administering authority an annual return under section 308(3)(a) for the environmental authority.
- (2) The annual return for the environmental authority must include—
 - (a) details of the incidental activity carried out in the area of the authority to prospect or lease, including how the activity will be carried out; and
 - (b) details of the environmental risks of the activity.
- (3) In this section—

authorised activity, for an authority to prospect or petroleum lease, see the P&G Act, section 22.

authority to prospect means an authority to prospect under the P&G Act.

Subdivision 2 Changing anniversary day

310 Changing anniversary day

- (1) The administering authority may change the anniversary day, for an environmental authority for which an annual fee is prescribed under a regulation, to another day (the *new day*) if the holder of the environmental authority—
 - (a) agrees in writing to the change; or
 - (b) applies to the authority to change the anniversary day to the new day.
- (2) The application must be in the approved form and accompanied by the fee prescribed under a regulation.

311 Deciding application

The administering authority must, within 20 business days after the application is made, decide whether or not to change the anniversary day to the new day.

312 Notice of decision

The administering authority must, within 10 business days after the decision is made, give the holder—

- (a) if the decision is to change the day—written notice of the decision; or
- (b) if the decision is not to change the day—an information notice about the decision.

[s 313]

313 When decision takes effect

A decision under section 311 to change the anniversary day takes effect on the later of the following days—

- (a) the day the holder is given notice of the decision;
- (b) a later day of effect stated in the notice.

Division 4 Non-compliance with eligibility criteria

314 Requirement to replace environmental authority if non-compliance with eligibility criteria

- (1) This section applies if—
 - (a) an environmental authority is issued for a standard or variation application under part 5; and
 - (b) the relevant activity for the authority does not comply with the eligibility criteria for the activity.
- (2) The administering authority may require the holder of the environmental authority to—
 - (a) make a site-specific application for a new environmental authority under part 2; or
 - (b) make an amendment application for the authority under part 7.
- (3) Before making a requirement under subsection (2), the administering authority must give written notice of the proposed requirement to the holder of the environmental authority.
- (4) The notice must state the following—
 - (a) the grounds for the requirement;
 - (b) the facts and circumstances that are the basis for the grounds;

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- (c) that the holder may, within a stated period of at least 20 business days, make written representations to show why the requirement should not be made.
 - (5) The administering authority must, before deciding to make the requirement, consider any representations made by the holder within the stated period.
 - (6) The requirement does not take effect until—
 - (a) the holder is given an information notice about the decision; or
 - (b) if the information notice states a later day of effect—on that later day.
 - (7) The holder of the authority must comply with a requirement under subsection (2).

Maximum penalty for subsection (7)—1665 penalty units.

Division 5 Miscellaneous provisions

315 Administering authority may seek advice, comment or information about application

- (1) The administering authority may ask any entity for advice, comment or information about an application made under this chapter at any time.
- (2) There is no particular way advice, comment or information may be asked for and received and the request may be by public notice.

316 Decision criteria are not exhaustive

- (1) This section applies if—
 - (a) an entity is deciding, or is required to decide, an application under this chapter; and

[s 317]

- (b) a provision of this chapter requires the entity, in making the decision, to consider stated criteria or matters.
- (2) The stated criteria or matters do not limit the criteria or matters the entity may consider in making the decision.

Chapter 5A General provisions about environmentally relevant activities

Part 1 Eligibility criteria

317 Notice of proposed eligibility criteria

- (1) Before the chief executive makes eligibility criteria for an environmentally relevant activity under section 318, the chief executive must publish the following on the department's website—
 - (a) a copy of the proposed eligibility criteria; and
 - (b) a notice which states—
 - (i) that any person may make a submission to the chief executive about the proposed eligibility criteria; and
 - (ii) the period of at least 30 business days (the *consultation period*) during which the submissions may be made.
- (2) The chief executive must keep the information mentioned in subsection (1) on the department's website for all of the consultation period.

318 Making eligibility criteria

- (1) After considering any submissions made within the consultation period, the chief executive may, by gazette notice, make eligibility criteria for an environmentally relevant activity.
- (2) The chief executive must keep a copy of the eligibility criteria made under subsection (1) available on the department's website.
- (3) The eligibility criteria take effect when a regulation approves the criteria.

Part 2 Standard conditions

318A Definition for pt 2

In this part—

relevant existing authority means an environmental authority that is—

- (a) issued before proposed standard conditions are made under section 318D; and
- (b) subject to conditions identified in the authority as standard conditions for the activity or authority to which the proposed standard conditions relate.

318B When standard conditions must be made

- (1) This section applies if eligibility criteria are made for an environmentally relevant activity under section 318.
- (2) The chief executive must, at the same time, make standard conditions for the activity or an authority for the activity under section 318D.

[s 318C]

318C Notice of proposed standard conditions

- (1) Before the chief executive makes standard conditions under section 318D, the chief executive must publish the following on the department's website—
 - (a) a copy of the proposed standard conditions;
 - (b) a notice which states—
 - (i) that any person may make a submission to the chief executive about the proposed standard conditions; and
 - (ii) the period of at least 30 business days (the *consultation period*) during which the submissions may be made.

- (2) Subsections (3) to (5) apply if it is intended that the proposed standard conditions may apply to a relevant existing authority.

Note—

The administering authority may amend an existing environmental authority to reflect new standard conditions in particular circumstances. See section 213.

- (3) The notice mentioned in subsection (1)(b) must also state that the proposed standard conditions may apply to a relevant existing authority.
- (4) The chief executive must also give written notice of the proposed standard conditions to the holder of a relevant existing authority that is in effect immediately before the information is published under subsection (1).
- (5) A notice given under subsection (4) must state—
 - (a) the department's website address for the proposed standard conditions; and
 - (b) that the proposed standard conditions may apply to the existing authority; and
 - (c) that the holder may make a submission to the chief executive about the proposed standard conditions during the consultation period.

- (6) The chief executive must keep the information mentioned in subsection (1) on the department's website for all of the consultation period.

318D Making standard conditions

- (1) After considering any submissions made within the consultation period, the chief executive may, by gazette notice, make standard conditions for an environmentally relevant activity or an environmental authority.
- (2) Subsection (3) applies if the notice mentioned in section 318C(1)(b) stated that the proposed standard conditions may apply to a relevant existing authority.
- (3) The gazette notice must state whether or not the standard conditions may apply to a relevant existing authority.
- (4) The department must keep a copy of the standard conditions made under subsection (1) available on its website.
- (5) The standard conditions made under this section have effect from—
 - (a) the day the notice about the making of the standard conditions is gazetted; or
 - (b) if a later day for the commencement of the standard conditions is stated in the gazette notice—the later day.

Part 3 Codes of practice

318E Codes of practice

- (1) The Minister may, by gazette notice, make codes of practice stating ways of achieving compliance with the general environmental duty for an activity that causes, or is likely to cause, environmental harm.

[s 318F]

- (2) In making a code of practice under subsection (1), the Minister must have regard to the matters mentioned in section 319(2).
- (3) The department must keep a copy of a code of practice made under subsection (1) available on its website.
- (4) A code of practice has effect for 7 years after the day it is made, unless it is earlier repealed.

Part 4 Registration of suitable operators

Division 1 Applications for registration

318F Application for registration

- (1) An entity may apply to be registered as a suitable operator for the carrying out of an environmentally relevant activity.
- (2) The application must—
 - (a) be made to the chief executive in the approved form; and
 - (b) be accompanied by the fee prescribed under a regulation.
- (3) The applicant may withdraw the application at any time before it is decided.

318G Deciding application

The chief executive must decide to refuse or approve the application within—

- (a) if the chief executive obtains a suitability report about the applicant under section 318R—20 business days after receiving the application; or

- (b) otherwise—10 business days after receiving the application.

318H Grounds for refusing application for registration

The chief executive may refuse the application if satisfied that—

- (a) the applicant is not suitable to be registered as a suitable operator having regard to the applicant's environmental record; or
- (b) for an applicant that is not a corporation—a disqualifying event has happened in relation to the applicant or another person of whom the applicant is a partner; or
- (c) for an applicant that is a corporation—a disqualifying event has happened in relation to—
 - (i) any of the corporation's executive officers; or
 - (ii) another corporation of which any of the corporation's executive officers are, or have been, an executive officer.

318I Steps after deciding application for registration

- (1) If the chief executive decides to approve the application, the chief executive must, within 5 business days after deciding the application—
 - (a) give the applicant written notice stating that the application is approved; and
 - (b) include the applicant's name and address in the register of suitable operators.
- (2) If the chief executive decides to refuse the application, the chief executive must give the applicant an information notice about the decision within 5 business days after deciding the application.

[s 318J]

- (3) Subsection (4) applies if—
 - (a) the application was made together with an application for an environmental authority under chapter 5; and
 - (b) the administering authority for the application is not the chief executive.
- (4) The chief executive must also give the administering authority notice of the decision.

318J Term of registration

- (1) A registered suitable operator's registration—
 - (a) has effect from the day the operator's name and address is included in the register of suitable operators; and
 - (b) continues in force until it ends under subsection (2) or is cancelled or suspended under division 2.
- (2) A registered suitable operator's registration ends at the completion of a period of 5 years for which the operator was not the holder of an environmental authority.

Division 2 Cancelling or suspending registration

318K Cancellation or suspension of registration

The chief executive may cancel or suspend a registration under this part if—

- (a) a disqualifying event has happened for—
 - (i) the registered suitable operator or another person of whom the operator is partner; or
 - (ii) if the operator is a corporation—
 - (A) any of the corporation's executive officers; or

- (B) another corporation of which any of the corporation's executive officers are, or have been, an executive officer; or
- (b) the chief executive is satisfied the operator is not suitable to be registered as a suitable operator having regard to the applicant's environmental record.

318L Notice of proposed action

- (1) If the chief executive proposes to cancel or suspend a registration, the chief executive must give the registered suitable operator a written notice stating—
 - (a) the action (the *proposed action*) the chief executive proposes taking under this division; and
 - (b) the grounds for the proposed action; and
 - (c) the facts and circumstances that are the basis for the grounds; and
 - (d) if the proposed action is to suspend the registration—the proposed suspension period; and
 - (e) that the operator may make, within a stated period, written representations to show why the proposed action should not be taken.
- (2) The stated period must end at least 20 business days after the operator is given the written notice.
- (3) For subsection (1)(d), the proposed suspension period may be fixed by reference to a stated event.

318M Considering representations

The chief executive must consider any written representations made by the registered suitable operator within the stated period.

[s 318N]

318N Decision on proposed action

- (1) After complying with section 318M, the chief executive must decide to—
 - (a) if the proposed action was to suspend the registration for a stated period—suspend the registration for no longer than the stated period; or
 - (b) if the proposed action was to cancel the registration—
 - (i) cancel the registration; or
 - (ii) suspend it for a fixed period; or
 - (c) take no further action.
- (2) The decision under subsection (1) is the *proposed action decision*.

318O Notice of proposed action decision

- (1) If the proposed action decision is to cancel or suspend the registration, the chief executive must—
 - (a) give the registered suitable operator an information notice about the decision within 10 business days after the decision is made; and
 - (b) if the operator is the holder of, or is acting under, an environmental authority for a resource activity—give written notice of the decision to the chief executive administering the resource legislation.
- (2) If the proposed action decision is to take no further action, the chief executive must, within 10 business days after the decision is made, give the registered suitable operator written notice of the decision.

318P When decision takes effect

- (1) If the proposed action decision is to cancel or suspend the registration, the decision takes effect on the later of the following—

- (a) the day the information notice is given to the operator under section 318O(1)(a);
 - (b) a later day of effect stated in the notice.
- (2) However, if the decision was to cancel or suspend the registration because of the conviction of the operator for an offence, the cancellation or suspension—
- (a) does not take effect until—
 - (i) the period to appeal against the conviction ends; and
 - (ii) if the appeal is made against the conviction—the appeal is finally decided or is otherwise ended; and
 - (b) has no effect if the conviction is quashed on appeal.

318Q Steps for cancelling or suspending registration

- (1) This section applies if the proposed action decision is to cancel or suspend the registration and the decision has taken effect.
- (2) The chief executive must, within 10 business days—
 - (a) take the action; and
 - (b) record particulars of the action in the relevant register.
- (3) If the action is suspension of the registration—
 - (a) the particulars must state when the suspension period starts and ends; and
 - (b) the suspension ends when the suspension period is stated to end.

[s 318R]

Division 3 Investigating suitability

318R Investigation of applicant suitability or disqualifying events

- (1) The chief executive may investigate a person or another entity to help decide whether—
 - (a) an applicant is suitable to be a registered suitable operator; or
 - (b) a disqualifying event has happened in relation to the person or another person.
- (2) The chief executive may obtain a report on the person from an administering authority of another State under a corresponding law about a matter mentioned in subsection (1).
- (3) The commissioner of the police service must, if asked by the chief executive, give the chief executive a written report about any convictions, other than spent convictions, for environmental offences recorded against the person obtained from—
 - (a) information in the commissioner's possession; and
 - (b) information the commissioner can reasonably obtain by asking officials administering police services in other Australian jurisdictions.
- (4) In this section—

spent conviction means a conviction—

 - (a) for which the rehabilitation period under the *Criminal Law (Rehabilitation of Offenders) Act 1986* has expired under that Act; and
 - (b) that is not revived as prescribed by section 11 of that Act.

318S Use of information in suitability report

- (1) This section applies if the chief executive is considering information contained in a report about a person obtained under section 318R (a *suitability report*).
- (2) The information must not be used for any purpose other than to make the decision for which the report was obtained.
- (3) In making the decision, the chief executive must have regard to the following matters relating to information about the commission of an offence by the person—
 - (a) when the offence was committed;
 - (b) the nature of the offence and its relevance to the decision.

318T Notice of use of information in suitability report

Before using information contained in a suitability report to assess a matter mentioned in section 318R(1), the chief executive must—

- (a) disclose the information to the person to whom the report relates; and
- (b) allow the person a reasonable opportunity to make representations to the chief executive about the information.

318U Confidentiality of suitability reports

- (1) This section applies to a person who—
 - (a) is, or has been, a public service employee; and
 - (b) has, in that capacity acquired information, or gained access to a suitability report about someone else (the *second person*).
- (2) The person must not disclose the information, or give access to the report, to anyone else.

Maximum penalty—100 penalty units.

[s 318V]

- (3) However, subsection (2) does not apply if the disclosure of the information, or giving of access to the report, is—
- (a) with the second person's written consent; or
 - (b) to another public service employee for making the decision for which the report was obtained; or
 - (c) to the Land Court or the Court; or
 - (d) to a person carrying out functions for the Land Court, Court or chief executive; or
 - (e) to a person employed or engaged to give advice to the Land Court, Court or chief executive in the carrying out of its functions; or
 - (f) under a direction or order made in a proceeding; or
 - (g) expressly permitted or required under another Act.

318V Destruction of suitability reports

- (1) This section applies if the chief executive has obtained a suitability report and made the decision for which the report was obtained.
- (2) The chief executive must destroy the report as soon as practicable after the later of the following—
- (a) if the report wholly or partly relates to a conviction for an environmental offence—
 - (i) if an appeal is made against the conviction—the deciding or other ending of the appeal and any appeal from that appeal; or
 - (ii) otherwise—the end of the period to appeal against the conviction;
 - (b) the end of the period under this Act to appeal against, or apply for a review of, the decision;
 - (c) the deciding or other ending of an appeal or review mentioned in paragraph (b) and any appeal from that appeal or review.

Part 5 **Work diary requirements for particular registered suitable operators**

318W Application of pt 5

- (1) This part applies to a registered suitable operator carrying out a prescribed ERA that is a mobile and temporary environmentally relevant activity, unless the activity is regulated waste transport.
- (2) In this section—
regulated waste transport means a prescribed ERA prescribed under a regulation for this section, relating to the transport of waste.

318X Requirement to keep work diary

- (1) A registered suitable operator must keep a work diary in the approved form for a mobile and temporary environmentally relevant activity carried out by the operator.
Maximum penalty—100 penalty units.
- (2) The approved form must provide for the inclusion of the following—
 - (a) details of each location at which the mobile and temporary environmentally relevant activity is carried out by the registered suitable operator;
 - (b) the days on which the activity is carried out by the operator.
- (3) The registered suitable operator must record the information required under the approved form within 1 day after the day the operator vacates each location at which the mobile and temporary environmentally relevant activity is carried out, unless the operator has a reasonable excuse.
Maximum penalty—100 penalty units.

[s 318Y]

- (4) The registered suitable operator must keep the work diary for 2 years after the day on which the operator vacates the last location at which the mobile and temporary environmentally relevant activity is carried out, unless the operator has a reasonable excuse.

Maximum penalty—100 penalty units.

318Y Requirement to notify chief executive if work diary lost or stolen

- (1) A registered suitable operator who becomes aware that the operator's work diary has been lost or stolen must, within 7 business days, give the chief executive written notice that the diary has been lost or stolen, unless the operator has a reasonable excuse.

Maximum penalty—50 penalty units.

- (2) In this section—

work diary, of a registered suitable operator, means the work diary the operator keeps under section 318X.

Part 6 Progressive rehabilitation

Division 1 Certification of progressive rehabilitation for resource projects

Subdivision 1 Preliminary

318Z What is *progressive certification*

- (1) The administering authority may, under this division, certify that a particular area within a relevant tenure for a resource

project has been rehabilitated under all relevant requirements of—

- (a) this Act; and
 - (b) the environmental authority under which the resource project is authorised; and
 - (c) any relevant guideline or other document made under this Act.
- (2) The certification is a *progressive certification* for the relevant tenure.
 - (3) The area the subject of the progressive certification is a *certified rehabilitated area* for the relevant tenure.

318ZA Effect of progressive certification

- (1) If progressive certification has been given for a relevant tenure, the requirements mentioned in section 318Z(1) are taken to have been complied with for the certified rehabilitated area for the tenure.
- (2) Subsection (1) applies despite another provision of this Act or any change in the requirements.
- (3) However, this section is subject to section 318ZB.

318ZB Continuing responsibility of environmental authority holder relating to certified rehabilitated area

- (1) This section applies if progressive certification has been given for a relevant tenure.
- (2) The holder of the environmental authority to which the relevant tenure relates must maintain the certified rehabilitated area for the relevant tenure under the conditions of the authority in force when the certification was given (the *existing conditions*).
- (3) Any change to the conditions of the environmental authority is of no effect to the extent it purports to impose a more stringent

[s 318ZC]

obligation for the certified rehabilitated area than any obligation applying under the existing conditions.

Example of a change to impose a more stringent requirement—

A change to an existing condition to require rehabilitation to alter a gradient to a lower slope is more stringent because of the necessarily increased costs of recontouring the gradient.

- (4) The obligation under subsection (2) ends on the last of the following to happen—
- (a) the surrender under resource legislation of the relevant tenure, or part of the relevant tenure;
 - (b) the environmental authority ends or ceases to have effect;
 - (c) if the existing conditions include a condition requiring compliance with an obligation after the authority ends or ceases to have effect—compliance with the condition.

Subdivision 2 Applying for progressive certification

318ZC Who may apply for progressive certification

The holder of an environmental authority for a resource project may apply for progressive certification (the *progressive certification application*) for a relevant tenure for the environmental authority.

318ZD Requirements for progressive certification application

- (1) The application must be—
- (a) in the approved form; and
 - (b) supported by enough information to enable the administering authority to decide the application; and
 - (c) accompanied by—

- (i) a progressive rehabilitation report for the environmental authority that complies with section 318ZF; and
 - (ii) a compliance statement for the report; and
 - (iii) the fee prescribed under a regulation.
- (2) The compliance statement must—
 - (a) be made for the environmental authority holder; and
 - (b) state—
 - (i) the extent to which activities carried out under the environmental authority relating to the proposed certified rehabilitated area for the relevant tenure have complied with the conditions of the environmental authority; and
 - (ii) the extent to which the progressive rehabilitation report is accurate.

318ZE Amending progressive certification application

- (1) The applicant may, at any time before the administering authority decides the progressive certification application, amend the application.
- (2) However, the amendment may be made only by giving the administering authority a written notice stating the amendment.
- (3) The notice must be accompanied by the fee prescribed under a regulation.
- (4) If an application is amended under this section, the process for assessing and deciding the application restarts from section 318ZG.

[s 318ZF]

Subdivision 3 Progressive rehabilitation report

318ZF Requirements for progressive rehabilitation report

- (1) The progressive rehabilitation report must—
 - (a) contain the information required under section 264 for a final rehabilitation report, as if a reference in that section to the land were a reference to the proposed certified rehabilitated area; and
 - (b) include—
 - (i) a map of an appropriate scale that shows the proposed certified rehabilitated area; and
 - (ii) relevant information to locate the proposed certified rehabilitated area, including, for example, GPS information or a survey; and
 - (iii) an environmental risk assessment for the proposed certified rehabilitated area; and
 - (c) if progressive certification has previously been given for a relevant tenure for the environmental authority—
 - (i) state when the certification was given; and
 - (ii) identify the certified rehabilitated area the subject of the certification.
- (2) The environmental risk assessment must—
 - (a) comply with a methodology published by the administering authority; and
 - (b) identify all credible risks for the proposed certified rehabilitated area; and
 - (c) evaluate the likelihood and effects of events that reach a threshold of significance published by the administering authority.

Subdivision 4 Requests for information

318ZG Administering authority may request further information

- (1) The administering authority may ask the applicant, by written request, to give further information needed to assess the progressive certification application.
- (2) The request must be made within 10 business days after the application is received.

Subdivision 5 Deciding progressive certification application

318ZH Deciding progressive certification application

The administering authority must decide to give or refuse the progressive certification—

- (a) if the administering authority requests further information under section 318ZG(1)—within 40 business days after the further information is received by the authority; or
- (b) otherwise—within 40 business days after the application is received.

318ZI Criteria for decision

- (1) In deciding the progressive certification application, the administering authority must—
 - (a) comply with any relevant regulatory requirement; and
 - (b) subject to paragraph (a), consider the following—
 - (i) the standard criteria;
 - (ii) the progressive rehabilitation report;
 - (iii) the compliance statement for the report;

[s 318ZJ]

- (iv) any further information received in response to a request under section 318ZG(1);
 - (v) another matter prescribed under an environmental protection policy or a regulation.
- (2) The administering authority may give the progressive certification only if it is satisfied with the environmental risk assessment included in the progressive rehabilitation report, and—
 - (a) it is satisfied the conditions of the environmental authority have been complied with for the proposed certified rehabilitated area; or
 - (b) it is satisfied the land on which each relevant resource project has been carried out in relation to the proposed certified rehabilitated area has been satisfactorily rehabilitated; or
 - (c) if a regulation has prescribed another circumstance for this section—the administering authority is satisfied with the circumstance.

318ZJ Steps after making decision

- (1) If the administering authority decides the progressive certification application, it must, within 10 business days after the decision is made—
 - (a) if the decision was to give the progressive certification—
 - (i) record particulars of the certification in the relevant register; and
 - (ii) give the applicant written notice of the decision; or
 - (b) if the decision was to refuse the progressive certification—give the applicant an information notice about the decision.
- (2) However, if, under section 318ZL, a residual risk payment has been required for the proposed certified rehabilitated area, the

administering authority need not act under subsection (1)(a) until the requirement has been complied with.

Division 2 Payment for residual risks of rehabilitation

318ZK Application of div 2

This division applies if a progressive certification application has been made for a relevant tenure for an environmental authority for a resource project.

318ZL Payment may be required for residual risks

- (1) Subject to sections 318ZM and 318ZN, the administering authority may require the applicant to pay it a stated amount for the residual risks of the proposed certified rehabilitated area for the relevant tenure.
- (2) The requirement must be included in, or be accompanied by, an information notice about the decision to make the requirement.
- (3) The amount may be included in the financial assurance for the environmental authority until the surrender, under resource legislation, of the relevant tenure.

318ZM Criteria for decision to make requirement

The administering authority may require the payment only if it is satisfied it is justified having regard to—

- (a) the degree of risk of environmental harm likely to happen if the proposed certified rehabilitated area is managed under the relevant requirements of this Act and instruments made under it; and
- (b) the likelihood of action being needed to—

[s 318ZN]

- (i) reinstate rehabilitation that fails to establish a safe, stable and self-sustaining ecosystem; or
 - (ii) restore the environment because of environmental harm resulting from the resource project, despite the rehabilitation; or
Example of environmental harm—
surface accumulation of contaminants
 - (iii) maintain environmental management processes needed to protect the environment; and
Examples of things that may be used for an environmental management process—
fences, pumps and water polishing wetlands
- (c) the cost of likely action in comparison with the cost of best practice environmental management of the similar use of land that has not previously been affected by resource activities.

318ZN Amount and form of payment

- (1) The administering authority must decide the amount and form of the payment.
- (2) The administering authority may decide the amount by reference to a guideline or other publicly available document.
- (3) Despite subsections (1) and (2), the administering authority can not require a payment of an amount more than the amount that, in the authority's opinion, represents the likely rehabilitation costs.
- (4) In this section—

likely rehabilitation costs means all likely costs and expenses that may be incurred in taking action to rehabilitate or restore and protect the environment because of environmental harm that may be caused by the residual risks of the proposed certified rehabilitated area.

Chapter 7 Environmental management

Part 1 Environmental duties

Division 1 Duty to prevent and minimise environmental harm

319 General environmental duty

- (1) A person must not carry out any activity that causes, or is likely to cause, environmental harm unless the person takes all reasonable and practicable measures to prevent or minimise the harm (the *general environmental duty*).

Editor's note—

See section 24(3) (Effect of Act on other rights, civil remedies etc.).

- (2) In deciding the measures required to be taken under subsection (1), regard must be had to, for example—
- (a) the nature of the harm or potential harm; and
 - (b) the sensitivity of the receiving environment; and
 - (c) the current state of technical knowledge for the activity; and
 - (d) the likelihood of successful application of the different measures that might be taken; and
 - (e) the financial implications of the different measures as they would relate to the type of activity.

[s 320]

Division 2 Duty to notify of environmental harm

Subdivision 1 Preliminary

320 Definitions for div 2

In this division—

affected land means land on which an event has caused or threatens serious or material environmental harm.

employer see section 320B(1).

occupier, of affected land, means a person who lives or works on the affected land.

primary activity see section 320A(1).

public notice means a notice given in the way prescribed under a regulation.

Example—

a radio or television broadcast

registered owner, of affected land, means—

- (a) the registered owner of the land under the *Land Title Act 1994*; or
- (b) the lessee of the land under the *Land Act 1994*.

320A Application of div 2

- (1) This division applies if a person—
 - (a) while carrying out an activity (the *primary activity*), becomes aware that an event has happened that causes or threatens serious or material environmental harm because of the person's or someone else's act or omission in carrying out the primary activity or another

-
- activity being carried out in association with the primary activity; or
- (b) while carrying out a resource activity, other than a mining activity (also the *primary activity*), becomes aware of the happening of 1 or both of the following events—
- (i) the activity has negatively affected, or is reasonably likely to negatively affect, the water quality of an aquifer;
- (ii) the activity has caused the connection of 2 or more aquifers.
- (2) However, this division does not apply if the event is authorised to be caused under—
- (a) an environmental protection policy; or
- (b) a transitional environmental program; or
- (c) an environmental protection order; or
- (d) an environmental authority; or
- (e) a development condition of a development approval; or
- (f) a prescribed condition for carrying out a small scale mining activity; or
- (g) an emergency direction; or
- (h) an accredited ERMP.

Subdivision 2 Duty of person carrying out an activity

320B Duty of employee to notify employer

- (1) This section applies if the person is carrying out the primary activity during the person's employment or engagement by, or as the agent of, someone else (the *employer*).

[s 320C]

- (2) The person must, no later than 24 hours after becoming aware of the event and unless the person has a reasonable excuse—
 - (a) notify the employer of the event, its nature and the circumstances in which it happened; or
 - (b) if the employer can not be contacted—give the administering authority written notice of the event, its nature and the circumstances in which it happened.

Maximum penalty—100 penalty units.

320C Duty of other persons to notify particular owners and occupiers

- (1) This section applies if the person is not carrying out the primary activity during the person's employment or engagement by, or as the agent of, someone else.
- (2) The person must, no later than 24 hours after becoming aware of the event and unless the person has a reasonable excuse, give the administering authority written notice of the event, its nature and the circumstances in which it happened.

Maximum penalty—

- (a) for an event mentioned in section 320A(1)(a)—500 penalty units; and
 - (b) for an event mentioned in section 320A(1)(b)—100 penalty units.
- (3) The person must, as soon as reasonably practicable after becoming aware of the event and unless the person has a reasonable excuse, give—
 - (a) written notice of the event, its nature and the circumstances in which it happened to—
 - (i) any occupier of the affected land; or
 - (ii) any registered owner of the affected land; or

[s 320D]

-
- (b) public notice of the event, its nature and the circumstances in which it happened to persons on the affected land.

Maximum penalty—

- (a) for an event mentioned in section 320A(1)(a)—500 penalty units; and
- (b) for an event mentioned in section 320A(1)(b)—100 penalty units.

Subdivision 3 Duty of employer

320D Duty of employer to notify particular owners and occupiers

- (1) This section applies if the employer has been notified under section 320B(2) of the event.
- (2) The employer must, no later than 24 hours after becoming aware of the event and unless the employer has a reasonable excuse, give the administering authority written notice of the event, its nature and the circumstances in which it happened.

Maximum penalty—

- (a) for an event mentioned in section 320A(1)(a)—500 penalty units; and
 - (b) for an event mentioned in section 320A(1)(b)—100 penalty units.
- (3) The employer must, as soon as reasonably practicable after becoming aware of the event and unless the person has a reasonable excuse, give—
 - (a) written notice of the event, its nature and the circumstances in which it happened to—
 - (i) any occupier of the affected land; or
 - (ii) any registered owner of the affected land; or

[s 320E]

- (b) public notice of the event, its nature and the circumstances in which it happened to persons on the affected land.

Maximum penalty—

- (a) for an event mentioned in section 320A(1)(a)—500 penalty units; and
- (b) for an event mentioned in section 320A(1)(b)—100 penalty units.

Subdivision 4 Miscellaneous

320E Notice to occupiers of affected land

- (1) Without limiting the ways in which a person or employer may give written notice to an occupier of affected land under this division, a person or employer is taken to have given written notice under this division to an occupier of affected land if the notice is—
 - (a) left with someone who is apparently an adult living or working on the affected land; or
 - (b) if there is no-one on the affected land or the person has been denied access to the affected land—left on the affected land in a position where it is reasonably likely to come to the occupier’s attention; or
 - (c) posted to the affected land.
- (2) Written notice that is posted to, or left at, affected land may be addressed to ‘The Occupier’.

320F Defences and excuses for div 2

- (1) In a proceeding for an offence against a provision of this division, it is a defence for a person or employer to prove that, despite failing to comply with the provision, the person or employer made reasonable efforts to identify the affected land

and give written notice to each registered owner or occupier of the affected land.

- (2) It is not a reasonable excuse for a person or employer to fail to comply with an obligation under this division on the ground that the written notice, or the giving of the written notice, might tend to incriminate the person or employer.

320G Use of notice in legal proceedings

- (1) A written notice given by a person or employer under this division is not admissible in evidence against the person or employer in a prosecution for an offence against this Act that is constituted by the act or omission that caused the event under the notice.
- (2) This section does not prevent other evidence obtained because of the written notice, or the giving of the written notice, being admitted in any legal proceeding against the person or employer.

Part 2 Environmental evaluations

Division 1 Preliminary

321 What is an environmental evaluation

An environmental evaluation is an evaluation of an activity or event to decide—

- (a) the source, cause or extent of environmental harm being caused, or the extent of environmental harm likely to be caused, by the activity or event; and
- (b) the need for a transitional environmental program for the activity or event.

Division 2 Environmental audits

Subdivision 1 Audit requirements

322 Administering authority may require environmental audit about environmental authority

(1) The administering authority may, by written notice (an *audit notice*) require the holder of an environmental authority to—

- (a) commission an audit (an *environmental audit*) about a stated matter concerning a relevant activity; and

Examples of matters for paragraph (a)—

- 1 whether the conditions of the environmental authority have been complied with
- 2 the environmental harm a relevant activity is causing compared with the environmental harm authorised under the environmental authority
- 3 whether a plan of operations for an environmental authority complies with the conditions of the environmental authority
- 4 the accuracy of a final rehabilitation report given to the administering authority by the holder

- (b) give the administering authority an environmental report about the audit.

(2) However, an audit notice may be given under subsection (1) only if the administering authority is reasonably satisfied the audit is necessary or desirable.

323 Administering authority may require environmental audit about other matters

(1) Subsection (2) applies if the administering authority is satisfied that—

- (a) a person is, or has been, contravening a regulation, an environmental protection policy or a transitional environmental program; or

-
- (b) a person is, or has been, contravening any of the following provisions—
 - (i) section 363E;
 - (ii) section 440Q;
 - (iii) section 440ZG;
 - (iv) a provision of chapter 8, part 3D, 3E or 3F.
 - (2) The administering authority may, by written notice (also an *audit notice*), require the person to—
 - (a) commission an audit (also an *environmental audit*) about the matter; and
 - (b) give the administering authority an environmental report about the audit.

324 Content of audit notice

- (1) An audit notice must state the following—
 - (a) the name of the recipient;
 - (b) if the notice is given under section 322—the environmental authority;
 - (c) the matter for which the environmental audit is required;
 - (d) that the recipient must, within a stated reasonable period—
 - (i) commission the environmental audit; and
 - (ii) give the administering authority an environmental report about the audit.
- (2) Also, an audit notice must be accompanied by or include an information notice about the decision to give the notice and to fix the stated period.

[s 325]

325 Failure to comply with audit notice

A person to whom an audit notice has been given must comply with the notice unless the person has a reasonable excuse.

Note—

See also section 574A (Who may perform auditor's functions).

Maximum penalty—300 penalty units.

Subdivision 2 Audits by administering authority

326 Administering authority may conduct environmental audit for resource activities

- (1) The administering authority may decide to—
 - (a) conduct or commission an environmental audit about a stated matter concerning an environmental authority for a resource activity; or
 - (b) prepare an environmental report about the audit.
- (2) However, the authority may make a decision under subsection (1) only if it is reasonably satisfied the audit or report is necessary or desirable.
- (3) If the authority makes a decision under subsection (1), it must give the environmental authority holder an information notice about the decision.
- (4) The authority must, within 10 business days after preparing an environmental report about the audit, give the environmental authority holder a copy of it.

326A Administering authority's costs of environmental audit or report

- (1) This section applies if the administering authority has, under section 326, incurred costs in conducting or commissioning an

environmental audit or preparing an environmental report about the audit.

- (2) The holder of the relevant environmental authority must pay the amount of the costs if—
 - (a) the costs were appropriately and reasonably incurred; and
 - (b) the administering authority has asked the holder to pay the amount.
- (3) The administering authority may recover the amount as a debt.

Division 3 Environmental investigations

326B When environmental investigation required

- (1) This section applies if the administering authority is satisfied on reasonable grounds that—
 - (a) an event has happened causing environmental harm while an activity was being carried out; or
 - (b) an activity or proposed activity is causing, or is likely to cause environmental harm.
- (2) The authority may, by written notice (an *investigation notice*), require the person who has carried out, is carrying out or is proposing to carry out the activity to—
 - (a) conduct or commission an investigation (an *environmental investigation*) about the event or activity; and
 - (b) submit an environmental report about the investigation to the authority.
- (3) This section does not apply if the administering authority requires an environmental audit for the event or activity.

[s 326C]

- (4) In this section—
activity includes rehabilitation or remediation work.

326C Content of investigation notice

- (1) An investigation notice must state the following—
- (a) the name of the person to whom the notice is given;
 - (b) the matter for which the environmental investigation is required;
 - (c) that the person must, within a stated reasonable period—
 - (i) conduct or commission the environmental investigation; and
 - (ii) give the administering authority an environmental report about the investigation.
- (2) Also, an investigation notice must be accompanied by or include an information notice about the decision to give the notice and to fix the stated period.

326D Failure to comply with investigation notice

A person to whom an investigation notice has been given must comply with the notice unless the person has a reasonable excuse.

Maximum penalty—300 penalty units.

Division 4 Requirement for declarations

326E Declarations to accompany report

- (1) An environmental report submitted to the administering authority must be accompanied by a declaration stating that the recipient—

-
- (a) has not knowingly given false or misleading information to the person who carried out the environmental evaluation; and
 - (b) has given all relevant information to the person who carried out the environmental evaluation.
- (2) The declaration must be made—
 - (a) if the recipient is an individual—by the recipient; or
 - (b) if the recipient is a corporation—by an executive officer of the corporation.
 - (3) In this section—

recipient, for an environmental report, means the person who received a notice under section 323(2) or 326B(2) requiring the person to give the administering authority the report.

Division 5 Steps after receiving environmental reports

326F Administering authority may request further information

- (1) This section applies for an environmental report about an environmental investigation.
- (2) The administering authority may, by written notice, ask the recipient to give further information needed to decide whether to approve the environmental report.
- (3) The request must be made within 10 business days after the report is received.
- (4) In this section—

recipient, for an environmental report about an environmental investigation, means the person required to submit the report to the administering authority under section 326B(2).

[s 326G]

326G Decision about environmental report

(1) Subsection (2) applies if an environmental report is about an environmental audit.

(2) The administering authority must accept the report.

Note—

An environmental report about an environmental audit must be prepared by an auditor. See section 574A.

(3) Subsection (4) applies if an environmental report is about an environmental investigation.

(4) The administering authority must decide to—

(a) accept the report; or

(b) refuse to accept the report.

(5) The administering authority may only make a decision under subsection (4)(b) if the authority is satisfied the report does not adequately address the relevant matters for the environmental investigation to which the report relates.

(6) A decision under subsection (4) must be made—

(a) if a request for further information was made under section 326F—within 20 business days after the further information is received; or

(b) otherwise—within 20 business days after the environmental report is received.

(7) The administering authority may extend the period mentioned in subsection (6) for making the decision if—

(a) the authority is satisfied there are special circumstances for extending the time; and

(b) before the extension starts, it gives an information notice about the decision to extend to the recipient.

(8) The administering authority must give the recipient written notice of the decision within 5 business days after making the decision.

(9) In this section—

recipient, for an environmental report about an environmental investigation, means the person required to submit the report to the administering authority under section 326B(2).

326H Action following acceptance of report

- (1) If the administering authority accepts an environmental report under section 326G, the administering authority may do 1 or more of the following—
 - (a) require the recipient to prepare and submit a transitional environmental program to it;
 - (b) if the recipient is the holder of an environmental authority—amend the conditions of the authority;
 - (c) serve an environmental protection order on the recipient;
 - (d) take any other action it considers appropriate.
- (2) In this section—

recipient, for an environmental report, means the person who received a notice under section 323(2) or 326B(2) requiring the person to give the administering authority the report.

326I Action following refusal of report

- (1) Subsection (2) applies if the administering authority decides to refuse to accept an environmental report under section 326G(4)(b).
- (2) The administering authority may require the recipient to conduct or commission another environmental investigation and submit a report on the investigation to it.
- (3) A requirement under subsection (2) must be made by written notice given to the recipient.
- (4) The notice must state—
 - (a) the relevant matters for the evaluation required; and

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- (b) a reasonable period after the notice is given by which the report must be given to the administering authority.
- (5) A notice under subsection (2) must be accompanied by or include an information notice about the decision to give the notice and to fix the stated period.
- (6) A person given a notice about a requirement under subsection (2) must comply with the requirement within the period stated in the notice.

Maximum penalty for subsection (6)—300 penalty units.

- (7) In this section—

recipient, for an environmental report about an environmental investigation, means the person required to submit the report about the investigation to the administering authority under section 326B(2).

Division 6 Miscellaneous

327 Costs of environmental evaluation and report

The recipient must meet the following costs—

- (a) the costs of conducting or commissioning an environmental evaluation and report;
- (b) the costs of giving additional relevant information about the report required by the administering authority.

329 Failure to make decision on environmental report taken to be refusal

If the administering authority fails to make a decision under section 326G(4) within the period stated in section 326G(6)—

- (a) the administering authority is taken to have decided to refuse to accept the report; and

- (b) the decision is taken to have been made on the last day of the period stated in section 326G(6).

Part 3 Transitional environmental programs

Division 1 Preliminary

330 What is a transitional environmental program

A *transitional environmental program* is a specific program that, when complied with, achieves compliance with this Act for the activity to which it relates by doing 1 or more of the following—

- (a) reducing environmental harm caused by the activity;
- (b) detailing the transition of the activity to an environmental standard;
- (c) detailing the transition of the activity to comply with—
 - (i) a condition of an environmental authority for the activity; or
 - (ii) a development condition; or
 - (iii) a prescribed condition for carrying out a small scale mining activity.

331 Content of program

A transitional environmental program must, for the activity to which it relates—

- (a) state the objectives to be achieved and maintained under the program for the activity; and

[s 331]

- (b) state the particular actions required to achieve the objectives, and the day by which each action must be carried out, taking into account—
 - (i) the best practice environmental management for the activity; and
 - (ii) the risks of environmental harm being caused by the activity; and
- (c) state how any environmental harm that may be caused by the activity will be prevented or minimised, including any interim measures that are to be implemented; and
- (d) if the activity is to transition to an environmental standard, state—
 - (i) details of the standard; and
 - (ii) how the activity is to transition to the standard before the program ends; and
- (e) if the activity is to transition to comply with a condition of an environmental authority, a development condition or a prescribed condition for carrying out a small scale mining activity, state—
 - (i) details of the condition and how the activity does not comply with it; and
 - (ii) how compliance with the condition will be achieved before the program ends; and
- (f) state the period over which the program is to be carried out; and
- (g) state appropriate performance indicators at intervals of not more than 6 months; and
- (h) provide for monitoring and reporting on compliance with the program.

Division 2 Submission and approval of transitional environmental programs

332 Administering authority may require draft program

- (1) The administering authority may require a person or public authority to prepare and submit to it for approval a draft transitional environmental program—
 - (a) as a condition of an environmental authority; or
 - (b) as a development condition of a development approval.
- (2) The administering authority may also require a person or public authority to prepare and submit to it for approval a draft transitional environmental program if it is satisfied—
 - (a) an activity carried out, or proposed to be carried out, by the person or authority is causing, or may cause, unlawful environmental harm; or
 - (b) it is not practicable for the person or public authority to comply with an environmental protection policy or regulation on its commencement; or
 - (c) that a condition of an environmental authority held by the person or public authority is, or has been, contravened; or
 - (ca) that a prescribed condition for carrying out a small scale mining activity is, or has been, contravened by the person or public authority carrying out the activity; or
 - (d) a development condition of a development approval is, or has been, contravened and the person or public authority is—
 - (i) an owner of the land for which the approval is granted; or
 - (ii) another person in whom the benefit of the approval vests.

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- (3) A requirement under subsection (1) or (2) must be made by written notice given to the person or public authority.
- (4) The notice must state—
 - (a) the grounds on which the requirement is made; and
 - (b) the matters to be addressed by the program; and
 - (c) the period over which the program is to be carried out; and
 - (d) the day (at least a reasonable period after the notice is given) by which the program must be prepared and submitted to the administering authority; and
 - (e) the review or appeal details.
- (5) A person of whom a requirement under subsection (1) or (2) has been made must comply with the requirement unless the person has a reasonable excuse.

Maximum penalty for subsection (5)—100 penalty units.

333 Voluntary submission of draft program

- (1) A person or public authority may, at any time, submit for approval a draft transitional environmental program to the administering authority for an activity the person or public authority is carrying out or proposes to carry out.
- (2) A person or public authority may submit a document under subsection (1) if it contains or provides for the matters mentioned in section 331, even though the document was not originally prepared for this Act.
- (3) The document is taken to be a draft transitional environmental program.

334 Fee for consideration of draft program

A person or public authority that submits a draft transitional environmental program to an administering authority for

approval must pay the authority the fee prescribed by regulation.

334A Administering authority may request further information

- (1) The administering authority may, by written notice, ask the person or public authority that submitted the draft transitional environmental program to give further information needed to decide whether to approve the draft program.
- (2) The request must be made within 10 business days after the draft program is received.

335 Public notice of submission for approval of certain draft programs

- (1) This section applies if a person or public authority submits for approval a draft transitional environmental program that states a period longer than 3 years over which the program is to be carried out.
- (2) The person or public authority must give public notice of the submission by—
 - (a) advertisement published in a newspaper circulating generally in the area in which the activity to which the draft program relates is, or is proposed to be, carried out; and
 - (b) if the program relates to premises—
 - (i) placing a notice on the premises; and
 - (ii) serving a notice on the occupiers of all premises adjoining the premises.
- (3) The public notice under subsection (2) must be given—
 - (a) if further information is requested under section 334A(1)—within 2 business days after a response to the request is given; or

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- (b) otherwise—within 12 business days after the draft program is received by the administering authority.
- (4) The notice must—
 - (a) be in the approved form; and
 - (b) invite submissions on the draft program from government departments, public authorities, local governments, landholders, industry, interested groups and persons and members of the public; and
 - (c) state the day (at least 10 business days after compliance with subsection (2)) nominated by the administering authority as the day by which submissions may be made to the authority.

336 Authority may call conference

- (1) The administering authority may invite the person or public authority that has submitted a draft transitional environmental program and another person who has made a submission under section 335 about the program, to a conference to help it in deciding whether or not to approve the program.
- (2) The administering authority must give written notice to all persons invited to attend the conference of when and where the conference is to be held.
- (3) However, if the administering authority considers it is impracticable to give notice to all persons invited to attend the conference, the authority may give notice of the conference by publishing a notice in the newspapers the authority decides.
- (4) The administering authority must endeavour to appoint an independent person to mediate the conference.

336A Administering authority may seek advice, comment or information about submission

- (1) The administering authority may ask any person for advice, comment or information about a submission for approval of a transitional environmental program at any time.
- (2) There is no particular way advice, comment or information may be asked for and received and the request may be by public notice.

337 Administering authority to consider draft programs

- (1) The administering authority must decide whether to approve a draft transitional environmental program submitted to it within 20 business days after—
 - (a) if public notice is required under section 335—the day stated in the notice as the day by which submissions may be made to the administering authority; or
 - (b) if public notice is not required and further information is not requested under section 334A(1)—the day the draft program is received by the administering authority; or
 - (c) if public notice is not required and further information is requested under section 334A(1)—the day a response to the request for further information is received.
- (2) The administering authority may extend the period mentioned in subsection (1) for making the decision if, before the extension starts, it gives an information notice about the decision to extend to—
 - (a) the person or public authority that submitted the program; and
 - (b) any submitters.
- (3) If public notice is required to be given of the submission of the draft program, the administering authority must be satisfied public notice has been properly given before making a decision.

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338 Criteria for deciding draft program

- (1) In deciding whether to approve or refuse to approve the draft program or the conditions (if any) of the approval, the administering authority—
 - (a) must comply with any relevant regulatory requirement; and
 - (b) subject to paragraph (a), must also consider the following—
 - (i) the standard criteria;
 - (ii) additional information given in relation to the draft program;
 - (iii) the views expressed at a conference held in relation to the draft program.
- (2) Subsection (1)(b) does not limit the criteria or matters the administering authority may consider in making a decision under section 339.
- (3) If the draft program is prepared because of a requirement of a development condition of a development approval, the authority may approve the draft program only if it is not inconsistent with other conditions of the approval.

339 Decision about draft program

- (1) The administering authority may—
 - (a) approve a draft transitional environmental program—
 - (i) as submitted; or
 - (ii) as amended at the request, or with the agreement, of the administering authority; or
 - (b) refuse to approve a draft transitional environmental program.
- (2) The administering authority may impose on an approval of a draft transitional environmental program—

- (a) any conditions the authority must impose under a regulatory requirement; and
 - (b) a condition requiring the holder of the approval to give an amount of financial assurance as security for compliance with the transitional environmental program and any conditions of the program; and
 - (c) any other conditions the administering authority considers appropriate.
- (3) If the draft transitional environmental program is approved, the approval remains in force for the period stated in the notice of the approval given under section 340.

340 Notice of decision

- (1) The administering authority must, within 8 business days after making a decision under section 339, give the person or public authority that submitted the program a written notice about the decision.
- (2) If the administering authority approves the program, the notice must—
- (a) identify the documents forming the approved transitional program, including any amendments under section 339(1)(a)(ii); and
 - (b) state any conditions imposed on the approval by the administering authority; and
 - (c) state the day the approval ends.
- (3) If the administering authority refuses to approve the program or approves the program with conditions, the notice must be an information notice.

341 Content of approved program

An approved transitional environmental program consists of the following—

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- (a) the draft of the program submitted under section 332 or 333, as amended at the request, or with the agreement, of the administering authority;
- (b) any conditions imposed on the program by the administering authority.

342 Substantial compliance with Act may be accepted as compliance

- (1) This section applies if, under this Act, a person or public authority is required to give public notice of the submission of a transitional environmental program and the administering authority is not satisfied public notice has been properly given.
- (2) The administering authority may consider and decide whether to approve the draft program if it is satisfied there has been substantial compliance with this Act.

343 Failure to approve draft program taken to be refusal

If the administering authority fails to decide whether to approve or refuse a transitional environmental program within the time it is required to make a decision on the program, the failure is taken to be a decision by the authority to refuse to approve the program at the end of the time.

343A Notation of approval of transitional environmental program on particular environmental authorities

- (1) This section applies for a draft transitional environmental program relating to an environmental authority.
- (2) If the draft transitional environmental program is approved, the administering authority must—
 - (a) include a note in the environmental authority which states—

-
- (i) details of the approved transitional environmental program; and
 - (ii) that it is an offence to contravene a requirement of the program or a condition of an approval of a transitional environmental program; and
- (b) give the holder of the environmental authority a copy of the environmental authority including the note.
- (3) The note is not an amendment to the environmental authority.

Division 3 Amendment of approval for transitional environmental programs

344 Application

- (1) Division 2 (other than section 335(1)) applies, with all necessary changes, to a submission by the holder of an approval for a transitional environmental program for an environmentally relevant activity to amend the approval.
- (2) Without limiting subsection (1), if the holder submits for approval an amendment of the approval that extends the period over which the program is to be carried out to longer than 5 years, section 335(2) and (3) applies to the submission as if the submission were for the approval of a draft transitional environmental program.
- (3) Also, the administering authority may approve the amendment only if it is reasonably satisfied it will not result in increased environmental harm being caused by the carrying out of the activity under the amended approval than the environmental harm that would be caused by carrying out the activity if the approval were not granted.
- (4) Without limiting the matters to be considered in deciding the application, the administering authority must have regard to—
 - (a) the period under the original approval; and

[s 344A]

- (b) the period that remains under the original approval; and
- (c) any change to the period under the original approval;
and
- (d) the nature of the risk of environmental harm being
caused by the activity.

Division 3A Financial assurances

344A Administering authority may claim or realise financial assurance

- (1) This section applies if the administering authority incurs, or might reasonably incur, costs or expenses in taking action to secure compliance with a transitional environmental program, or any conditions of the program, for which financial assurance has been given.
- (2) The administering authority may recover the reasonable costs or expenses of taking the action by making a claim on or realising the financial assurance or part of it.
- (3) Before making the claim on or realising the financial assurance or part of it, the administering authority must give written notice to the person who gave the financial assurance.
- (4) The notice must—
 - (a) state details of the action proposed to be taken; and
 - (b) state the amount of the financial assurance to be claimed or realised; and
 - (c) invite the person to make written representations to the administering authority to show why the financial assurance should not be claimed or realised as proposed; and
 - (d) state the period within which the representations may be made.

- (5) The stated period must end at least 20 business days after the person is given the notice.

344B Considering representations

The administering authority must consider any written representations made within the stated period by the person who gave the financial assurance.

344C Decision

- (1) The administering authority must, within 10 business days after the end of the stated period, decide whether to make a claim on or realise the financial assurance.
- (2) If the administering authority decides to make a claim on or realise the financial assurance, it must, within 5 business days after making the decision, give the person an information notice about the decision.

344D Discharging financial assurance

- (1) This section applies if a transitional environmental program approval is subject to a condition that financial assurance be given.
- (2) At the end of the period over which the program is carried out, the administering authority must discharge the financial assurance.

Division 4 Miscellaneous

345 Annual return

The holder of an approval of a transitional environmental program must, within 22 business days after each anniversary

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of the day of approval of the program, give to the administering authority an annual return in the approved form.

Maximum penalty—100 penalty units.

346 Effect of compliance with program

- (1) This section applies if an approved transitional environmental program authorises the holder to do, or not to do, something under the program.
- (2) The holder, or a person acting under the approval may do, or not do, the thing under the program despite anything in—
 - (a) a regulation; or
 - (b) an environmental protection policy; or
 - (c) an environmental authority held by the holder; or
 - (d) a development condition of a development approval; or
 - (e) a prescribed condition for carrying out a small scale mining activity; or
 - (f) an accredited ERMP.
- (3) Without limiting subsection (2), the doing, or not doing, of the thing under the program is not a contravention of—
 - (a) a regulation; or
 - (b) an environmental protection policy; or
 - (c) a condition of an environmental authority held by the holder; or
 - (d) a development condition of a development approval; or
 - (e) a prescribed condition for carrying out a small scale mining activity; or
 - (f) an accredited ERMP.

347 Notice of disposal by holder of program approval

- (1) This section applies if the holder of an approval of a prescribed transitional environmental program proposes to dispose of the place or business to which the program relates to someone else (the *buyer*).
- (2) Before agreeing to dispose of the place or business, the holder must give written notice to the buyer of the existence of the program.

Maximum penalty—50 penalty units.

- (3) If the holder does not comply with subsection (2), the buyer may rescind the agreement by written notice given to the holder before the completion of the agreement or possession under the agreement, whichever is the earlier.
- (4) On rescission of the agreement under subsection (3)—
 - (a) a person who was paid amounts by the buyer under the agreement must refund the amounts to the buyer; and
 - (b) the buyer must return to the holder any documents about the disposal (other than the buyer's copy of the agreement).
- (5) Subsections (3) and (4) have effect despite any other Act or anything to the contrary in the agreement.
- (6) Within 10 business days after agreeing to dispose of the place or business, the holder must give written notice of the disposal to the administering authority.

Maximum penalty for subsection (6)—50 penalty units.

- (7) In this section—

prescribed transitional environmental program means a transitional environmental program that does not relate to an environmental authority.

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348 Notice of ceasing activity by holder of program approval

Within 10 business days after ceasing to carry out the activity to which a transitional environmental program relates, the holder of the approval for the program must give written notice of the ceasing the activity to the administering authority.

Maximum penalty—50 penalty units.

349 Compliance with Act at completion of program

The holder of an approval for a transitional environmental program must achieve full compliance with this Act for the matters dealt with by the program at the end of the period over which the program is carried out.

Part 4 Special provisions about voluntary submission of transitional environmental programs

350 Program notice

- (1) A person may give the administering authority a notice (the *program notice*) about an act or omission (the *relevant event*) that—
 - (a) has caused or threatened environmental harm in the carrying out of an activity by the person; and
 - (b) is lawful apart from this Act.
- (2) The notice must—
 - (a) be in the approved form; and
 - (b) give full details of the relevant event; and

- (c) declare the person's intention to prepare, and submit to the authority a transitional environmental program for the activity; and
 - (d) state the other information prescribed by regulation.
- (3) The person may submit with the notice any report, or the results of any analysis, monitoring program, test or examination, carried out by or for the person for the relevant event.

351 Program notice privileged

- (1) If the relevant event stated in the program notice constitutes an offence against this Act (the *original offence*), the giving of the program notice, the program notice and any documents submitted with it are not admissible in evidence against the person in a prosecution for the original offence.
- (2) Subsection (1) does not prevent other evidence obtained because of the giving of the program notice, the program notice or any documents submitted with it being admitted in any legal proceeding against the person.

352 Authority to act on notice

- (1) Within 10 business days after receiving the program notice, the administering authority must give written notice to the person of—
 - (a) its receiving the notice; and
 - (b) the day by which a draft transitional environmental program dealing with the activity must be submitted to it for approval.
- (2) The day mentioned in subsection (1)(b) must not be more than 3 months after the administering authority receives the program notice.
- (3) This section has effect subject to section 355.

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353 Effect of program notice

- (1) On receipt of the program notice by the administering authority, the person giving the notice must not be prosecuted for a continuation of the original offence that happens after the authority receives the notice.
- (2) Subsection (1) has effect only until whichever of the following happens first—
 - (a) the person receives from the administering authority an approval of a transitional environmental program for the activity;
 - (b) the person receives from the administering authority a notice of refusal to approve a draft transitional environmental program for the activity;
 - (c) if the person does not submit a draft transitional environmental program for the activity to the administering authority by the day stated in the notice given to the person under section 352(1)—the end of the stated day.
- (3) The person may be prosecuted for a continuation of the original offence under the program notice that happens after the authority received the notice if subsection (1) ceases to apply to the person under—
 - (a) subsection (2)(b) if the administering authority states in the notice of refusal to approve the draft program—
 - (i) it is satisfied in the circumstances that subsection (1) should not apply to the person; and
 - (ii) the reasons for the decision; and
 - (iii) the review or appeal details; or
 - (b) subsection (2)(c).
- (4) Subsection (3) applies even if the continuation of the original offence happened while subsection (1) applied.

354 Effect of failure to comply with program

If the holder of an approval for a transitional environmental program for an activity under a program notice does not comply with the program, section 353(1) ceases to apply to the person.

355 Authority may apply to Court for order setting aside immunity from prosecution

- (1) If the administering authority receives a program notice from a person, the authority may apply to the Court for an order that section 353(1) does not apply to the person for any continuation of the original offence.
- (2) The application must be made—
 - (a) within 20 business days after the administering authority receives the program notice or the longer period the Court in special circumstances allows; and
 - (b) by filing written notice of the application with the registrar of the Court and serving a copy of the application on the person; and
 - (c) by complying with rules of court applicable to the application.
- (3) The making of the application does not stay the operation of section 353(1).
- (4) The procedure for the application is to be in accordance with the rules of court applicable to it or, if the rules make no provision or insufficient provision, in accordance with directions of the judge.

356 Court to decide application

- (1) The Court may grant an application under section 355 if the Court is satisfied—

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- (a) the relevant event was wilfully done or omitted to be done with the intention of relying on the giving of a program notice as an excuse; or
 - (b) it is not appropriate for section 353(1) to apply to the person who gave the program notice because of the nature and extent of the environmental harm caused or threatened by the continuation of the original offence.
- (2) In deciding the application, the Court may have regard to the following—
- (a) the circumstances in which the relevant event happened;
 - (b) the nature and extent of the environmental harm caused or threatened by a continuation of the original offence under the program notice;
 - (c) the resilience of the receiving environment;
 - (d) the environmental record of the person;
 - (e) whether a transitional environmental program or protection order is in force for the activity.
- (3) If the Court grants the application, the Court must make an order that section 353(1) does not apply to the person for a continuation of the original offence under the program notice (whether the continuation happened before or after the receiving of the program notice).

357 Power of Court to make order pending decision on application

- (1) This section applies if the administering authority has made an application to the Court under section 355 but the Court has not decided the application.
- (2) On the application of the administering authority, the Court may make any order the Court considers appropriate pending a decision on the application.
- (3) Without limiting subsection (2), an order may direct the person who gave the program notice to do, or stop doing,

anything specified in the order to prevent a continuation of the original offence under the notice.

- (4) The Court's power under this section is in addition to its other powers.
- (5) A person who contravenes an order commits an offence against this Act.

Maximum penalty for subsection (5)—3000 penalty units or 2 years imprisonment.

Part 4A Temporary emissions licences

357A What is an *applicable event*

An *applicable event* is an event, or series of events, either natural or caused by sabotage, that was not foreseen when particular conditions were imposed on an environmental authority.

357B Who may apply for temporary emissions licence

- (1) A person may apply for a licence (a *temporary emissions licence*) that permits the temporary relaxation or modification of particular conditions of an environmental authority that relate to the release of a contaminant into the environment in response to an applicable event.
- (2) A person may apply for a temporary emissions licence only if the person is the holder of an environmental authority.
- (3) The application may be made—
 - (a) in anticipation of an applicable event; or
 - (b) in response to an applicable event.

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Example of application in anticipation of an applicable event—

application to release a contaminant into water when flood waters are due to reach the site of an activity within hours or days

Example of application in response to an applicable event—

application to allow a waste transfer station to change its operating hours, or the types of material it receives, as part of a flood response after flood waters have receded

- (4) The application must—
 - (a) be made—
 - (i) in person to an authorised person; or
 - (ii) by email or facsimile to the administering authority; and
 - (b) be supported by enough information to enable the administering authority to decide the application.
- (5) The applicant must pay the administering authority the fee for the application prescribed under a regulation.
- (6) If the applicant does not pay the fee within the period of at least 20 days stated for payment in a notice given to the applicant by the administering authority, the administering authority may recover it as a debt.

357C Deciding application

The administering authority must decide the application as soon as practicable, but no later than 24 hours after receiving it.

357D Criteria for decision

In deciding the application, the administering authority must have regard to the following—

- (a) the application;

- (b) the extent and impact of the applicable event, including the potential economic impact of granting or not granting the licence;
- (c) if the application is for a licence in anticipation of an applicable event—
 - (i) the likelihood of the applicable event happening; and
 - (ii) when the applicable event is likely to happen; and
 - (iii) what circumstances need to exist before the licence takes effect;
- (d) the character, resilience and values of the receiving environment;
- (e) the likelihood of environmental harm and any measures necessary to minimise the harm;
- (f) the likelihood that the release will adversely impact the health, safety or wellbeing of another person;
Example of a release that adversely impacts another person—
 - a release of an emission that could affect the quality of downstream drinking water
- (g) the cumulative impacts of all releases authorised or directed under this Act, including releases under other temporary emissions licences that have been issued or applied for;
- (h) the public interest.

357E Decision about temporary emissions licence

- (1) The administering authority may—
 - (a) grant the application for a temporary emissions licence—
 - (i) as submitted; or
 - (ii) on different terms than have been requested in the application; or

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Example for subparagraph (ii)—

the administering authority may grant a licence for less time or for fewer releases or on stricter conditions than is requested in the application

- (b) refuse to grant the application for a temporary emissions licence.
- (2) The administering authority may impose conditions on the temporary emissions licence it considers are necessary or desirable.

357F Information notice

The administering authority must give the applicant an information notice about the decision if the decision is to—

- (a) grant the application on different terms than have been requested in the application; or
- (b) refuse the application.

357G Temporary emissions licence

- (1) A temporary emissions licence must state the following—
- (a) the period for which the licence is issued;
 - (b) the timing, duration, volume and location of the releases permitted by the licence;
 - (c) the conditions of the environmental authority that the licence overrides;
 - (d) conditions to monitor the releases to ensure that the expected impact of the releases on the receiving environment is not exceeded.
- (2) While the licence is in effect, the licence authorises the holder of the licence to do, or not to do, the activity approved by the licence despite—
- (a) a condition of an environmental authority; or

- (b) a transitional environmental program or a condition of a transitional environmental program.

357H Licence can not be surrendered or transferred

A temporary emissions licence can not be surrendered or transferred to another person.

357I Failure to comply with conditions of licence

The holder of, or a person acting under, a temporary emissions licence must comply with the conditions of the licence.

Maximum penalty—1665 penalty units.

357J Amendment, cancellation or suspension of temporary emissions licence

The administering authority may amend, cancel or suspend a temporary emissions licence if—

- (a) after granting the licence—
 - (i) the authority receives information that the effects of the release of a contaminant into the receiving environment will be greater than was envisaged by the authority when the licence was issued; or
 - (ii) other applications for temporary emissions licences are made that would, if granted, affect the same environmental values as the issued licence; or
- (b) for the amendment of a temporary emissions licence—the holder of the licence gives written agreement to the amendment.

Part 5 Environmental protection orders

358 When order may be issued

The administering authority may issue an order (an *environmental protection order*) to a person—

- (a) if the person does not comply with a requirement to conduct or commission an environmental evaluation and submit it to the authority; or
- (b) if the person does not comply with a requirement to prepare a transitional environmental program and submit it to the authority; or
- (c) if, because of an environmental evaluation, the authority is satisfied unlawful environmental harm is being, or is likely to be, caused by an activity carried out, or proposed to be carried out, by the person; or
- (d) to secure compliance by the person with—
 - (i) the general environmental duty; or
 - (ii) an environmental protection policy; or
 - (iii) a condition of an environmental authority; or
 - (iv) a development condition of a development approval; or
 - (v) a prescribed condition for carrying out a small scale mining activity; or
 - (vi) a condition of a site management plan; or
 - (vii) an audit notice; or
 - (viii) a surrender notice; or
 - (ix) a rehabilitation direction; or
 - (x) a regulation; or
 - (xi) an accredited ERMP; or

- (e) if the person is, or has been, contravening any of the following provisions—
 - (i) section 363E;
 - (ii) section 440Q;
 - (iii) section 440ZG;
 - (iv) a provision of chapter 8, part 3D, 3E or 3F.

359 Standard criteria to be considered before issue of order

Before deciding to issue an environmental protection order, the administering authority must consider the standard criteria.

360 Form and content of order

- (1) An environmental protection order—
 - (a) must be in the form of a written notice; and
 - (b) must specify the person to whom it is issued; and
 - (c) may impose a reasonable requirement relevant to a matter or thing mentioned in section 358; and
 - (d) must state the review or appeal details; and
 - (e) must be served on the recipient.
- (2) Without limiting subsection (1)(c), an environmental protection order may—
 - (a) require the recipient to not start, or stop, a stated activity indefinitely, for a stated period or until further notice from the administering authority; or
 - (b) require the recipient to carry out a stated activity only during stated times or subject to stated conditions; or
 - (c) require the recipient to take stated action within a stated period.

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361 Offence not to comply with order

- (1) The recipient must not wilfully contravene an environmental protection order.

Maximum penalty—2000 penalty units or 2 years imprisonment.

- (2) The recipient must not contravene an environmental protection order.

Maximum penalty—1665 penalty units.

- (3) In a proceeding for an offence against subsection (1), if the court is not satisfied the defendant is guilty of the offence charged but is satisfied the defendant is guilty of an offence against subsection (2), the court may find the defendant guilty of the offence against subsection (2).

362 Notice of disposal by recipient

- (1) This section applies if the recipient of an environmental protection order proposes to dispose of the place or business to which the order relates to someone else (the *buyer*).

- (2) Before agreeing to dispose of the place or business, the recipient must give written notice to the buyer of the existence of the order.

Maximum penalty—50 penalty units.

- (3) If the recipient does not comply with subsection (2), the buyer may rescind the agreement by written notice given to the recipient before the completion of the agreement or possession under the agreement, whichever is the earlier.

- (4) On rescission of the agreement under subsection (3)—

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

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

- (5) Subsections (3) and (4) have effect despite anything to the contrary in the agreement.
- (6) Within 10 business days after agreeing to dispose of the place or business, the recipient must give written notice of the disposal to the administering authority.

Maximum penalty for subsection (6)—50 penalty units.

363 Notice of ceasing to carry out activity

Within 10 business days after ceasing to carry out the activity to which an environmental protection order relates, the recipient must give written notice of the ceasing to carry out the activity to the administering authority.

Maximum penalty—50 penalty units.

Part 5A Direction notices

363A Prescribed provisions

- (1) This part provides for a direction notice to be issued for a contravention of any of the following (each of which is a *prescribed provision*)—
 - (a) section 440, 440Q or 440ZG;
Editor's note—
section 440 (Offence of causing environmental nuisance), 440Q (Offence of contravening a noise standard) or 440ZG (Depositing prescribed water contaminants in waters and related matters)
 - (b) a provision of an accredited ERMP for an agricultural ERA.
- (2) However, a provision of the accredited ERMP is a prescribed provision only if the person contravening the provision is the person carrying out the agricultural ERA.

[s 363B]

Note—

If there is a transitional environmental program for the activity, see section 346 (Effect of compliance with program).

363B Authorised person may issue a direction notice

- (1) This section applies if an authorised person is satisfied on reasonable grounds that—
 - (a) a person—
 - (i) is contravening a prescribed provision; or
 - (ii) has contravened a prescribed provision in circumstances that make it likely the contravention will continue or be repeated; and
 - (b) a matter relating to the contravention can be remedied; and
 - (c) it is appropriate to give the person an opportunity to remedy the matter.
- (2) The authorised person may issue a written notice (a *direction notice*) to the person requiring the person to remedy the contravention.
- (3) If, for any reason, it is not practicable to make a requirement to remedy the contravention by written notice, the requirement may be made orally and confirmed by a direction notice as soon as practicable.

Note—

Whether an oral requirement is made before issuing a direction notice is relevant to the time by which the person may be required to remedy the contravention. See section 363D(2)(c).

363C Matters to consider before issuing a direction notice relating to particular emissions

- (1) This section applies to a contravention of section 440 involving an emission of aerosols, fumes, light, noise, odour, particles or smoke.

-
- (2) Before deciding to issue a direction notice in relation to the contravention, the authorised person must—
- (a) consider the general emission criteria stated in subsection (3); and
 - (b) if the emission is of noise, consider the noise emission criteria stated in subsection (4); and
 - (c) having regard to those criteria, consider whether it would be appropriate to issue the direction notice or to first try to resolve the matter in another way.
- (3) The general emission criteria, for a particular emission, are as follows—
- (a) the emission’s characteristics or qualities;
 - (b) the emission’s amount or rate;
 - (c) the duration and time of the emission;
 - (d) whether the emission is continuous or fluctuating;
 - (e) the characteristics and qualities of the receiving environment, including the types of emissions that could reasonably be expected in the receiving environment;
 - (f) the emission’s impact on the receiving environment;
 - (g) in relation to each affected person for the emission—
 - (i) any views of the affected person about the emission of which the authorised person is aware, including views about the degree of interference caused, or likely to be caused, by the emission to lawful activities at the place occupied by the affected person; and
 - (ii) the order of occupancy between the person causing the emission and the affected person; and
 - (iii) for the period during which the person causing the emission has occupied the place from which the emission is generated and the affected person has occupied the place affected by the emission—

[s 363D]

- (A) any structural or other changes to either of those places; and
 - (B) any change to the activities conducted at either of those places by the person causing the emission or affected person;
- (h) any mitigating measures that have been taken or could reasonably have been taken by the person causing the emission.
- (4) The noise emission criteria are as follows—
- (a) if the authorised person has measured a sound pressure level for the noise—that level;
 - (b) the audibility of the noise;
 - (c) whether the noise is continuous at a steady level or whether it has a fluctuating, intermittent, tonal or impulsive nature;
 - (d) whether the noise has vibration components.
- (5) In this section—
- affected person*, for an emission, means a person who the authorised person knows to be affected by the emission.

363D Requirements of direction notices

- (1) A direction notice must state the following—
- (a) that the authorised person believes the person—
 - (i) is contravening a prescribed provision; or
 - (ii) has contravened a prescribed provision in circumstances that make it likely the contravention will continue or be repeated;
 - (b) the particular prescribed provision the authorised person believes is being, or has been, contravened;
 - (c) briefly, how it is believed the prescribed provision is being, or has been, contravened;

- (d) the time by which the person must remedy the contravention;
 - (e) that it is an offence to fail to comply with the direction notice unless the person has a reasonable excuse;
 - (f) the maximum penalty for failing to comply with the direction notice;
 - (g) the review or appeal details.
- (2) The time under subsection (1)(d) must be reasonable having regard to—
- (a) the action required to remedy the contravention; and
 - (b) the risk to human health or the natural environment, or risk of loss or damage to property, posed by the contravention; and
 - (c) how long the person has been aware of the contravention, for example, because an authorised person has previously made an oral requirement that the contravention be remedied.
- (3) The notice may also state the reasonable steps the authorised person considers necessary to remedy the contravention, or avoid further contravention, of the prescribed provision.

363E Offence not to comply with a direction notice

A person who is issued with a direction notice must comply with it unless the person has a reasonable excuse.

Maximum penalty—300 penalty units.

Part 5B Clean-up notices

363F Definitions for pt 5B

In this part—

contamination incident means an incident, involving contamination of the environment, that the administering authority is satisfied has caused or is likely to cause serious or material environmental harm.

place means premises, another place on land or a vehicle.

363G Who are the *prescribed persons* for a contamination incident

For this part, each of the following persons is a *prescribed person* for a contamination incident—

- (a) a person causing or permitting, or who caused or permitted, the incident to happen;
- (b) a person who, at the time of the incident, is or was—
 - (i) the occupier of a place at or from which the incident is happening or happened; or
 - (ii) the owner, or person in control, of a contaminant involved in the incident;
- (c) if a clean-up notice is issued to a corporation (the *first corporation*) in relation to the incident and it fails to comply with the notice—
 - (i) a parent corporation of the first corporation; and
 - (ii) an executive officer of the first corporation.

363H Administering authority may issue clean-up notice

- (1) The administering authority may issue a written notice (a *clean-up notice*) to a person whom the administering authority reasonably believes to be a prescribed person for a

contamination incident, requiring the person to take stated action to do all or any of the following—

- (a) prevent or minimise contamination;

Example—

action to contain, remove, disperse or destroy the contaminants

- (b) rehabilitate or restore the environment because of the incident, including by taking steps to mitigate or remedy the effects of the incident;
- (c) assess the nature and extent of the environmental harm, or the risk of further environmental harm, from the incident, including by inspecting, sampling, recording, measuring, calculating, testing or analysing;
- (d) keep the administering authority informed about the incident or the actions taken under the notice, including by giving to the administering authority stated reports, plans, drawings or other documents.

- (2) The clean-up notice must state the following matters—

- (a) the name of the recipient;
- (b) a description of the contamination incident;
- (c) the place at or from which the administering authority is satisfied the incident is happening or has happened;
- (d) the actions the recipient must take;
- (e) for each action, the time by which it must be taken;
- (f) that it is an offence for the recipient not to comply with the notice unless the recipient has a reasonable excuse;
- (g) the maximum penalty for the offence;
- (h) that, if the recipient does not comply with the notice, an authorised person may take any of the actions stated in the notice and the administering authority may recover from the recipient the costs incurred in taking the actions;

[s 363I]

- (i) the name, address and contact details of the administering authority;
 - (j) the review or appeal details.
- (3) The time under subsection (2)(e) must be reasonable in all the circumstances, having regard to the actions the recipient must take and the risk of harm or further harm from the incident.
- (4) The notice may include any other information the administering authority considers appropriate.

Example—

The notice may state how the administering authority proposes to monitor compliance with the notice, including by exercising powers under chapter 9.

- (5) If the notice is issued to 2 or more recipients, a copy must be given to each recipient.
- (6) To the extent that the recipient complies with the notice but did not cause or permit the contamination incident to happen, the recipient may recover as a debt, from another person who caused or permitted the contamination incident to happen, the amount of loss or expense incurred by the recipient in complying with the notice.
- (7) A reference in this section to taking actions includes achieving outcomes.

Example—

A clean-up notice may state, as an action that must be taken, that the recipient must ensure contaminated water does not reach the aquifer.

363I Offence not to comply with clean-up notice

- (1) The recipient of a clean-up notice must comply with the notice unless the recipient has a reasonable excuse.

Maximum penalty—2000 penalty units.

- (2) If the recipient is an individual and the notice includes a requirement to give information or produce a document, it is a reasonable excuse for the individual to fail to comply with the

requirement if complying with the requirement might tend to incriminate the individual.

- (3) In proceedings for an offence against subsection (1), it is a defence for the recipient to show—
- (a) that the recipient is not a prescribed person; or
 - (b) that—
 - (i) the relevant contamination incident was caused by a natural disaster; and
 - (ii) the recipient had taken all measures it would be reasonable for the recipient to have taken to prevent the incident, having regard to all the circumstances including the inherent nature of the risk and the probability of the natural disaster; or
 - (c) that—
 - (i) the relevant contamination incident was caused by a terrorist act or other deliberate act of sabotage by someone other than the recipient; and
 - (ii) the recipient had taken all measures it would be reasonable for the recipient to have taken to prevent the incident, having regard to all the circumstances including the inherent nature of the risk and the nature of the recipient's connection with the incident; or
 - (d) if the recipient is a prescribed person mentioned in section 363G(c)(i), that it took all reasonable steps to ensure the first corporation complied with the notice served on the first corporation; or
 - (e) if the recipient is a prescribed person mentioned in section 363G(c)(ii), that—
 - (i) the person took all reasonable steps to ensure the first corporation complied with the notice served on the first corporation; or

[s 363J]

- (ii) the person was not in a position to influence the conduct of the first corporation in relation to its compliance with the notice served on the first corporation.

- (4) In this section—

first corporation see section 363G(c).

lease includes a residential tenancy agreement under the *Residential Tenancies Act 1994*.

363J Procedure if recipient is not the owner of land on which action is required

- (1) This section applies if a clean-up notice requires the recipient to take action on land that the recipient does not own.
- (2) The recipient, or person taking the action for the recipient (the *contractor*), may enter the land to take the action only—
 - (a) with the consent of the owner and occupier of the land;
or
 - (b) if the recipient or contractor has given at least 5 business days written notice to the owner and occupier.
- (3) The notice under subsection (2)(b) must inform the owner and occupier of—
 - (a) the intention to enter the land; and
 - (b) the purpose of the entry; and
 - (c) the days and times when the entry is to be made.
- (4) In taking the action, the recipient or contractor must take all reasonable steps to ensure the recipient or contractor causes as little inconvenience, and does as little damage, as is practicable in the circumstances.
- (5) Nothing in this section authorises the recipient or contractor to enter a building used for residential purposes.
- (6) If a person incurs loss or damage because of action taken by the recipient or contractor, the person is entitled to be paid by

the recipient or contractor the reasonable compensation because of the loss or damage that is agreed between the recipient or contractor and the person or, failing agreement, decided by a court having jurisdiction for the recovery of amounts up to the amount of compensation claimed.

- (7) The court may make an order about costs it considers just.

363K Taking action in place of recipient

- (1) This section applies if—
- (a) the recipient of a clean-up notice fails to comply with it; or
 - (b) the operation of the decision to issue a clean-up notice is stayed under section 535.
- (2) An authorised person, or person acting under the direction of an authorised person (the *contractor*), may take any of the actions stated in the clean-up notice.
- (3) For subsection (2), the authorised person or contractor may enter land on which the actions are required to be taken—
- (a) with the consent of the owner and occupier of the land; or
 - (b) if the authorised person or contractor has given at least 5 business days written notice, complying with section 363J(3), to the owner and occupier.
- (4) If the authorised person or contractor enters land under subsection (3), section 363J(4) to (7) applies as if a reference in the provisions to the recipient or contractor were a reference to the authorised person or contractor.
- (5) Subsections (3) and (4) do not limit another provision of this Act under which an authorised person may enter land.

Note—

See also sections 452 and 458 in relation to the power to enter a place to take the actions.

[s 363L]

363L Obstruction of recipient complying with notice

- (1) A person must not obstruct the recipient of a clean-up notice in the taking of action to comply with a clean-up notice, unless the person has a reasonable excuse.

Maximum penalty—165 penalty units.

- (2) In this section—

recipient, of a clean-up notice, includes a person acting for the recipient of a clean-up notice.

Part 5C Cost recovery notices

363M Who are the *prescribed persons* for a contamination incident

For this part, each of the following persons is a *prescribed person* for a contamination incident—

- (a) a person causing or permitting, or who caused or permitted, the incident to happen;
- (b) a person who, at the time of the incident, is or was—
- (i) the occupier of a place at or from which the incident is happening or happened; or
 - (ii) the owner, or person in control, of a contaminant involved in the incident;
- (c) if a cost recovery notice is issued to a corporation (the *first corporation*) in relation to the incident and it fails to pay the amount claimed under the notice—
- (i) a parent corporation of the first corporation; and
 - (ii) an executive officer of the first corporation.

363N Administering authority may issue cost recovery notice

- (1) The administering authority may issue a written notice (a *cost recovery notice*)—
 - (a) to the recipient of a clean-up notice, if—
 - (i) the recipient fails to comply with the clean-up notice; and
 - (ii) an authorised person or contractor acts under section 363K; or
 - (b) to the recipient of a clean-up notice, if—
 - (i) the operation of the decision to issue a clean-up notice is stayed under section 535; and
 - (ii) during the period of the stay, an authorised person or contractor acts under section 363K; and
 - (iii) either—
 - (A) the appeal ends without an appeal decision under section 539; or
 - (B) the effect of the appeal decision under section 539 is to confirm the decision to issue the clean-up notice to the extent the notice required the recipient to take the action that was ultimately taken by the authorised person or contractor under section 363K; or
 - (c) to a person whom the administering authority reasonably believes to be a prescribed person for a contamination incident, if an authorised person, or person authorised under section 467(1)(b), acts under section 467 in relation to environmental harm caused or likely to be caused by the incident.
- (2) A cost recovery notice may claim a stated amount for costs or expenses reasonably incurred in—
 - (a) for a notice issued under subsection (1)(a) or (b)—

[s 363N]

- (i) taking an action stated in the clean-up notice; or
 - (ii) monitoring compliance by the recipient with the clean-up notice; or
 - (b) for a notice issued under subsection (1)(c)—taking the action under section 467.
- (3) A cost recovery notice must state the following matters—
 - (a) the name of the recipient;
 - (b) a description of the contamination incident;
 - (c) the place at or from which the administering authority is satisfied the incident happened;
 - (d) the amount claimed;
 - (e) a description of costs and expenses giving rise to the claimed amount;
 - (f) that, if the recipient does not pay the amount to the administering authority within 30 days after the day the notice is issued, the administering authority may claim the amount from the recipient as a debt;
 - (g) the name, address and contact details of the administering authority;
 - (h) the review or appeal details.
- (4) Subject to subsection (5), if the recipient does not pay the amount to the administering authority within 30 days after the day the notice is issued, the administering authority may claim the amount from the recipient as a debt.
- (5) The amount is not payable—
 - (a) if the recipient is not a prescribed person; or
 - (b) if—
 - (i) the contamination incident was caused by a natural disaster; and
 - (ii) the recipient had taken all measures it would be reasonable for the recipient to have taken to

prevent the incident, having regard to all the circumstances including the inherent nature of the risk and the probability of the natural disaster; or

- (c) if—
 - (i) the contamination incident was caused by a terrorist act or other deliberate act of sabotage by someone other than the recipient; and
 - (ii) the recipient had taken all measures it would be reasonable for the recipient to have taken to prevent the incident, having regard to all the circumstances including the inherent nature of the risk and the nature of the recipient's connection with the incident; or
- (d) for a recipient who is a prescribed person mentioned in section 363M(c)(i), if the recipient took all reasonable steps to ensure the first corporation paid the amount claimed under the notice served on the first corporation; or
- (e) for a recipient who is a prescribed person mentioned in section 363M(c)(ii), if—
 - (i) the recipient took all reasonable steps to ensure the first corporation paid the amount claimed under the notice served on the first corporation; or
 - (ii) the recipient was not in a position to influence the conduct of the first corporation in relation to its paying the amount claimed under the notice served on the first corporation.
- (6) To the extent that the recipient pays an amount in compliance with the notice but did not cause or permit the contamination incident to happen, the recipient may recover the amount as a debt from another person who caused or permitted the contamination incident to happen.
- (7) A reference in this section to an authorised person acting includes a person acting under the direction of an authorised person.

[s 363O]

(8) In this section—

costs and expenses includes labour, equipment and administrative costs and expenses.

first corporation see section 363M(c).

363O Several recipients of a cost recovery notice

If a cost recovery notice is issued to 2 or more recipients—

- (a) a copy of the notice must be given to each recipient; and
- (b) the amount claimed in the notice is payable by the recipients jointly and severally.

Part 8 Contaminated land

Division 1 Interpretation

370 Definition for pt 8

In this part—

repealed Act means the *Contaminated Land Act 1991* as in force immediately before the commencement of this part.

Division 2 Inclusion of land on environmental management register

371 Owner or occupier of land to notify administering authority

- (1) If the owner or occupier of land becomes aware a notifiable activity is being carried out on the land, the owner or occupier must, within 22 business days after becoming aware the

activity is being carried out, give notice under the subsection to the administering authority in the approved form.

Maximum penalty—50 penalty units.

- (2) If the owner or occupier of land becomes aware the land has been, or is being, contaminated by a contaminant the owner or occupier knows is a hazardous contaminant, the owner or occupier must, within 22 business days after becoming aware the land has been, or is being, contaminated, give notice under the subsection to the administering authority in the approved form.

Maximum penalty—100 penalty units.

- (3) However, the owner or occupier of land does not commit an offence against subsection (1) or (2) if the administering authority has already been given notice under the subsection about the activity or contamination.

372 Local government to notify administering authority

- (1) If a local government becomes aware a notifiable activity has been, or is being, carried out on land in its area, the local government must, within 22 business days after becoming aware of the activity having been, or being, carried out give notice under the subsection to the administering authority in the approved form.
- (2) If a local government becomes aware that land in its area has been, or is being, contaminated by a contaminant the local government knows is a hazardous contaminant, the local government must, within 22 business days after becoming aware the land has been, or is being, contaminated, give notice under the subsection to the administering authority in the approved form.
- (3) However, subsection (1) or (2) does not apply if the administering authority has already been given notice under the subsection about the activity or contamination.

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373 Notice to be given to owner of land

- (1) This section applies if—
- (a) the administering authority is given notice by an occupier of land (other than the land's owner) that a notifiable activity is being carried out on the land; or
 - (b) the administering authority is given notice by a local government that a notifiable activity has been, or is being, carried out on land in its area; or
 - (c) the administering authority otherwise reasonably believes that a notifiable activity has been, or is being, carried out on land; or
 - (d) the administering authority has conducted a preliminary investigation of land and the authority reasonably believes the land is contaminated land; or
 - (e) the administering authority is given a report by the occupier of land or another person about an investigation of the land conducted or commissioned by the occupier or other person and the administering authority reasonably believes the land is contaminated land.

Example of paragraph (c)—

the department in which the Mineral Resources Act is administered gives the administering authority notice that hazardous mine wastes have been stored on the land

- (2) The administering authority must, within the time that is reasonable in the circumstances, give written notice about the activity or contamination to the owner of the land.
- (3) However, the administering authority is not required to give a notice to the owner of the land if the land has already been investigated and the administering authority is satisfied the land is not contaminated land.
- (4) The notice must—

-
- (a) inform the owner that the administering authority believes the land has been, or is being, used for a notifiable activity or is contaminated land; and
 - (b) state the grounds on which the administering authority believes the land has been, or is being, used for a notifiable activity or is contaminated land; and
 - (c) inform the owner that the administering authority is considering including particulars of the land in the environmental management register; and
 - (d) if an investigation of the land has been conducted—be accompanied by a copy of the report prepared about the investigation; and
 - (e) invite submissions from the owner about whether or not the land has been, or is being used, for a notifiable activity or is contaminated land; and
 - (f) state the day (at least 22 business days after the day the notice is given) by which submissions may be made to the administering authority; and
 - (g) state that any submissions made to the administering authority must be accompanied by a statutory declaration by the owner declaring that the owner—
 - (i) has not knowingly included any false or misleading information in the submission; and
 - (ii) has given all relevant information to the administering authority.

374 Decision about including land in environmental management register

- (1) The administering authority must, after considering any submissions made by the land's owner, decide whether the land has been, or is being, used for a notifiable activity or is contaminated land.
- (2) Subsection (1) does not limit the matters the administering authority may consider in making the decision.

[s 375]

- (3) If the administering authority decides the land has been, or is being, used for a notifiable activity or is contaminated land, the administering authority must record particulars of the land in the environmental management register.
- (4) However, the administering authority is not required to record particulars of land that has been used for a notifiable activity in the environmental management register if—
 - (a) the land is no longer being used for a notifiable activity; and
 - (b) the land has been investigated and the administering authority is satisfied the land is not contaminated land.
- (5) The administering authority must, within 8 business days after making a decision, give written notice of the decision to—
 - (a) the owner of the land; and
 - (b) the relevant local government.
- (6) The notice must state the reasons for the decision.
- (7) Also, if particulars of the land are recorded in the environmental management register, the notice to the owner must state the review or appeal details.

Division 3 **Investigation of land on environmental management register**

375 **Voluntary submission of report about investigation**

- (1) A person may, at any time, conduct or commission an investigation of land (a *site investigation*) for which particulars are recorded in the environmental management register to scientifically assess whether the land is contaminated in a way that is a risk to human health or another part of the environment and submit a report about the investigation to the administering authority.

Note—

See section 565 (Only suitably qualified person can perform regulatory functions).

- (2) However, if the person intending to conduct or commission the site investigation and submit the report is not the land's owner, the person must obtain the owner's consent before beginning the investigation.

376 Administering authority may require site investigation

- (1) This section applies if the administering authority is satisfied—
- (a) after a preliminary investigation, particulars of land are recorded in the environmental management register because the land is contaminated land; and
 - (b) the hazardous contaminant contaminating the land is in a concentration that has the potential to cause serious or material environmental harm; and
 - (c) a person, animal or another part of the environment may be exposed to the hazardous contaminant.
- (2) The administering authority may require a site investigation to be conducted or commissioned by—
- (a) if the person who released the contaminant is known and can be located—the person; or
 - (b) the relevant local government; or
 - (c) the owner of the land.
- (3) However, the administering authority may require the local government to conduct or commission the investigation only if subsection (2)(a) does not apply and—
- (a) the administering authority reasonably believes—
 - (i) the land has been contaminated because the local government gave approval for the use of, or an activity to be carried out on, the land; and

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- (ii) in giving the approval the local government did not comply with the requirements under any Act in relation to the approval; and
 - (iii) the local government should have known the land would be contaminated because of the approval; or
 - (b) under the repealed Act, particulars of the land were recorded in the contaminated sites register as a restricted site and, after the recording, the local government gave approval for the use of, or an activity to be carried out on, the land contrary to the restriction; or
 - (c) under the repealed Act, particulars of the land were recorded in the contaminated sites register or, under this Act, particulars of the land are recorded in the environmental management register or contaminated land register, and—
 - (i) after the recording, the local government approved the land be used for a use or activity that was or is inconsistent with particulars of the land being recorded in the register; and
 - (ii) the use or activity has caused environmental harm to human health or another part of the environment.
- (4) Also, the administering authority may require the owner of the land to conduct or commission the investigation only if subsection (2)(a) and (3) do not apply and—
 - (a) the administering authority reasonably believes the land was contaminated before the commencement of the repealed Act; or
 - (b) when the land was acquired by the owner, particulars of the land were recorded—
 - (i) under the repealed Act, in the contaminated sites register as a confirmed site, restricted site or probable site; or

-
- (ii) under this Act, in the environmental management register or the contaminated land register; or
 - (c) the contamination happened after the owner acquired the land.
- (5) However, the administering authority must not require the owner of the land to conduct or commission an investigation under subsection (4)(a) or (b) if the owner is a mortgagee of the land.
- (6) Also, the administering authority must not require an investigation to be conducted or commissioned if the land is subject to a site management plan for the contamination and the conditions of the plan are being complied with.
- (7) The recipient of a notice to conduct or commission a site investigation must comply with the requirement unless the administering authority waives the requirement.

Maximum penalty—100 penalty units.

377 Notice to conduct or commission site investigation

- (1) A requirement to conduct or commission a site investigation must be made by written notice to the person (the *recipient*) required to conduct or commission the site investigation.

Note—

See section 565 (Only suitably qualified person can perform regulatory functions).

- (2) If the recipient is not the land's owner, the administering authority must also give a copy of the notice to the owner.
- (3) The notice must—
- (a) state the grounds on which the requirement is made; and
 - (b) outline the facts and circumstances forming the basis for the grounds; and
 - (c) state the matters relevant for the site investigation; and

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- (d) state the day (at least a reasonable period after the notice is given) by which a report on the site investigation must be submitted to the administering authority; and
- (e) state the review or appeal details.

378 Waiver of requirement to conduct or commission site investigation

- (1) A recipient may apply to the administering authority for it to waive the requirement for the recipient to conduct or commission a site investigation.
- (2) The application must—
 - (a) be made to the administering authority in the approved form; and
 - (b) be supported by enough information to enable the authority to decide the application.
- (3) The administering authority must decide the application within 20 business days after receiving it.
- (4) The administering authority may waive the requirement to conduct or commission a site investigation only if it is satisfied—
 - (a) conducting or commissioning the investigation would cause the recipient financial hardship; or
 - (b) if the recipient is the land's owner—the owner's rights in relation to the land do not include exercising control over environmental management of the land.
- (5) The administering authority must, within 8 business days after making a decision, give written notice of the decision to the recipient.
- (6) The notice to the recipient must state—
 - (a) the reasons for the decision; and
 - (b) if the decision is to refuse the application—the review or appeal details.

379 Failure to make decision on waiver of site investigation taken to be refusal

If the administering authority fails to make a decision about an application for it to waive the requirement for the recipient to conduct or commission a site investigation within the time it is required to make a decision on the application, the failure is taken to be a decision by the authority to refuse the application at the end of the time.

380 Procedure to be followed if recipient is not owner

- (1) This section applies if the recipient of a notice to conduct or commission a site investigation of land is not the land's owner.
- (2) The recipient, or person conducting the site investigation for the recipient (the *investigator*), may enter the land to conduct the investigation only—
 - (a) with the consent of the owner and occupier of the land;
or
 - (b) if the recipient or investigator has given at least 5 business days written notice to the owner and occupier.
- (3) The notice must inform the owner and any occupier of—
 - (a) the intention to enter the land; and
 - (b) the purpose of the entry; and
 - (c) the days and times when the entry is to be made.
- (4) In conducting the site investigation, the recipient or investigator must take all reasonable steps to ensure the recipient or investigator causes as little inconvenience, and does as little damage, as is practicable in the circumstances.
- (5) Nothing in this section authorises the recipient or investigator to enter a building used for residential purposes.
- (6) If a person incurs loss or damage because of the site investigation conducted by the recipient or investigator, the person is entitled to be paid by the recipient or investigator the

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reasonable compensation because of the loss or damage that is agreed between the recipient or investigator and the person, or failing agreement, decided by a court having jurisdiction for the recovery of amounts up to the amount of compensation claimed.

- (7) The court may make the order about costs it considers just.

382 Fee for consideration of report about site investigation

A person who submits a report about a site investigation to the administering authority for consideration must pay the authority the fee prescribed under a regulation.

383 Declarations to accompany report

- (1) A site investigation report submitted to the administering authority must be accompanied by a statutory declaration by—
- (a) if the report is submitted to comply with a notice given to a person by the administering authority—the recipient; or
 - (b) if the report is voluntarily submitted by a person—the person.
- (2) The recipient's or other person's declaration must be made—
- (a) if the recipient or other person is an individual—by the recipient or other person; or
 - (b) if the recipient or other person is a corporation—by an executive officer of the corporation.
- (3) The recipient's or other person's declaration must state that the recipient or other person—
- (a) has not knowingly given any false or misleading information to the investigator; and
 - (b) has given all relevant information to the investigator.

384 Administering authority to consider and act on site investigation report

- (1) The administering authority must, within 20 business days after being given the site investigation report, consider the report and decide whether the land is contaminated land.
- (2) After making its decision, the administering authority may—
 - (a) if the administering authority is satisfied the land is not contaminated land—remove particulars of the land from the environmental management register; or
 - (b) if the administering authority is satisfied the land is contaminated land but can be used for stated uses with further management—leave particulars of the land on the environmental management register and prepare, or require another person to prepare, a site management plan for the land; or
 - (c) if the administering authority is satisfied the land is contaminated land and action needs to be taken to remediate the land to prevent serious environmental harm to a person, animal or another part of the environment—record particulars of the land in the contaminated land register; or
 - (d) in any other case—leave particulars of the land on the environmental management register.
- (3) The administering authority must, within 8 business days after making its decision, give written notice of the decision to—
 - (a) the land’s owner; and
 - (b) if a person other than the land’s owner submitted the report—the other person; and
 - (c) if the decision is to remove particulars of the land from the environmental management register—the relevant local government; and
 - (d) if the decision is to record particulars of the land in the contaminated land register—

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- (i) the relevant local government; and
 - (ii) any registered mortgagee of the land.
- (4) The notice must state—
 - (a) the reasons for the decision; and
 - (b) for a notice to the land's owner about a decision under subsection (2)(b) to (d)—the review or appeal details.
- (5) Also, if the administering authority removes particulars of the land from the environmental management register, the notice to the following persons must be accompanied by a suitability statement for the land—
 - (a) the land's owner;
 - (b) if a person other than the land's owner submitted the report—the other person.

385 Administering authority may require another report or additional information

- (1) If the administering authority is satisfied the site investigation report does not adequately address the relevant matters for the site investigation to which the report relates, it may require the recipient or other person who submitted the report to conduct or commission another site investigation and submit a report on the investigation to it.
- (2) If the administering authority is satisfied additional relevant information is required about a site investigation report, it may require further information to be given to it by—
 - (a) if the report is submitted to comply with a notice given to a person by the administering authority—the recipient; or
 - (b) if the report is voluntarily submitted by a person—the person.
- (3) A requirement under subsection (2) must be made by written notice given to the recipient or other person.

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- (4) The notice must—
- (a) state the grounds on which the requirement is made; and
 - (b) outline the facts and circumstances forming the basis for the grounds; and
 - (c) state the relevant matters for the information required; and
 - (d) state the day (at least a reasonable period after the notice is given) by which the information must be given to the administering authority; and
 - (e) state the review or appeal details.

386 Owner of land to be given copy of report

If the person who submitted the report is not the land's owner, the person must, within 8 business days after giving the administering authority a site investigation report or relevant additional information, give a copy of the report or information to the owner.

Maximum penalty—10 penalty units.

387 Cost of site investigation and report

The recipient or other person who submitted the report must meet the following costs—

- (a) the costs of conducting or commissioning the site investigation and report; and
- (b) the costs of giving additional relevant information about the report required by the administering authority.

388 Extensions of time for decisions on submission of site investigation report

- (1) The administering authority may decide to extend the time it is required to consider and make a decision about a site investigation report if—

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- (a) it has required additional relevant information about the report; or
 - (b) it is satisfied there are special circumstances for extending the time.
- (2) The authority must give an information notice about its decision to extend the time to—
- (a) the recipient; and
 - (b) if the recipient is not the land's owner—the owner.
- (3) The notice must be given before the extension starts.

389 Failure to make decision on site investigation report taken to be refusal

If the administering authority fails to make a decision about a site investigation report within the time it is required to make a decision on the report, the failure is taken to be a decision by the authority to leave particulars of the land to which the report relates in the environmental management register.

Division 4 Remediation of land

390 Voluntary remediation of contaminated land

- (1) A person may, after submitting a site investigation report, conduct or commission work to remediate land for which particulars are recorded in the environmental management register or contaminated land register and submit a report (a *validation report*) about the work to the administering authority.

Note—

See section 565 (Only suitably qualified person can perform regulatory functions).

- (2) However, if the person intending to carry out the work and submit the validation report is not the land's owner, the

person must obtain the owner's consent before beginning the work.

391 Administering authority may require remediation of contaminated land

- (1) The administering authority may require the following persons to conduct or commission work to remediate land for which particulars are recorded in the contaminated land register and submit a validation report about the work to the administering authority—
- (a) if the person who released the hazardous contaminant contaminating the land is known and can be located—the person;
 - (b) the relevant local government;
 - (c) the owner of the land.

Note—

See section 565 (Only suitably qualified person can perform regulatory functions).

- (2) However, the administering authority may require the local government to conduct or commission work to remediate the land only if subsection (1)(a) does not apply and—
- (a) the administering authority reasonably believes—
 - (i) the land has been contaminated because the local government gave approval for the use of, or an activity to be carried out on, the land; and
 - (ii) in giving the approval the local government failed to comply with the requirements under any Act in relation to the approval; and
 - (iii) the local government should have known the approval would result in the land being contaminated; or
 - (b) under the repealed Act, particulars of the land were recorded in the contaminated sites register as a restricted

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- site and, after the recording, the local government gave approval for the use of, or an activity on, the land contrary to the restriction; or
- (c) under the repealed Act, particulars of the land were recorded in the contaminated sites register or, under this Act, particulars of the land are recorded in the environmental management register or contaminated land register, and—
- (i) after the recording, the local government permitted the land to be used for a use or activity that was inconsistent with the particulars of the land being recorded in the register; and
- (ii) the use or activity has caused environmental harm to human health or another part of the environment.
- (3) Also, the administering authority may require the owner of the land to conduct or commission work to remediate the land only if subsection (1)(a) and (2) do not apply and—
- (a) the land was affected by the hazardous contaminant before the commencement of the repealed Act; or
- (b) when the land was acquired by the owner, particulars of the land were recorded—
- (i) under the repealed Act, in the contaminated sites register as a confirmed site, restricted site or probable site; or
- (ii) under this Act, in the environmental management register or the contaminated land register; or
- (c) the contamination happened after the owner acquired the land.
- (4) However, the administering authority must not require the owner of the land to conduct or commission work to remediate the land under subsection (3)(a) or (b) if the owner is a mortgagee of the land.

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- (5) A requirement to conduct or commission work to remediate land must—
- (a) be in the form of a written notice (a *remediation notice*); and
 - (b) state the person (the *recipient*) to whom it is issued; and
 - (c) state the work to be conducted or commissioned by the recipient to remediate the land; and
 - (d) give the recipient approval to remove and treat or dispose of soil from the land and state any conditions applicable to the removal and disposal; and
 - (e) state that the recipient must give a validation report to the administering authority within the time (not less than 22 business days after completing the work to be carried out) stated in the notice; and
 - (f) state the review or appeal details; and
 - (g) be served on the recipient and the land's owner.
- (6) Also, the remediation notice may include a requirement to prepare and submit to the administering authority for approval a site management plan for the land.
- (7) The recipient must comply with the notice unless the recipient is granted a waiver under section 392.

Maximum penalty—1000 penalty units.

392 Waiver of requirement to remediate land

- (1) A recipient may apply to the administering authority for it to waive the requirement for the recipient to conduct or commission work to remediate contaminated land.
- (2) The application must—
- (a) be made to the administering authority in the approved form; and
 - (b) be supported by enough information to enable the authority to decide the application.

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- (3) The administering authority must decide the application within 20 business days after receiving it.
- (4) The administering authority may waive the requirement for the recipient to conduct or commission work to remediate the land only if it is satisfied—
 - (a) conducting or commissioning the remediation would cause the recipient financial hardship; or
 - (b) the contamination happened while the recipient was carrying out an activity that is lawful apart from this Act and the recipient complied with the general environmental duty; or
 - (c) the contamination happened before the commencement of the repealed Act and it would not be reasonable in the circumstances for the recipient to conduct or commission the work to remediate the land; or
 - (d) if the recipient is the land's owner—the owner's rights in relation to the land do not include exercising control over environmental management of the land.
- (5) The administering authority must, within 8 business days after making a decision, give the recipient an information notice about the decision.

393 Failure to make decision on remediation taken to be refusal

If the administering authority fails to make a decision about an application for it to waive, wholly or partially, the requirement for the recipient to conduct or commission work to remediate contaminated land within the time it is required to make a decision on the application, the failure is taken to be a decision by the authority to refuse the application at the end of the time.

394 Procedure to be followed if recipient is not owner

- (1) This section applies if the recipient of a notice to conduct or

commission work to remediate contaminated land is not the land's owner.

- (2) The recipient, or person conducting the work for the recipient (the **contractor**), may enter the land to conduct the work only—
 - (a) with the consent of the owner and occupier of the land; or
 - (b) if the recipient or contractor has given at least 5 business days written notice to the owner and occupier.
- (3) The notice must inform the owner and occupier of—
 - (a) the intention to enter the land; and
 - (b) the purpose of the entry; and
 - (c) the days and times when the entry is to be made.
- (4) In conducting the work, the recipient or contractor must take all reasonable steps to ensure the recipient or contractor causes as little inconvenience, and does as little damage, as is practicable in the circumstances.
- (5) Nothing in this section authorises the recipient or contractor to enter a building used for residential purposes.
- (6) If a person incurs loss or damage because of the work conducted by the recipient or contractor, the person is entitled to be paid by the recipient or contractor the reasonable compensation because of the loss or damage that is agreed between the recipient or contractor and the person, or failing agreement, decided by a court having jurisdiction for the recovery of amounts up to the amount of compensation claimed.
- (7) The court may make the order about costs it considers just.

395 Fee for consideration of validation report

A person who submits a validation report to the administering authority for consideration must pay the authority the fee prescribed under a regulation.

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396 Administering authority to consider and act on validation report

- (1) The administering authority must, within 20 business days after being given the validation report, consider the report and decide whether the land is still contaminated land.
- (2) After making its decision, the administering authority may, for land for which particulars are recorded in the environmental management register—
 - (a) if the administering authority is satisfied the land is no longer contaminated land—remove particulars of the land from the environmental management register; or
 - (b) if the administering authority is satisfied the land has been partially remediated but is still contaminated land that requires further management—leave particulars of the land in the environmental management register and prepare, or require another person to prepare, a site management plan for the land; or
 - (c) in any other case—leave particulars of the land on the environmental management register.
- (3) Also, the administering authority may, for land for which particulars are recorded in the contaminated land register—
 - (a) if the administering authority is satisfied the land is no longer contaminated land—remove particulars of the land from the contaminated land register; or
 - (b) if the administering authority is satisfied the land has been partially remediated but it is still contaminated land that requires further management—record particulars of the land in the environmental management register and prepare, or require another person to prepare, a site management plan for the land; or
 - (c) in any other case—leave particulars of the land on the contaminated land register.

397 Notice to be given of decision made about validation report

- (1) The administering authority must, within 8 business days after making its decision give written notice of the decision to—
 - (a) the land’s owner; and
 - (b) if a person other than the land’s owner submitted the report—the other person; and
 - (c) if the decision is to record particulars of the land in, or remove particulars of the land from, the environmental management register or contaminated land register—the relevant local government; and
 - (d) if the decision is about land for which particulars are recorded in the contaminated land register—any registered mortgagee of the land.
- (2) The notice must state—
 - (a) the reasons for the decision; and
 - (b) if the decision is to record, or to continue to record, particulars of the land in the environmental management register or contaminated land register—the review or appeal details.
- (3) Also, if the administering authority removes particulars of the land from the environmental management register or contaminated land register, the notice to the following persons must be accompanied by a suitability statement for the land—
 - (a) the land’s owner;
 - (b) if a person other than the land’s owner submitted the report—the other person.

398 Administering authority may require another report or additional information

- (1) If the administering authority is satisfied the validation report does not adequately address the relevant matters for the remediation works to which it relates, it may require the

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recipient or other person who submitted the report to carry out or commission additional remediation works and submit a validation report about the additional work to it.

- (2) If the administering authority is satisfied additional relevant information is required about the validation report, it may require the person who submitted the report to give it the information.
- (3) A requirement for further information must be made by written notice given to the person.
- (4) The notice must—
 - (a) state the grounds on which the requirement is made; and
 - (b) outline the facts and circumstances forming the basis for the grounds; and
 - (c) state the relevant matters for the information required; and
 - (d) state the day (at least a reasonable period after the notice is given) by which the information must be given to the administering authority; and
 - (e) state the review or appeal details.

399 Extensions of time for consideration of validation report

- (1) The administering authority may decide to extend the time in which it is required to consider and make a decision about a validation report if—
 - (a) it has required additional information about the report; or
 - (b) it is satisfied there are special circumstances for extending the time.
- (2) The authority must give an information notice about its decision to extend the time to—
 - (a) the person (the *submitter*) who submitted the report; and

- (b) if the submitter is not the land's owner—the owner.
- (3) The notice must be given before the extension starts.

400 Failure to make decision on validation report taken to be refusal

If the administering authority fails to make a decision about a validation report within the time it is required to make a decision about the report the failure is taken to be a decision by the authority to leave the particulars on the environmental management register or the contaminated land register at the end of the time.

Division 5 Site management plans

Subdivision 1 Preliminary

401 What is a site management plan

- (1) A site management plan is a plan used to manage land for which particulars are recorded in the environmental management register because the land is contaminated land.
- (2) A site management plan is used to manage the environmental harm that may be caused by the hazardous contaminant contaminating the land by applying conditions to the use or development of, or activities carried out on, the land.

402 Content of site management plan

A site management plan must—

- (a) state the objectives to be achieved and maintained under the plan; and
- (b) state how the objectives are to be achieved and maintained; and

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- (c) make provision for monitoring and reporting compliance with the plan.

Subdivision 2 Procedure for approval of site management plan

403 Voluntary submission of draft site management plan

- (1) A person may, after submitting a site investigation report, submit to the administering authority for approval a draft site management plan for land for which particulars are recorded in the environmental management register.

Note—

See section 565 (Only suitably qualified person can perform regulatory functions).

- (2) However, if the person intending to submit the draft plan for approval is not the land's owner, the person must obtain the owner's consent before submitting it.

404 Application for approval of site management plan

An application for the approval of a site management plan must—

- (a) be made to the administering authority in the approved form; and
- (b) be supported by enough information to enable the administering authority to decide the application, including, for example—
 - (i) a report on the scientific investigation of the contamination of the land; and
 - (ii) relevant information about the likely risks to the environment from the hazardous contaminant contaminating the land; and

- (iii) details of the measures proposed to be taken to manage the risk of serious environmental harm being caused to persons, animals or another part of the environment by the hazardous contaminant; and
- (c) if the application is made by a person other than the land's owner—be accompanied by a statement from the owner agreeing to the draft plan; and
- (d) be accompanied by the prescribed fee.

405 Administering authority may prepare or require site management plan

- (1) This section applies if—
 - (a) particulars of land are recorded in the environmental management register or contaminated land register; and
 - (b) the land is contaminated land; and
 - (c) a site investigation of the land has been conducted; and
 - (d) the contamination may be managed by applying conditions to the use or development of, or activities carried out on, the land.
- (2) The administering authority may—
 - (a) prepare a site management plan for the land; or
 - (b) require a draft site management plan to be prepared or commissioned, and submitted to it for approval, by—
 - (i) if the person who released the contaminant is known and can be located—the person; or
 - (ii) the relevant local government; or
 - (iii) the owner of the land.
- (3) However, the administering authority may require the local government to prepare or commission the plan only if subsection (2)(b)(i) does not apply and—

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- (a) the administering authority reasonably believes—
 - (i) the land has been contaminated because the local government gave approval for the use of, or an activity to be carried out on the land; and
 - (ii) in giving the approval the local government did not comply with the requirements under any Act in relation to the approval; and
 - (iii) the local government should have known the land would be contaminated because of the approval; or
- (b) under the repealed Act, particulars of the land were recorded in the contaminated sites register as a restricted site and, after the recording, the local government gave approval for the use of, or an activity to be carried out on, the land contrary to the restriction; or
- (c) under the repealed Act, particulars of the land were recorded in the contaminated sites register or, under this Act, particulars are recorded in the environmental management register, and—
 - (i) after the recording, the local government approved the land be used for a use or activity that was or is inconsistent with particulars of the land being recorded in the register; and
 - (ii) the use or activity has caused environmental harm to human health or another part of the environment.
- (4) Also, the administering authority may require the owner of the land to prepare or commission the plan only if subsections (2)(b)(i) and (3) do not apply and—
 - (a) the administering authority reasonably believes the land was contaminated before the commencement of the repealed Act; or
 - (b) when the land was acquired by the owner, particulars of the land were recorded—

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- (i) under the repealed Act, in the register as a confirmed site, restricted site or probable site; or
 - (ii) under this Act, in the environmental management register; or
- (c) the contamination happened after the owner acquired the land.
- (5) However, the administering authority must not require the owner of the land to prepare or commission a plan under subsection (4)(a) or (b) if the owner is a mortgagee of the land.
- (6) The recipient of a notice to prepare or commission a site management plan must comply with the requirement.

Maximum penalty—100 penalty units.

406 Requirement to prepare draft site management plan

- (1) A requirement to prepare or commission a draft site management plan for contaminated land must be made by written notice given to the person required to prepare or commission the plan (the *recipient*).
- (2) If the person is not the owner of the land, the administering authority must also give a copy of the notice to the owner.

Note—

See section 565 (Only suitably qualified person can perform regulatory functions).

- (3) The notice must state—
- (a) the grounds on which the requirement is made; and
 - (b) the matters to be addressed by the plan; and
 - (c) for a notice to the recipient—the day (at least a reasonable period after the notice is given) by which the plan must be prepared and submitted to the administering authority; and
 - (d) the review or appeal details.

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407 Waiver of requirement to prepare or commission site management plan

- (1) A recipient may apply to the administering authority for it to waive the requirement for the recipient to prepare or commission a site management plan for contaminated land.
- (2) The application must—
 - (a) be made to the administering authority in the approved form; and
 - (b) be supported by enough information to enable the authority to decide the application.
- (3) The administering authority must decide the application within 20 business days after receiving it.
- (4) The administering authority may waive the requirement to prepare or commission a site management plan only if it is satisfied—
 - (a) preparing or commissioning the plan would cause the recipient financial hardship; or
 - (b) if the recipient is the land's owner—the owner's rights in relation to the land do not include exercising control over environmental management of the land.
- (5) The administering authority must, within 8 business days after making a decision, give written notice of the decision to the recipient.
- (6) The notice to the recipient must state—
 - (a) the reasons for the decision; and
 - (b) if the decision is to refuse the application—the review or appeal details.

408 Failure to make decision on waiver of site management plan taken to be refusal

If the administering authority fails to make a decision about an application for it to waive the requirement for the recipient

to prepare or commission a site management plan within the time it is required to make a decision on the application, the failure is taken to be a decision by the authority to refuse the application at the end of the time.

409 Procedure to be followed if recipient is not owner

- (1) This section applies if the recipient of a notice to prepare or commission a draft site management plan for land is not the land's owner.
- (2) The recipient, or person preparing the plan for the recipient (the *consultant*), may enter the land to prepare the site management plan only—
 - (a) with the consent of the owner and occupier of the land;
or
 - (b) if the recipient or consultant has given at least 5 business days written notice to the owner and occupier.
- (3) The notice must inform the owner and occupier of—
 - (a) the intention to enter the land; and
 - (b) the purpose of the entry; and
 - (c) the days and times when the entry is to be made.
- (4) In preparing the plan, the recipient or consultant must take all reasonable steps to ensure the recipient or consultant causes as little inconvenience, and does as little damage, as is practicable in the circumstances.
- (5) Nothing in this section authorises the recipient or consultant to enter a building used for residential purposes.
- (6) If a person incurs loss or damage because of the entry of the land by the recipient or consultant to prepare a site management plan, the person is entitled to be paid by the recipient or consultant the reasonable compensation because of the loss or damage that is agreed between the recipient or consultant and the person, or failing agreement, decided by a

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court having jurisdiction for the recovery of amounts up to the amount of compensation claimed.

- (7) The court may make the order about costs it considers just.

411 Administering authority may require another site management plan or additional information

- (1) If the administering authority is satisfied the draft site management plan does not adequately address the relevant matters for the plan, it may require the recipient or other person who submitted the plan to prepare or commission another site management plan.
- (2) Also, the administering authority may require—
- (a) a recipient or other person who submits a draft site management plan to it to give it additional information about the plan; or
 - (b) any information included in the draft plan, or any additional information required under paragraph (a), to be verified by statutory declaration.
- (3) If the authority decides to make a requirement under subsection (2)(a), it must give the person of whom the requirement is made an information notice about the decision.

412 Administering authority to consider draft site management plan

The administering authority must decide whether to approve a draft site management plan submitted to it within 20 business days after the day it is given the plan.

413 Approval of draft site management plan

- (1) This section applies if the administering authority—
- (a) approves a draft site management plan for contaminated land as amended at the request of, or with the agreement of, the administering authority; or

- (b) approves a draft site management plan for contaminated land as submitted; or
 - (c) prepares a site management plan for contaminated land.
- (2) The administering authority must, within 8 business days after the approval or preparation—
- (a) record the details of the plan in the environmental management register; and
 - (b) for a plan approved by the administering authority—give to the person who submitted the plan and, if the plan is submitted by a person other than the land’s owner, the owner—
 - (i) a certificate of approval for the plan; and
 - (ii) written notice of the approval; and
 - (iii) a suitability statement for the land; and
 - (c) for a plan prepared by the administering authority—give to the owner—
 - (i) written notice of the preparation of the plan; and
 - (ii) a suitability statement for the land.
- (3) A notice given under subsection (2)(c) must—
- (a) state the reasons for the imposition of the site management plan; and
 - (b) be accompanied by a copy of the site management plan; and
 - (c) state the review or appeal details.
- (4) Also, if the administering authority approves or prepares a site management plan for land, the administering authority must, within 8 business days of the approval or preparation, give a copy of the plan to the relevant local government.

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414 Refusal to approve draft site management plan

If the administering authority refuses to approve a draft site management plan, the authority must, within 8 business days after its decision, give an information notice about the decision to—

- (a) the person who submitted the plan; and
- (b) if the person who submitted the plan is not the land's owner—the land's owner.

415 Extensions of time for decisions on submission of draft site management plans

- (1) The administering authority may decide to extend the time in which it is required to decide whether or not to approve a draft site management plan if—
 - (a) it has required additional information about the draft plan; or
 - (b) it is satisfied there are special circumstances for extending the time.
- (2) The authority must give an information notice about its decision to extend the time to—
 - (a) the person (the *submitter*) who submitted the draft plan; and
 - (b) if the submitter is not the land's owner—the owner.
- (3) The notice must be given before the extension starts.

416 Failure to approve draft site management plan taken to be refusal

If the administering authority fails to decide whether to approve or refuse a draft site management plan within the time it is required to make a decision on the plan, the failure is taken to be a decision by the authority to refuse to approve the plan at the end of the time.

Subdivision 3 Restriction on local government approvals and authorities

417 Approval or authority must not allow contravention of site management plan

A local government must not, under an approval or other authority under the Planning Act or any other Act, allow the use or development of, or an activity to be carried out on, land in a way that contravenes a site management plan for the land.

Subdivision 4 Amendment of site management plan

418 Voluntary amendment of site management plans

Subdivision 2 (other than sections 405 to 407 and 409) applies, with all necessary changes, to the submission by a person of a draft amendment of a site management plan.

419 Administering authority may amend or require amendment of site management plan

- (1) The administering authority may amend a site management plan for land with the agreement of—
 - (a) the land's owner; and
 - (b) if the owner is not the occupier of the land—the occupier.
- (2) Also, if the administering authority considers it necessary or desirable, the administering authority may—
 - (a) prepare an amendment of a site management plan; or
 - (b) require a draft amendment of a site management plan to be prepared and submitted to it for approval by—

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- (i) if the person who released the contaminant is known and can be located—the person; or
 - (ii) the relevant local government; or
 - (iii) the owner of the land.
- (3) If the administering authority prepares an amendment to a site management plan, or requires an amendment to be prepared, subdivision 2 (other than sections 403, 404 and 405(1)) applies, with all necessary changes, to the preparation of the draft amendment.

Subdivision 5 Residual risk requirement

419A Payment may be required for residual risks of rehabilitation

- (1) This section applies if a site management plan relates to land for which particulars are recorded in the contaminated land register.
- (2) The administering authority may, by written notice, require the person who submitted the draft site management plan or draft amendment of a site management plan to pay it a stated amount within a stated reasonable period for the residual risks of the area the subject of the plan or amendment (the *relevant area*).
- (3) A requirement under subsection (2) is a *residual risks requirement*.

419B Criteria for decision to make residual risks requirement

The administering authority may make a residual risks requirement under section 419A only if it is satisfied the requirement is justified having regard to—

- (a) the degree of risk of environmental harm likely to happen if the relevant area is managed under the

- relevant requirements of this Act and instruments made under it; and
- (b) the likelihood of action being needed to—
 - (i) reinstate rehabilitation that fails to establish a safe, stable and self-sustaining ecosystem; or
 - (ii) maintain environmental management processes needed to protect the environment; or
 - (iii) restore the environment because of environmental harm resulting from the hazardous contaminant contaminating the land; and
 - (c) the cost of likely action in comparison with the cost of best practice environmental management of similar land not on the contaminated land register.

419C Amount and form of payment

- (1) The administering authority must decide the amount and form of the payment required.
- (2) The administering authority may decide the amount by reference to a guideline or other publicly available document.
- (3) Despite subsections (1) and (2), the administering authority can not require a payment of an amount more than the amount that, in the authority's opinion, represents the likely rehabilitation costs.
- (4) In this section—

likely rehabilitation costs means all likely costs and expenses that may be incurred in taking action to rehabilitate or restore and protect the environment because of environmental harm that may be caused by the residual risks of the relevant area.

Division 6 Notices to be given about land recorded in registers

420 Notice to be given about recording of land in contaminated land register

- (1) This section applies if—
 - (a) particulars of land are recorded in the contaminated land register; and
 - (b) the owner of the land has entered into, or proposes to enter into, an agreement with another person about occupancy of the land.
- (2) The owner must—
 - (a) if, at the time the particulars are recorded, the owner has entered into an agreement with another person about occupancy of the land—give the person notice that particulars of the land have been recorded in the register; or
 - (b) if, after the particulars are recorded, the owner proposes to enter into an agreement with another person about occupancy of the land—give notice about the recording of the particulars to the person before entering into the agreement.

Maximum penalty—50 penalty units.

- (3) If the owner does not give notice as required under subsection (2), the other person who has entered into the occupancy agreement may terminate the agreement by written notice given to the owner within 10 days after the person becomes aware of the recording.
- (4) Subsection (3) applies despite anything to the contrary in the agreement.

421 Notice to be given to proposed purchaser of land

- (1) This section applies to the owner of land if—

-
- (a) particulars of the land are recorded in the environmental management register or contaminated land register; or
 - (b) the land is the subject of—
 - (i) a notice under section 373 informing the owner that the administering authority believes the land has been, or is being, used for a notifiable activity or is contaminated land; or
 - (ii) a notice to conduct or commission a site investigation; or
 - (iii) a remediation notice; or
 - (iv) a notice that the administering authority is preparing, or requiring someone else to prepare, a site management plan for the land; or
 - (c) the land is the subject of an order under section 458.
- (2) If the owner proposes to dispose of the land to someone else (the *buyer*), the owner must, before agreeing to dispose of the land, give written notice to the buyer—
- (a) if particulars of the land are recorded in the environmental management register or contaminated land register—that the particulars have been recorded in the register and, if the land is subject to a site management plan, details of the plan; or
 - (b) if the owner has been given a notice under this part—that the owner has been given a notice under this part and particulars about the notice; or
 - (c) if the land is the subject of an order under section 458—that the land is the subject of the order and particulars about the order.

Maximum penalty—50 penalty units.

- (3) If the owner does not comply with subsection (2), the buyer may rescind the agreement by written notice given to the owner before the completion of the agreement or possession under the agreement, whichever is the earlier.

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- (4) On rescission of the agreement under subsection (3)—
 - (a) a person who was paid amounts by the buyer under the agreement must refund the amounts to the buyer; and
 - (b) the buyer must return to the owner any documents about the disposal (other than the buyer's copy of the agreement).
- (5) Subsections (3) and (4) apply despite anything to the contrary in the agreement.

Division 7 Miscellaneous

422 Registrar to maintain records about contaminated land

- (1) The administering authority must, within 8 business days after recording particulars of land in the contaminated land register, give the registrar written notice the record has been made.
- (2) The registrar must maintain records that show the land stated in the notice is recorded in the contaminated land register.
- (3) The registrar must maintain the records in a way that a search of the register maintained by the registrar under any Act relating to the land will show particulars of the land are recorded in the contaminated land register.
- (4) The administering authority must, within 8 business days after removing particulars of land from the contaminated land register or making another change to the record about the land, give the registrar written notice about the removal or change.
- (5) The registrar must, on receipt of a notice under subsection (4)—
 - (a) for a notice about the removal of land from the contaminated land register—remove the particulars of the land from the registrar's records; or

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- (b) for a notice about a change to a record about land in the contaminated land register—make the appropriate change to the registrar's record.

423 Offence to destroy etc. signs

- (1) The administering authority may erect, on contaminated land, a sign regulating access to the land.
- (2) However, if the contaminated land is not land for which particulars are recorded on the environmental management register or contaminated land register, the administering authority must, before erecting the sign, give the owner of the land an information notice about the decision to erect the sign.
- (3) A sign erected on contaminated land must be erected—
 - (a) at a place where persons might reasonably be expected to enter the land; and
 - (b) in a way that makes the sign visible to persons intending to enter the land.
- (4) A person must not enter the land in contravention of the sign unless the person has a reasonable excuse for the entry.

Maximum penalty—10 penalty units.

- (5) A person must not destroy, damage, mark, deface or in any other way interfere with the sign unless the person has a reasonable excuse for the destruction, damage, marking, defacement or other interference.

Maximum penalty—10 penalty units.

424 Removal and treatment or disposal of contaminated soil

- (1) A person must not, without a disposal permit—
 - (a) remove and treat or dispose of contaminated soil from land for which particulars are recorded in the environmental management register or contaminated land register; or

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- (b) bring into the State and treat or dispose of contaminated soil from contaminated land outside the State.

Maximum penalty—100 penalty units.

- (2) An application for a disposal permit must—
 - (a) be in the approved form; and
 - (b) be supported by enough information to enable the administering authority to decide the application, including, for example, relevant information about the likely risks to the environment and how it is intended to dispose of the contaminated soil; and
 - (c) be accompanied by the application fee prescribed under a regulation.
- (3) The administering authority must decide the application within 10 business days after receiving it.
- (4) In making its decision whether to grant or refuse an application for a disposal permit, or the conditions of the permit, the administering authority must consider the standard criteria.
- (5) The administering authority must within 8 business days after making its decision—
 - (a) if the decision is to grant the application—give the applicant the permit; and
 - (b) if the decision is to grant the application but to impose conditions on the permit—give the applicant an information notice about the decision to impose the conditions; or
 - (c) if the decision is to refuse the application—give the applicant an information notice about the decision.
- (6) If the administering authority fails to make a decision about an application for a disposal permit within the time it is required to make a decision on the application, the failure is taken to be a decision by the authority to refuse the application at the end of the time.

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- (7) A disposal permit takes effect from the day of its issue, or a later day stated in it, and continues in force for the term stated in it.
 - (8) This section does not apply if the person is removing and disposing of the soil under a remediation notice.

425 Failure to comply with disposal permit

The holder of, or a person acting under, a disposal permit, must comply with the conditions of the permit.

Maximum penalty—100 penalty units.

Chapter 8 General environmental offences

Part 1 Offences relating to environmentally relevant activities

Division 1 Offences

426 Environmental authority required for particular environmentally relevant activities

- (1) A person must not carry out an environmentally relevant activity unless the person holds, or is acting under, an environmental authority for the activity.

Maximum penalty—1665 penalty units.

- (2) Subsection (1) does not apply to a person carrying out—
 - (a) an agricultural ERA; or

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- (b) a small scale mining activity; or
- (c) a geothermal activity that, under the Geothermal Act, is—
 - (i) geothermal exploration for exempt heat pump production or to evaluate the feasibility of exempt heat pump production; or
 - (ii) exempt heat pump production; or
 - (iii) other geothermal production that, under the Geothermal Act, is not of a large-scale.
- (3) Also, subsection (1) does not apply to the Coordinator-General, or another person acting on behalf of the Coordinator-General, in performing the functions or exercising the powers of the Coordinator-General under the State Development Act.

427 Offence to operate under environmental authority if not a registered suitable operator in particular circumstances

The holder of an environmental authority must not carry out an environmentally relevant activity if the person—

- (a) has become the holder of the authority under a non-assessable transfer under resource legislation; and
- (b) is not a registered suitable operator.

Maximum penalty—100 penalty units.

Division 2 Exemptions

429 Special provisions for interstate transporters of controlled waste

- (1) If a person is carrying out the interstate transportation of controlled waste, section 426 does not apply to the person if—

-
- (a) the person holds, or is acting under, an interstate licence; and
 - (b) the licence authorises the transportation; and
 - (c) the conditions of the licence are, to the extent they are relevant to the transportation, complied with; and
 - (d) a consignment authorisation or number for the transportation has been issued under the law of the State into which the waste is to be transported; and

Editor's note—

For transportation into Queensland, see the *Environmental Protection (Waste Management) Regulation 2000*, section 38 (Consignment numbers for waste transported into Queensland).

- (e) the following documents, or copies of the following documents, are carried in the vehicle transporting the waste while the waste is being transported in Queensland—
 - (i) the interstate licence;
 - (ii) the consignment authorisation or a document containing the consignment number.
- (2) However, while the waste is being transported in Queensland, this Act applies, with necessary changes, to the person and the transportation as if—
- (a) a reference in this Act to an environmental authority includes a reference to the interstate licence and any conditions of the licence; and
 - (b) the interstate licence and the consignment authorisation or document containing the consignment number are documents required to be held or kept under this Act; and
 - (c) the transportation were an environmentally relevant activity to which the licence relates; and
 - (d) the vehicle is a place to which the licence relates.
- (3) In this section—

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- (3) The person must not contravene a condition of the authority.
Maximum penalty—1665 penalty units.
 - (4) In a proceeding for an offence against subsection (2), if the court is not satisfied the defendant is guilty of the offence charged but is satisfied the defendant is guilty of an offence against subsection (3), the court may find the defendant guilty of the offence against subsection (3).

431 Environmental authority holder responsible for ensuring conditions complied with

- (1) The holder of an environmental authority must ensure everyone acting under the authority complies with the conditions of the authority.
- (2) If another person acting under the authority commits an offence against section 430, the holder also commits an offence, namely, the offence of failing to ensure the other person complies with the conditions.
Maximum penalty—the penalty under section 430(2) or (3) for the contravention of the conditions.
- (3) Evidence that the other person has been convicted of an offence against section 430 while acting under the authority is evidence that the holder committed the offence of failing to ensure the other person complies with the conditions.
- (4) However, it is a defence for the holder to prove—
 - (a) the holder issued appropriate instructions and used all reasonable precautions to ensure compliance with the conditions; and
 - (b) the offence was committed without the holder's knowledge; and
 - (c) the holder could not by the exercise of reasonable diligence have stopped the commission of the offence.

Division 2 Transitional environmental programs

432 Contravention of requirement of program

- (1) The holder of an approval of a transitional environmental program, or a person acting under a transitional environmental program, must not wilfully contravene a requirement of the program.

Maximum penalty—1665 penalty units or 2 years imprisonment.

- (2) The holder of an approval of a transitional environmental program, or a person acting under a transitional environmental program, must not contravene a requirement of the program.

Maximum penalty—835 penalty units.

- (3) In a proceeding for an offence against subsection (1), if the court is not satisfied the defendant is guilty of the offence charged but is satisfied the defendant is guilty of an offence against subsection (2), the court may find the defendant guilty of the offence against subsection (2).

432A Contravention of condition of approval

A person must not, without reasonable excuse, contravene a condition of an approval of a transitional environmental program.

Maximum penalty—835 penalty units.

433 Approval holder responsible for ensuring program complied with

- (1) The holder of an approval of a transitional environmental program must ensure everyone acting under the program complies with the program.

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- (2) If another person acting under the program commits an offence against section 432, the holder also commits an offence, namely, the offence of failing to ensure the other person complies with the program.

Maximum penalty—the penalty under section 432(1) or (2) for the contravention of the program.

- (3) Evidence that the other person has been convicted of an offence against section 432 while acting under the program is evidence that the holder committed the offence of failing to ensure the other person complies with the program.
- (4) However, it is a defence for the holder to prove—
- (a) the holder issued appropriate instructions and used all reasonable precautions to ensure compliance with the program; and
 - (b) the offence was committed without the holder's knowledge; and
 - (c) the holder could not by the exercise of reasonable diligence have stopped the commission of the offence.

Division 3 Site management plans

434 Contravention of plan

- (1) A person must not wilfully contravene a site management plan.

Maximum penalty—1665 penalty units or 2 years imprisonment.

- (2) A person must not contravene a site management plan.

Maximum penalty—835 penalty units.

- (3) In a proceeding for an offence against subsection (1), if the court is not satisfied the defendant is guilty of the offence charged but is satisfied the defendant is guilty of an offence

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against subsection (2), the court may find the defendant guilty of the offence against subsection (2).

Part 2A Offences relating to conditions

435A Offence to contravene prescribed conditions for particular activities

- (1) This section applies if—
 - (a) a person is carrying out a small scale mining activity; and
 - (b) prescribed conditions are in effect for the carrying out of the activity.
- (2) The person must not wilfully contravene the prescribed conditions.
Maximum penalty—300 penalty units.
- (3) The person must not contravene the prescribed conditions.
Maximum penalty—250 penalty units.
- (4) In a proceeding for an offence against subsection (2), if the court is not satisfied the defendant is guilty of the offence charged but is satisfied the defendant is guilty of an offence against subsection (3), the court may find the defendant guilty of the offence against subsection (3).

Part 3

Offences relating to environmental harm

437 Offences of causing serious environmental harm

- (1) A person must not wilfully and unlawfully cause serious environmental harm.

Maximum penalty—4165 penalty units or 5 years imprisonment.

- (2) A person must not unlawfully cause serious environmental harm.

Maximum penalty—1665 penalty units.

- (3) In a proceeding for an offence against subsection (1), if the court is not satisfied the defendant is guilty of the offence charged but is satisfied the defendant is guilty of an offence against subsection (2), the court may find the defendant guilty of the offence against subsection (2).

Note—

See section 493A (When environmental harm or related acts are unlawful).

438 Offences of causing material environmental harm

- (1) A person must not wilfully and unlawfully cause material environmental harm.

Maximum penalty—1665 penalty units or 2 years imprisonment.

- (2) A person must not unlawfully cause material environmental harm.

Maximum penalty—835 penalty units.

- (3) In a proceeding for an offence against subsection (1), if the court is not satisfied the defendant is guilty of the offence charged but is satisfied the defendant is guilty of an offence

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against subsection (2), the court may find the defendant guilty of the offence against subsection (2).

Note—

See section 493A (When environmental harm or related acts are unlawful).

439 Court may find defendant guilty of causing material environmental harm if charged with causing serious environmental harm

In a proceeding for an offence against section 437, if the court is not satisfied the defendant is guilty of the offence charged but is satisfied the defendant is guilty of an offence against section 438(1) or (2), the court may find the defendant guilty of the offence against section 438(1) or (2).

440 Offence of causing environmental nuisance

- (1) A person must not wilfully and unlawfully cause an environmental nuisance.

Maximum penalty—835 penalty units.

- (2) A person must not unlawfully cause an environmental nuisance.

Maximum penalty—300 penalty units.

- (3) This section does not apply to an environmental nuisance mentioned in schedule 1, part 1.

- (4) In a proceeding for an offence against subsection (1), if the court is not satisfied the defendant is guilty of the offence charged but is satisfied the defendant is guilty of an offence against subsection (2), the court may find the defendant guilty of the offence against subsection (2).

Note—

See section 493A (When environmental harm or related acts are unlawful).

Part 3B Offences relating to noise standards

Division 1 Preliminary

440K Definitions for pt 3B

In this part—

affected building, for noise—

- (a) means a building at which the noise can be heard; and
- (b) if the noise is made from a building, includes that building.

at, a place or premises, includes in or on the place or premises.

audible noise see section 440L.

background level means the background A-weighted sound pressure level under the prescribed standard measured as $L_{A90, T}$.

building work means any of the following—

- (a) building, repairing, altering, underpinning (whether by vertical or lateral support), moving or demolishing a building;
- (b) providing air conditioning, drainage, heating, lighting, sewerage, ventilation or water supply for a building;
- (c) excavating or filling—
 - (i) for, or that is incidental to, an activity mentioned in paragraph (a) or (b); or
 - (ii) that may adversely affect the stability of a building, whether the excavating or filling is happening on the land on which the building is situated or on adjoining land;

[s 440K]

- (d) supporting (whether vertically or laterally) land for an activity mentioned in paragraph (a) or (b);
- (e) installing or removing scaffolding.

educational institution means—

- (a) a State educational institution under the *Education (General Provisions) Act 2006*; or
- (b) a school that is provisionally accredited, or accredited, under the *Education (Accreditation of Non-State Schools) Act 2001*; or
- (c) a TAFE institute under the *Vocational Education, Training and Employment Act 2000*; or
- (d) TAFE Queensland under the *TAFE Queensland Act 2013*; or
- (e) a university.

indoor venue means a building used for musical, sporting or other entertainment or for cultural or religious activities, but does not include—

- (a) licensed premises; or
- (b) a building being used for an open-air event.

Examples of uses of a building for definition indoor venue—

tenpin bowling, concerts, indoor cricket, religious worship, squash

$L_{A90, T}$ means the A-weighted sound pressure level obtained using time weighting ‘F’ that is exceeded for 90% of the measuring period (T).

licensed premises means licensed premises under the *Liquor Act 1992*.

noise standard means a local law or section in division 3 that applies as a noise standard under section 440O(3) or 440P.

nominated section see section 440O(2)(b).

open-air event means an open-air competition, concert, display, race or other activity.

peak particle velocity means the maximum instantaneous particle velocity at a point during a given time interval measured in millimetres per second.

Notes—

- 1 Peak particle velocity is a measure of ground vibration magnitude.
- 2 Peak particle velocity may be taken as the vector sum of the 3 component particle velocities in mutually perpendicular directions.

power boat means a power-driven watercraft and includes a jet ski or other power-driven personal watercraft.

Z Peak means the peak time-weighting characteristic of a sound level meter specified in the prescribed standard set to the linear Z frequency rating.

Z Peak Hold means the peak time-weighting characteristic of a sound level meter specified in the prescribed standard set to the linear Z frequency rating and fitted with a hold feature.

440L Meaning of *audible noise*

- (1) ***Audible noise*** means noise that can be clearly heard by an individual who is an occupier of an affected building.
- (2) For subsection (1), an individual is taken to be able to clearly hear a noise if he or she can hear the noise from the part of the building occupied by the individual that is most exposed to the noise.

440M Reference to making a noise

A reference in this part to making a noise includes causing a noise to be made.

440N Noise levels measured at an affected building

A reference in this part to a noise of a level that is a stated number of decibels, or a stated number of decibels above the background level, is a reference to a noise of that level when measured at an affected building.

Division 2 Application of noise standards

440O Local law may prescribe noise standards

- (1) This section applies in relation to a local government area if the local government for the local government area is the administering authority for this part.
- (2) A provision of a local law made by the local government under the *Local Government Act 1993* may prescribe a noise standard by—
 - (a) prohibiting the making of a stated noise (for example, by reference to the activity making the noise and the time at which the noise is made); and
 - (b) stating a section in division 3 (the *nominated section*) for which the local law provision is prescribing a noise standard.
- (3) If a provision of a local law is in force for which a section in division 3 is the nominated section, the local law provision applies as a noise standard.

440P Default noise standards under div 3

A section in division 3 applies as a noise standard in relation to a local government area if and only if—

- (a) the local government for the local government area is not the administering authority for this part; or
- (b) the local government for the local government area is the administering authority for this part but there is no provision of a local law in force for which the section is the nominated section.

440Q Offence of contravening a noise standard

- (1) A person must not unlawfully contravene a noise standard.
Maximum penalty—300 penalty units.

Note—

See section 493A (When environmental harm or related acts are unlawful).

- (2) A person does not contravene a noise standard by causing an environmental nuisance mentioned in schedule 1, part 1.

Division 3 Default noise standards

440R Building work

- (1) A person must not carry out building work in a way that makes an audible noise—
- (a) on a business day or Saturday, before 6.30a.m. or after 6.30p.m; or
 - (b) on any other day, at any time.
- (2) The reference in subsection (1) to a person carrying out building work—
- (a) includes a person carrying out building work under an owner-builder permit; and
 - (b) otherwise does not include a person carrying out building work at premises used by the person only for residential purposes.

440S Regulated devices

- (1) This section applies to—
- (a) a person carrying out an activity other than building work; and
 - (b) a person carrying out building work, at premises used by the person only for residential purposes, other than under an owner-builder permit.
- (2) A person must not operate a regulated device in a way that makes an audible noise—

[s 440S]

- (a) on a business day or Saturday, before 7.00a.m. or after 7.00p.m; or
- (b) on any other day, before 8.00a.m. or after 7.00p.m.
- (3) Subsection (2) does not apply to a person operating a grass-cutter or leaf-blower at a place that is a State-controlled road or a railway under an authority from the occupier of the place.
- (4) Subsection (2)(a) does not apply to a person operating a regulated device at a manual arts facility at an educational institution between 7.00p.m. and 10.00p.m.
- (5) In this section—

grass-cutter means an electrical or mechanical device a function of which is to cut grass.

Examples—

brush-cutter, edge cutter, lawnmower, ride-on mower, string trimmer

leaf-blower means an electrical or mechanical device a function of which is to blow leaves.

regulated device means any of the following—

- (a) a compressor;
- (b) a ducted vacuuming system;
- (c) a generator;
- (d) a grass-cutter;
- (e) an impacting tool;
- (f) a leaf-blower;
- (g) a mulcher;
- (h) an oxyacetylene burner;
- (i) an electrical, mechanical or pneumatic power tool.

Examples of a power tool—

chainsaw, drill, electric grinder or sander, electric welder, nail gun

440T Pumps

- (1) This section applies to premises at or for which there is a pump.
- (2) An occupier of the premises must not use, or permit the use of, the pump on any day—
 - (a) before 7a.m, if it makes an audible noise; or
 - (b) from 7a.m. to 7p.m, if it makes a noise of more than 5dB(A) above the background level; or
 - (c) from 7p.m. to 10p.m, if it makes a noise of more than 3dB(A) above the background level; or
 - (d) after 10p.m, if it makes an audible noise.
- (3) Subsection (2)(a), (c) and (d) do not apply to a noise made at an educational institution, that is not more than 5dB(A) above the background level.
- (4) In this section—

pump—

 - (a) means an electrical, mechanical or pneumatic pump; and

Examples—

liquid pump, air pump, heat pump

 - (b) includes a swimming pool pump and a spa blower.

440U Air-conditioning equipment

- (1) This section applies to premises at or for which there is air-conditioning equipment.
- (2) An occupier of the premises must not use, or permit the use of, the equipment on any day—
 - (a) before 7a.m, if it makes a noise of more than 3dB(A) above the background level; or
 - (b) from 7a.m. to 10p.m, if it makes a noise of more than 5dB(A) above the background level; or

[s 440V]

- (c) after 10p.m, if it makes a noise of more than 3dB(A) above the background level.

440V Refrigeration equipment

- (1) This section applies to a person who is—
 - (a) an occupier of premises at or for which there is plant or equipment for refrigeration (*refrigeration equipment*); or
 - (b) an owner of refrigeration equipment that is on or in a vehicle, other than a vehicle used or to be used on a railway.
- (2) The person must not use, or permit the use of, the refrigeration equipment on any day—
 - (a) before 7a.m, if it makes a noise of more than 3dB(A) above the background level; or
 - (b) from 7a.m. to 10p.m, if it makes a noise of more than 5dB(A) above the background level; or
 - (c) after 10p.m, if it makes a noise of more than 3dB(A) above the background level.
- (3) In this section—
vehicle includes a trailer.

440W Indoor venues

- (1) An occupier of a building must not use, or permit the use of, the building as an indoor venue on any day—
 - (a) before 7a.m, if the use makes an audible noise; or
 - (b) from 7a.m. to 10p.m, if the use makes a noise of more than 5dB(A) above the background level; or
 - (c) from 10p.m. to midnight, if the use makes a noise of more than 3dB(A) above the background level.
- (2) However, subsection (1)(b) does not apply if—

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- (a) the building is, or is part of, an educational institution; and
 - (b) the use of the building as an indoor venue is organised by or for the educational institution for non-commercial purposes of the institution.

440X Open-air events

- (1) An occupier of premises must not use, or permit the use of, the premises for an open-air event on any day—
 - (a) before 7a.m, if the use causes audible noise; or
 - (b) from 7a.m. to 10p.m, if the use causes noise of more than 70dB(A); or
 - (c) from 10p.m. to midnight, if the use causes noise of more than the lesser of the following—
 - (i) 50dB(A);
 - (ii) 10dB(A) above the background level.
- (2) However, subsection (1) does not apply to licensed premises.
- (3) Also, subsection (1)(b) does not apply if—
 - (a) the premises is, or is part of, an educational institution; and
 - (b) the use of the premises for an open-air event is organised by or for the educational institution for non-commercial purposes of the institution.

440Y Amplifier devices other than at indoor venue or open-air event

- (1) This section applies to a person who operates an amplifier device other than at an indoor venue or open-air event.
- (2) The person must not operate the device in a way that makes audible noise—
 - (a) on a business day, before 7a.m. or after 10p.m; or

[s 440Z]

- (b) on any other day, before 8a.m. or after 6p.m.
- (3) At a time when the person may operate the device under subsection (2), the person must not operate the device in a way that makes noise of more than 10dB(A) above the background level.
- (4) However, subsection (3) does not apply if the person is operating the device at an educational institution.
- (5) In this section—
amplifier device means any of the following—
 - (a) a loudhailer;
 - (b) a megaphone;
 - (c) a public address system, other than for a railway;
 - (d) a remote telephone bell;
 - (e) a telephone repeater bell.

440Z Power boat sports in waterway

- (1) A person must not use a power boat, or permit the use of a power boat, in a waterway for a power boat sport if the use makes audible noise for the same affected building for more than a continuous period of 2 minutes—
 - (a) on a business day or Saturday, before 7a.m. or after 7p.m.; or
 - (b) on any other day, before 8a.m. or after 6.30p.m.
- (2) In this section—
power boat sport means—
 - (a) a sport in which a person is towed by a line attached to a power boat, including, for example, a person water skiing or riding on a toboggan or tube; or
 - (b) operating a jet ski or other power-driven personal watercraft, other than for fishing.

waterway means any of the following—

- (a) a creek, river, stream or watercourse;
- (b) an inlet of the sea into which a creek, river, stream or watercourse flows;
- (c) a dam or weir.

440ZA Operating power boat engine at premises

- (1) A person must not operate, or permit the operation of, a power boat engine at premises in a way that makes audible noise—
 - (a) on a business day or Saturday, before 7a.m. or after 7p.m.; or
 - (b) on any other day, before 8a.m. or after 6.30p.m.
- (2) In this section—

operate, a power boat engine, includes flushing the engine.

440ZB Blasting

A person must not conduct blasting if—

- (a) the airblast overpressure is more than 115dB Z Peak for 4 out of any 5 consecutive blasts; or
- (b) the airblast overpressure is more than 120dB Z Peak for any blast; or
- (c) the ground vibration is—
 - (i) for vibrations of more than 35Hz—more than 25mm a second ground vibration, peak particle velocity; or
 - (ii) for vibrations of no more than 35Hz—more than 10mm a second ground vibration, peak particle velocity.

[s 440ZC]

440ZC Outdoor shooting ranges

- (1) A person must not operate, or permit the operation of, an outdoor shooting range, between 6a.m. and 6p.m. on any day, if the noise from the operation is more than—
 - (a) for a range that is normally used at least 5 days a week—95dB Z Peak Hold; or
 - (b) for a range that is normally used 4 days a week—100dB Z Peak Hold; or
 - (c) for a range that is normally used no more than 3 days a week—105dB Z Peak Hold.
- (2) A person must not operate, or permit the operation of, an outdoor shooting range, between 6p.m. and 10p.m. on any day, if the noise from the operation is more than—
 - (a) for a range that is normally used at least 5 evenings a week—85dB Z Peak Hold; or
 - (b) for a range that is normally used 4 evenings a week—90dB Z Peak Hold; or
 - (c) for a range that is normally used no more than 3 evenings a week—95dB Z Peak Hold.
- (3) For this section, noise from an outdoor shooting range is measured by working out the arithmetic average of the noise levels of whichever of the following happens first during the measurement period—
 - (a) at least 40 individual gunshots;
 - (b) at least 20 individual gunshots in any 30-minute period.
- (4) In this section—

used means used for an activity that includes shooting.

Examples of a range being used—

- 1 a shooting match conducted at the range
- 2 a defence personnel or police officer training session, that includes shooting, conducted at the range

Part 3C Offences relating to water contamination

440ZD Definitions for pt 3C

In this part—

deposits see section 440ZE.

earth means sand, soil, silt or mud.

prescribed water contaminant means—

- (a) earth; or
- (b) a contaminant prescribed under section 440ZF.

stormwater drainage means a drain, channel, pipe, chamber, structure, outfall or other work used to receive, store, transport or treat stormwater.

440ZE Meaning of *deposits* for pt 3C

- (1) A person *deposits* a contaminant in waters or at another place if the person—
 - (a) drops, places or throws the contaminant in the waters or onto the place; or
 - (b) releases the contaminant, or otherwise causes it to move, into the waters or onto the place.
- (2) A person *deposits* a contaminant at a place if—
 - (a) the person is an occupier of the place or the contaminant is under the person's control; and
 - (b) someone deposits the contaminant at the place in a way mentioned in subsection (1); and
 - (c) the person does not remove the contaminant from the place within a reasonable time after becoming aware that the contaminant has been deposited at the place.

[s 440ZF]

- (3) A person *deposits* earth at a place if the person carries on earthworks or another activity that exposes the earth at the place.
- (4) A person *deposits* earth at a place if—
 - (a) the person is an occupier of the place; and
 - (b) someone deposits the earth at the place in a way mentioned in subsection (3); and
 - (c) the person does not stop the earth being exposed at the place within a reasonable time after becoming aware that the earth has been exposed at the place.
- (5) A reference in subsections (2) to (4) to a place does not include waters.
- (6) For subsections (1) to (4), none of the subsections limits any of the other subsections.

440ZF Prescribed water contaminants

- (1) A regulation may prescribe a contaminant for this part.
- (2) The Minister must not recommend to the Governor in Council the making of a regulation under subsection (1) unless the Minister is satisfied the contaminant is likely to cause environmental harm if it enters waters.

440ZG Depositing prescribed water contaminants in waters and related matters

A person must not—

- (a) unlawfully deposit a prescribed water contaminant—
 - (i) in waters; or
 - (ii) in a roadside gutter or stormwater drainage; or
 - (iii) at another place, and in a way, so that the contaminant could reasonably be expected to wash, blow, fall or otherwise move into waters, a roadside gutter or stormwater drainage; or

Example of a place for subparagraph (iii)—

a building site where soil may be washed into an adjacent roadside gutter

- (b) unlawfully release stormwater run-off into waters, a roadside gutter or stormwater drainage that results in the build-up of earth in waters, a roadside gutter or stormwater drainage.

Maximum penalty—

- (a) if the deposit or release is done wilfully—835 penalty units; or
(b) otherwise—300 penalty units.

Note—

See section 493A (When environmental harm or related acts are unlawful).

Part 3D Offences relating to releases from boats into non-coastal waters

440ZH Definitions for pt 3D

In this part—

coastal waters means the coastal waters of the State, and includes other waters within the limits of the State that are subject to the ebb and flow of the tide.

harmful substance has the meaning given by MARPOL.

MARPOL see the *Transport Operations (Marine Pollution) Act 1995*, section 6.

non-coastal waters means waters other than coastal waters.

[s 440ZI]

noxious liquid substance has the meaning given by MARPOL.

oil has the meaning given by MARPOL and includes an oily mixture.

sewage has the meaning given by Annex IV to MARPOL and includes human faecal wastes.

440ZI Release of certain substances from boats into non-coastal waters

- (1) A person must not release oil, a noxious liquid substance or a harmful substance from a boat into non-coastal waters.

Maximum penalty—

- (a) if the release is done wilfully—835 penalty units; or
- (b) otherwise—300 penalty units.
- (2) It is a defence for a person charged with an offence against subsection (1) to prove—
- (a) the release was necessary to secure the safety of the boat or to save someone's life; or
- (b) the release resulted from damage, other than wilful damage, to the boat or its equipment and all reasonable precautions were taken, after the damage happened or the release was discovered, to prevent or minimise the release.

440ZJ Release of sewage from boats into non-coastal waters

- (1) A person must not release sewage into non-coastal waters from a boat that has a sewage holding tank or is required by law to be fitted with a sewage holding tank.

Maximum penalty—

- (a) if the release is done wilfully—835 penalty units; or
- (b) otherwise—300 penalty units.

- (2) A person must not release sewage from a boat into non-coastal waters at a place for mooring, docking or berthing boats.

Maximum penalty—

- (a) if the release is done wilfully—835 penalty units; or
 - (b) otherwise—300 penalty units.
- (3) It is a defence for a person charged with an offence against subsection (1) or (2) to prove—
- (a) the release was necessary to secure the safety of the boat or to save someone's life; or
 - (b) the release resulted from damage, other than wilful damage, to the boat or its equipment and all reasonable precautions were taken, after the damage happened or the release was discovered, to prevent or minimise the release.

440ZK Depositing rubbish from boats into non-coastal waters

- (1) A person must not deposit rubbish from a boat into non-coastal waters.

Maximum penalty—

- (a) if the deposit is done wilfully—835 penalty units; or
 - (b) otherwise—300 penalty units.
- (2) It is a defence for a person charged with an offence against subsection (1) to prove—
- (a) the deposit was made to secure the safety of the boat and persons on board the boat or to save someone's life; or
 - (b) the deposit resulted from damage to the boat or its equipment and all reasonable precautions were taken, before and after the damage happened, to prevent or minimise the deposit; or
 - (c) if the rubbish is synthetic fishing net or synthetic material used in the repair of a synthetic fishing net—

[s 440ZL]

- (i) the deposit was the accidental loss of the net or material; and
- (ii) all reasonable precautions were taken to prevent the loss; and
- (iii) all reasonable attempts were made to recover the net or material.

Part 3E Offences relating to air contamination

440ZL Sale of solid fuel-burning equipment for use in residential premises and related matters

- (1) A person must not sell solid fuel-burning equipment for use in residential premises unless—
 - (a) a certificate (a *certificate of compliance*) has been issued by an accredited entity for the equipment stating—
 - (i) the entity has tested equipment that is the same as the equipment mentioned in the certificate under the test procedures set out in the prescribed standard; and
 - (ii) the equipment had a particle release factor not more than the allowable appliance release factor stated in the prescribed standard; and
 - (b) a plate or plates have been attached to the equipment under the prescribed standard.
- (2) If an accredited entity issues a certificate of compliance for solid fuel-burning equipment, the manufacturer of the equipment must attach a plate or plates to the equipment under the prescribed standard before selling or otherwise transferring the equipment to another person.

-
- (3) A person must not use, or transfer to another person, certified equipment if the person knows—
- (a) a plate attached to the equipment under the prescribed standard has been defaced or removed, or the information on the plate has been altered; or
 - (b) there has been a material modification or alteration of—
 - (i) the structure, exhaust system or inlet air system of the equipment; or
 - (ii) a part of the equipment that is involved in the combustion process.
- (4) However, subsection (3)(b) does not apply to modified or altered equipment—
- (a) issued with a certificate of compliance by an accredited entity; or
 - (b) subject to a retesting exemption under the prescribed standard; or
 - (c) if the specifications of the replacement components are equivalent or superior to those used in the equipment for which a certificate of compliance issued by an accredited entity applies.
- (5) A person who contravenes this section commits an offence.
- Maximum penalty—
- (a) if the contravention is done wilfully—835 penalty units; or
 - (b) otherwise—300 penalty units.
- (6) The chief executive may, by gazette notice, declare an entity to be an accredited entity for this section if the chief executive is satisfied the entity is—
- (a) a recognised service provider in the industry for solid fuel-burning equipment; and
 - (b) not a manufacturer or importer of solid fuel-burning equipment.

[s 440ZM]

(7) In this section—

accredited entity means—

- (a) the Australian Home Heating Association Inc; or
- (b) an entity declared to be an accredited entity under subsection (6).

Note—

See also section 646 in relation to the Energy Information Centre in South Australia.

certified equipment means solid fuel-burning equipment to which a plate or plates have been attached under the prescribed standard.

solid fuel-burning equipment means fuel-burning equipment to which the prescribed standard applies.

440ZM Permitted concentration of sulfur in liquid fuel for use in stationary fuel-burning equipment

- (1) A person must not knowingly use, in stationary fuel-burning equipment, liquid fuel containing more than the permitted concentration of sulfur.

Maximum penalty—300 penalty units.

- (2) A person (the *distributor*) must not distribute or sell liquid fuel containing more than the permitted concentration of sulfur to another person (the *purchaser*) unless—
 - (a) the purchaser is authorised under a relevant authority to use the liquid fuel; and
 - (b) the concentration of sulfur in the liquid fuel is not more than the amount stated in the relevant authority; and
 - (c) at the time of distributing or selling the liquid fuel, the distributor gives a report about the liquid fuel to the purchaser in the approved form.

Maximum penalty—

-
- (a) if the offence is committed wilfully—835 penalty units;
or
 - (b) otherwise—300 penalty units.
- (3) For this section, the concentration of sulfur in liquid fuel is to be worked out under a protocol.
- (4) In this section—

permitted concentration of sulfur, for liquid fuel for use in stationary fuel-burning equipment, means a concentration of sulfur or a sulfur compound of not more than 3% by weight.

relevant authority means a thing mentioned in section 493A(2)(a) to (g).

stationary fuel-burning equipment—

- (a) means a machine, furnace, boiler, oven, fireplace, chimney or other thing, the operation of which involves burning fuel or other combustible material; and
- (b) does not include a vehicle.

Part 3F Offences relating to fuel standards

Division 1 Preliminary

440ZN Purpose of pt 3F

The purpose of this part is to provide for quality standards for fuel to reduce emission of contaminants into Queensland's air environment.

440ZO Definitions for pt 3F

In this part—

ASTM means an American Society for Testing and Materials standard.

Commonwealth fuel standard determination means a determination in force under the *Fuel Quality Standards Act 2000* (Cwlth), section 21.

fuel means any of the following—

- (a) petrol;
- (b) automotive diesel;
- (c) liquefied petroleum gas;
- (d) liquefied natural gas;
- (e) compressed natural gas;
- (f) diesohol (that is, a blend primarily comprising diesel and an alcohol);
- (g) biodiesel (that is, a diesel fuel obtained by esterification of oil derived from plants or animals);
- (h) ethanol;
- (i) any substance that is used as a substitute for a fuel mentioned in paragraphs (a) to (h);
- (j) any substance that is supplied or represented as—
 - (i) a fuel mentioned in paragraphs (a) to (h); or
 - (ii) a substitute substance under paragraph (i).

import means bring into the State (whether from another State or from outside Australia) for supply or for use in manufacturing fuel.

low volatility zone means the area consisting of the local government areas of the following local governments—

- Brisbane City Council
- Gold Coast City Council

- Ipswich City Council
- Lockyer Valley Regional Council
- Logan City Council
- Moreton Bay Regional Council
- Redland City Council
- Somerset Regional Council
- Sunshine Coast Regional Council
- Toowoomba Regional Council.

manufacture, for fuel, includes produce, blend, treat and add additives to the fuel.

Reid vapour pressure, of fuel, means the fuel's volatility at 37.8°C measured using—

- (a) the testing method under ASTM D323-99a; or
- (b) another method that measures volatility at least as accurately as the method mentioned in paragraph (a).

summer month means any of the following periods—

- the period from 15 November to 14 December inclusive
- the period from 15 December to 14 January inclusive
- the period from 15 January to 14 February inclusive
- the period from 15 February to 15 March inclusive.

summer period means the period from 15 November in a year to 15 March in the following year inclusive.

supply means supply (including re-supply) by way of sale, exchange or gift.

Division 2 Offences

440ZP Non-application of div 2

This division does not apply to a person to the extent provided by an exemption in force under division 3.

440ZQ Supply of fuel that does not comply with Commonwealth fuel standard determinations

- (1) A person who manufactures or imports fuel must not supply the fuel in the State if the fuel does not comply with a Commonwealth fuel standard determination.

Maximum penalty—165 penalty units.

- (2) This section does not apply to the supply of fuel for use in a motor vehicle used only for motor racing on a racing circuit or track under an environmental authority for the activity.

440ZR Permitted Reid vapour pressure—fuel with particular ethanol content

- (1) This section applies in relation to fuel with an ethanol content of more than 9% but not more than 10% by volume.

- (2) A person who manufactures or imports fuel must not supply the fuel in the low volatility zone in the summer period if the Reid vapour pressure of the fuel is more than 76kPa.

Maximum penalty—165 penalty units.

- (3) A person who manufactures or imports fuel must ensure that, for each summer month, the volumetric monthly average Reid vapour pressure of the fuel supplied by the person in the low volatility zone is not more than 74kPa.

Maximum penalty—165 penalty units.

- (4) For working out the volumetric monthly average Reid vapour pressure of fuel mentioned in subsection (3), fuel with a Reid

vapour pressure of less than 72kPa is taken to have a Reid vapour pressure of 72kPa.

440ZS Permitted Reid vapour pressure—other fuel

- (1) This section applies in relation to fuel other than fuel to which section 440ZR applies.
- (2) A person who manufactures or imports fuel must not supply the fuel in the low volatility zone in the summer period if the Reid vapour pressure of the fuel is more than 69kPa.

Maximum penalty—165 penalty units.

- (3) A person who manufactures or imports fuel must ensure that, for each summer month, the volumetric monthly average Reid vapour pressure of the fuel supplied by the person in the low volatility zone is not more than 67kPa.

Maximum penalty—165 penalty units.

- (4) For working out the volumetric monthly average Reid vapour pressure of fuel mentioned in subsection (3), fuel with a Reid vapour pressure of less than 65kPa is taken to have a Reid vapour pressure of 65kPa.

Division 3 Exemptions

440ZT Making applications

- (1) A person may apply to the chief executive to exempt the person from complying with a provision of division 2.
- (2) The application must contain the information necessary to enable the chief executive to decide the application.

440ZU Request for further information

- (1) The chief executive may, by written notice, ask the applicant to give the chief executive further reasonable information or

[s 440ZV]

documents about the application by the reasonable date stated in the notice.

- (2) The notice must be accompanied by, or include, an information notice about the chief executive's decision to make the request.
- (3) The chief executive may refuse the application if the applicant does not give the chief executive the further information or documents by the stated day, without reasonable excuse.

440ZV Deciding applications

- (1) The chief executive must consider the application and either give the exemption, with or without conditions, or refuse the application.
- (2) The chief executive may give an exemption only if satisfied—
 - (a) the exemption is necessary—
 - (i) to prevent a significant disruption to the supply of fuel in the State or a part of the State; or
 - (ii) to allow the applicant to supply fuel in the State or a part of the State; and
 - (b) the applicant has no reasonable way of complying with the provision; and
 - (c) the exemption is in the public interest.
- (3) Without limiting subsection (1), a condition may be about how the applicant must prevent or minimise environmental harm that may be caused if the exemption is given.

440ZW Giving exemptions

- (1) If the chief executive decides to give the exemption, the chief executive must give the applicant a written notice stating—
 - (a) the person to whom the exemption is given; and
 - (b) the provision from which the person is exempted; and

- (c) the term for which the exemption is given; and
 - (d) any conditions on which the exemption is given.
- (2) If the chief executive decides to impose conditions on the exemption, the notice must be accompanied by, or include, an information notice about the decision to impose the conditions.
- (3) An exemption given on conditions operates only if the conditions are complied with.

440ZX Refusing applications

If the chief executive decides to refuse the application the chief executive must, within 7 days after making the decision, give the applicant an information notice about the decision.

Division 4 Record keeping

440ZY Record keeping requirements

- (1) This section applies in relation to fuel supplied in the State, by a person who manufactures or imports the fuel, if—
- (a) a Commonwealth fuel standard determination applies to the fuel; and
 - (b) the person is not required to keep a record for the supply of the fuel under the *Fuel Quality Standards Act 2000* (Cwlth), section 66.
- (2) The person must keep the records relating to the fuel that are prescribed under a regulation.
- Maximum penalty—50 penalty units.
- (3) A requirement under subsection (2) to keep a record is a requirement to keep a record for 2 years after the supply of the fuel.

Part 4 Other offences

442 Offence of releasing prescribed contaminant

- (1) A person must not release, or cause to be released, a prescribed contaminant into the environment other than under an authorised person's emergency direction.

Maximum penalty—165 penalty units.

- (2) In this section—

prescribed contaminant means a contaminant prescribed by an environmental protection policy or a regulation for this section.

443 Offence to place contaminant where environmental harm or nuisance may be caused

A person must not cause or allow a contaminant to be placed in a position where it could reasonably be expected to cause serious or material environmental harm or environmental nuisance.

Maximum penalty—165 penalty units.

444 Offence of interfering with monitoring equipment

A person must not interfere with any monitoring equipment used under this Act or a development condition of a development approval.

Maximum penalty—165 penalty units.

Chapter 9 Investigation and enforcement

Part 1 Administration generally

445 Appointment of authorised persons

- (1) The chief executive may appoint any of the following persons to be an authorised person—
 - (a) an appropriately qualified public service officer;
 - (b) an employee of the department;
 - (c) a person included in a class of persons declared by regulation to be an approved class of persons for this section.
- (2) If the administration and enforcement of a matter is devolved to a local government, the local government's chief executive officer may appoint an employee of the local government to be an authorised person.
- (3) A person may be appointed to be an authorised person only if, in the opinion of the chief executive or local government's chief executive officer, the person has the necessary expertise or experience to be an authorised person.

446 Terms of appointment of authorised persons

- (1) An authorised person holds office on the conditions stated in the instrument of appointment.
- (2) An authorised person appointed under section 445(1)(c)—
 - (a) is appointed for the term stated in the instrument of appointment; and
 - (b) may resign by signed notice given to the chief executive.
- (3) An authorised person ceases to hold office—

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- (a) if the authorised person was appointed under section 445(1)(a)—if the authorised person ceases to be an appropriately qualified public service officer; or
- (b) if the authorised person was appointed under section 445(1)(b)—if the authorised person ceases to be an employee of the department; or
- (c) if the authorised person was appointed under section 445(1)(c)—if the authorised person ceases to be a member of the relevant class of persons; or
- (d) if the authorised person was appointed under section 445(2)—if the authorised person ceases to be an employee of the local government.

447 Powers of authorised persons

- (1) An authorised person has the powers given under this or another Act.
- (2) Subsection (1) has effect subject to any limitations—
 - (a) stated in the authorised person’s instrument of appointment; or
 - (b) prescribed by regulation.
- (3) An authorised person appointed under section 445(2) may exercise powers only for the administration and enforcement of the matter the subject of a devolution to the local government of which the authorised person is an employee.

448 Issue of identity cards

- (1) The administering executive must issue an identity card to each authorised person.
- (2) The identity card must—
 - (a) contain a recent photograph of the authorised person; and
 - (b) be signed by the authorised person; and

- (c) identify the person as an authorised person; and
 - (d) include an expiry date.
- (3) Nothing in this section prevents the issue of a single identity card to a person for this Act and other Acts.

449 Production of identity card

- (1) An authorised person may exercise a power in relation to someone else only if the authorised person—
- (a) first produces his or her identity card for the person's inspection; or
 - (b) has his or her identity card displayed so that it is clearly visible to the person.
- (2) If, for any reason, it is not practicable to comply with subsection (1), the authorised person must produce the identity card for inspection by the person at the first reasonable opportunity.

450 Protection from liability

- (1) In this section—
- official* means—
- (a) an authorised person; or
 - (b) a person acting under the direction of an authorised person.
- (2) An official does not incur civil liability for an act done, or omission made, honestly and without negligence under this Act.
- (3) If subsection (2) prevents a civil liability attaching to an official, the liability attaches instead to—

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- (a) if the official is, or is acting under the direction of, an authorised person appointed by the chief executive officer of a local government—the local government; or
- (b) if paragraph (a) does not apply—the State.

451 Administering authority may require relevant information

- (1) The administering authority may give a notice under this section to a person requiring the person to give it information relevant to the administration or enforcement of this Act.
- (2) The notice may only be given to a person the authority suspects on reasonable grounds has knowledge of a matter, or has possession or control of a document dealing with a matter, for which the information is required.
- (3) The notice must—
 - (a) be in the approved form; and
 - (b) state the person to whom it is issued; and
 - (c) state the information required; and
 - (d) state the time within which the information is to be given to the authority; and
 - (e) state why the information is required; and
 - (f) state the review or appeal details; and
 - (g) be given to the person.

Part 2 Powers of authorised persons for places and vehicles

452 Entry of place—general

- (1) An authorised person may enter a place if—

- (a) its occupier consents to the entry and, if the entry is for exercising a power under chapter 7, part 5B or 8, its owner consents; or
- (b) it is a public place and the entry is made when the place is open to the public; or
- (c) it is a place to which an environmental authority relates and the entry is made when—
 - (i) the activity to which the authority relates is being carried out; or
 - (ii) the place is open for conduct of business; or
 - (iii) the place is otherwise open for entry; or
- (d) it is a place to which an agricultural ERA relates and the entry is made when—
 - (i) the activity is being carried out; or
 - (ii) the place is open for conduct of business; or
 - (iii) the place is otherwise open for entry; or
- (e) it is a place to which a prescribed condition for a small scale mining activity relates and the entry is made when—
 - (i) the activity to which the condition relates is being carried out; or
 - (ii) the place is open for conduct of business; or
 - (iii) the place is otherwise open for entry; or
- (f) it is a place where an industry is conducted and the entry is made when—
 - (i) the place is open for conduct of business; or
 - (ii) is otherwise open for entry; or
- (g) the entry is authorised by a warrant; or
- (h) for land mentioned in chapter 7, part 5B or 8—the entry is authorised by an order under section 458; or

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- (i) the authorised person may enter the place under section 453, 454 or 455.
- (2) For the purpose of asking the occupier of a place for consent to enter, an authorised person may, without the occupier's consent or a warrant—
 - (a) enter land around premises at the place to an extent that is reasonable to contact the occupier; or
 - (b) enter part of the place the authorised person reasonably considers members of the public ordinarily are allowed to enter when they wish to contact the occupier.
- (3) Unless the entry is made under the authority of a warrant or order, the entry must be made at a reasonable time.

453 Entry of land—search, test, sample etc. for release of contaminant

- (1) This section applies if an authorised person believes on reasonable grounds that unlawful environmental harm has been caused by the release of a contaminant into the environment.
- (2) The authorised person may enter land for the purpose of finding out or confirming the source of the release of the contaminant.
- (3) The authorised person may exercise powers under subsection (2), at the time, with the help, and using the force, that is necessary and reasonable in the circumstances.
- (4) In this section—

land means a parcel of land other than any part on which a building is erected.

454 Entry of land—preliminary investigation

- (1) This section applies if the administering authority believes on reasonable grounds land is contaminated land.

Example—

The administering authority may, as a result of investigations conducted in an area, become aware contaminated fill has been used in the area. In the circumstances, the administering authority may believe on reasonable grounds individual lots of land in the area are contaminated land.

- (2) An authorised person may, under this section, enter the land to conduct a preliminary investigation.
- (3) A power under subsection (2) may be exercised only—
 - (a) with the agreement of the owner and occupier of the land; or
 - (b) if the administering authority has given at least 5 business days written notice to the owner and occupier.
- (4) The notice must inform the owner and occupier—
 - (a) the administering authority reasonably believes the land is contaminated land; and
 - (b) an authorised person intends to enter the land; and
 - (c) the purpose of the entry; and
 - (d) the days and times when the entry is to be made.
- (5) In exercising a power under subsection (2), the authorised person must take all reasonable steps to ensure the person causes as little inconvenience, and does as little damage, as is practicable in the circumstances.
- (6) Nothing in this section authorises the authorised person to enter a building used for residential purposes.

455 Entry of land for access

- (1) This section applies if—
 - (a) an authorised person may enter land (the *primary land*) under section 452, 453 or 454; and
 - (b) it is necessary or desirable to cross other land (the *access land*) to enter the primary land.

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- (2) The authorised person may enter the access land and take into or over it anything the person reasonably requires for exercising a power under section 460 in relation to the primary land—
 - (a) if the person obtains the consent of the occupier of the access land; or
 - (b) if the person gives at least 5 business days written notice to the occupier before the entry; or
 - (c) without the consent of, or notice to, the occupier, if the person—
 - (i) believes on reasonable grounds there is an imminent risk of environmental harm being caused to or from the primary land; and
 - (ii) has told, or has made a reasonable attempt to tell, the occupier that the person is permitted to enter the access land under this paragraph.
- (3) A notice under subsection (2)(b) must—
 - (a) describe the primary land and the access land; and
 - (b) state—
 - (i) that the authorised person intends to enter the access land for entry to the primary land; and
 - (ii) the day and time the access land will be entered; and
 - (iii) that an owner or occupier of the access land may claim compensation under section 487 for loss or damage caused by the entry to the access land.
- (4) In exercising a power under this section, the authorised person must take all reasonable steps to ensure the person causes as little inconvenience, and does as little damage, as is practicable.

- (5) Nothing in this section authorises the authorised person to enter a building used for residential purposes.
- (6) This section does not limit section 452, 453 or 454.

456 Warrants

- (1) An authorised person may apply to a magistrate for a warrant for a place.
- (2) An application must be sworn and state the grounds on which the warrant is sought.
- (3) The magistrate may refuse to consider the application until the authorised person gives the magistrate all the information the magistrate requires about the application in the way the magistrate requires.

Example—

The magistrate may require additional information supporting the application to be given by statutory declaration.

- (4) The magistrate may issue a warrant only if the magistrate is satisfied there are reasonable grounds for suspecting—
 - (a) there is a particular thing or activity (the *evidence*) that may provide evidence of the commission of an offence against this Act; and
 - (b) the evidence is, or may be within the next 7 days, at the place.
- (5) The warrant must state—
 - (a) that any authorised person or a stated authorised person may, with necessary and reasonable help and force, enter the place and exercise the authorised person's powers under this Act; and
 - (b) the evidence for which the warrant is issued; and
 - (c) the hours of the day when entry may be made; and
 - (d) the day (within 14 days after the warrant's issue) when the warrant ends.

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- (6) The magistrate must record the reasons for issuing the warrant.

457 Warrants—applications made otherwise than in person

- (1) An authorised person may apply for a warrant by phone, fax, radio or another form of communication if the authorised person considers it necessary because of—
- (a) urgent circumstances; or
 - (b) other special circumstances, including, for example, the authorised person's remote location.
- (2) Before applying for the warrant, the authorised person must prepare an application stating the grounds on which the warrant is sought.
- (3) The authorised person may apply for the warrant before the application is sworn.
- (4) After issuing the warrant, the magistrate must immediately fax a copy to the authorised person if it is reasonably practicable to fax the copy.
- (5) If it is not reasonably practicable to fax a copy of the warrant to the authorised person—
- (a) the magistrate must—
 - (i) tell the authorised person what the terms of the warrant are; and
 - (ii) tell the authorised person the date and time the warrant was signed; and
 - (iii) record on the warrant the reasons for issuing the warrant; and
 - (b) the authorised person must write on a form of warrant (**warrant form**)—
 - (i) the magistrate's name; and
 - (ii) the date and time the magistrate signed the warrant; and

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- (iii) the warrant's terms.
- (6) The facsimile warrant, or the warrant form properly completed by the authorised person, authorises the entry and the exercise of the other powers authorised by the warrant issued by the magistrate.
- (7) The authorised person must, at the first reasonable opportunity, send to the magistrate—
- (a) the sworn application; and
 - (b) if a warrant form was completed by the authorised person—the completed warrant form.
- (8) On receiving the documents, the magistrate must attach them to the warrant.
- (9) Unless the contrary is proved, a court must presume that a power exercised by an authorised person was not authorised by a warrant issued under this section if—
- (a) a question arises, in a proceeding before the court, whether the exercise of power was authorised by a warrant; and
 - (b) the warrant is not produced in evidence.

458 Order to enter land to conduct investigation or conduct work

- (1) An authorised person may apply to a magistrate for an order to enter land—
- (a) to carry out work on the land to—
 - (i) prevent or minimise environmental harm or rehabilitate or restore the land because of an activity carried out under an environmental authority, transitional environmental program or site management plan; or
 - (ii) remediate land managed under a site management plan; or

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- (iii) secure compliance with—
 - (A) an accredited ERMP, environmental authority, transitional environmental program, site management plan or any conditions of the authority, program or plan; or
 - (B) development conditions of a development approval; or
 - (C) a prescribed condition for carrying out a small scale mining activity; or
 - (b) if the land is land to which a clean-up notice applies and the recipient of the notice has failed to comply with the notice—to take the actions required under the notice; or
 - (c) if the land is contaminated land—to conduct a site investigation of the land; or
 - (d) for land particulars of which are recorded in the contaminated land register—to conduct work to remediate the land.
- (2) The administering authority must give written notice of the application to—
- (a) the owner of the land; and
 - (b) if the owner is not the occupier of the land—the occupier; and
 - (c) if the application is for an order to carry out work mentioned in subsection (1)(a)—
 - (i) the environmental authority holder; or
 - (ii) the transitional environmental program approval holder; and
 - (d) if the application is for an order to take actions required under a clean-up notice—the recipient of the notice.
- (3) The application for the order must be sworn and state the grounds on which it is made.

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- (4) The magistrate may refuse to consider the application until the person gives the magistrate all information the magistrate requires about the application in the way the magistrate requires.

Example—

The magistrate may require additional information supporting the application to be given by statutory declaration.

- (5) The magistrate may make an order under this section only if the magistrate is satisfied—
- (a) for an order to carry out work mentioned in subsection (1)(a), the entry sought is reasonable and necessary to carry out the work; or
 - (b) for an order to take actions required under a clean-up notice, the entry sought is reasonable and necessary to take the actions; or
 - (c) for an order to enter the land and carry out a site investigation—
 - (i) the land is listed in the environmental management register because it is contaminated land; and
 - (ii) the hazardous contaminant contaminating the land is in a concentration that has the potential to cause serious environmental harm; and
 - (iii) a person, animal or another part of the environment may be exposed to the hazardous contaminant; and
 - (iv) the entry sought is reasonable and necessary to conduct a site investigation of the land; or
 - (d) for an order to enter and conduct work to remediate the land—the magistrate is satisfied the land is contaminated and the entry sought is reasonable and necessary to conduct work to remediate the land.
- (6) The order must state—
- (a) that an authorised person may, with necessary and reasonable help and force, enter the land and conduct

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- the actions, investigation or work to remediate the land;
and
 - (b) the hours of the day when the entry may be made; and
 - (c) the day when the order ends.
- (7) The magistrate must record the reasons for making the order.
- (8) In this section—
land includes a place to which a clean-up notice applies.

459 Entry or boarding of vehicles

- (1) An authorised person may enter or board a vehicle if the authorised person has reasonable grounds for suspecting—
- (a) the vehicle is being, or has been, used in the commission of an offence against this Act; or
 - (b) the vehicle, or a thing in or on the vehicle, may provide evidence of the commission of an offence against this Act; or
 - (c) the vehicle is of a type prescribed by regulation and is being used to transport waste of a type prescribed by regulation; or
 - (d) if the vehicle is a train—the train is being used to transport waste of a type prescribed by regulation.
- (2) If the vehicle is moving or about to move, the authorised person may signal the person in control of the vehicle to stop the vehicle or not to move it.
- (3) To enable the vehicle to be entered or boarded, the authorised person may—
- (a) act with necessary and reasonable help and force; and
 - (b) require the person in control of the vehicle to give reasonable help to the authorised person.

460 General powers for places and vehicles

- (1) An authorised person who enters a place, or enters or boards a vehicle, under this chapter may—
- (a) search any part of the place or vehicle; or
 - (b) inspect, examine, test, measure, photograph or film the place or vehicle or anything in or on the place or vehicle; or
 - (c) take samples of any contaminant, substance or thing in or on the place or vehicle; or
 - (d) record, measure, test or analyse the release of contaminants into the environment from the place or vehicle; or
 - (e) take extracts from, or make copies of, any documents in or on the place or vehicle; or
 - (f) take into or onto the place or vehicle any persons, equipment and materials the authorised person reasonably requires for the purpose of exercising any powers in relation to the place or vehicle; or
 - (g) install or maintain any equipment and materials in or on the place or vehicle the authorised person reasonably requires for the purpose of conducting a monitoring program for the release of contaminants into the environment from the place or vehicle; or
 - (h) require the occupier of the place, or any person in or on the place or vehicle, to give to the authorised person reasonable help for the exercise of the powers mentioned in paragraphs (a) to (g); or
 - (i) if the authorised person enters or boards a vehicle—by written notice given to the person in control of the vehicle, require the person—
 - (i) to take the vehicle to a stated reasonable place by a stated reasonable time; and

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- (ii) if necessary, to remain in control of the vehicle at the place for a reasonable time;
to enable the authorised person to exercise the powers mentioned in paragraphs (a) to (g).
- (2) However, subsection (1)(e) does not apply to an authorised person who enters land to conduct a preliminary investigation or site investigation.
- (3) If, for any reason, it is not practicable to make a requirement under subsection (1)(i) by written notice, the requirement may be made orally and confirmed by written notice as soon as practicable.
- (4) Nothing in this section prevents an authorised person making a further requirement under subsection (1)(i) of the same person or another person in relation to the same vehicle if it is necessary and reasonable to make the further requirement.
- (5) An authorised person may not enter a part of a vehicle used only as a living area, or exercise a power under subsection (1)(a) to (g) in relation to that part, unless the authorised person is accompanied by the person in control of the vehicle.
- (6) Subsection (5) does not apply if the person in control of the vehicle is unavailable or unwilling to accompany the authorised person or the authorised person is unable for another reason to comply with the subsection.
- (7) This section does not apply to an authorised person who enters a place to get the occupier's consent unless the consent is given or the entry is otherwise authorised.
- (8) This section does not limit any power that an authorised person has apart from this section.

461 Power to seize evidence

- (1) An authorised person who enters a place under this chapter with a warrant may seize the evidence for which the warrant was issued.

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- (2) An authorised person who enters a place under this chapter with the occupier's consent may seize the particular thing for which the entry was made if the authorised person believes on reasonable grounds that the thing is evidence of an offence against this Act.
 - (3) An authorised person who enters a place under this chapter with a warrant or with the occupier's consent may also seize another thing if the authorised person believes on reasonable grounds—
 - (a) the thing is evidence of an offence against this Act; and
 - (b) the seizure is necessary to prevent the thing being—
 - (i) concealed, lost or destroyed; or
 - (ii) used to commit, continue or repeat the offence.
 - (4) An authorised person who enters a place under this chapter other than with a warrant or with the occupier's consent, or who enters or boards a vehicle, may seize a thing if the authorised person believes on reasonable grounds—
 - (a) the thing is evidence of an offence against this Act; and
 - (b) the seizure is necessary to prevent the thing being—
 - (i) concealed, lost or destroyed; or
 - (ii) used to commit, continue or repeat the offence.

462 Procedure after seizure of evidence

- (1) As soon as practicable after a thing is seized by an authorised person under this chapter, the authorised person must give a receipt for it to the person from whom it was seized.
- (2) The receipt must describe generally each thing seized and its condition.
- (3) If, for any reason, it is not practicable to comply with subsection (1), the authorised person must—
 - (a) leave the receipt at the place of seizure; and

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- (b) ensure the receipt is left in a reasonably secure way and in a conspicuous position.
- (4) The authorised person must allow a person who would be entitled to the seized thing if it were not in the authorised person's possession to inspect it and, if it is a document, to take extracts from it or make copies of it.
- (5) The authorised person must return the seized thing to its owner at the end of—
 - (a) 6 months; or
 - (b) if a prosecution for an offence involving it is started within the 6 months—the prosecution for the offence and any appeal from the prosecution.
- (6) Despite subsection (5), the authorised person must return the seized thing to its owner immediately the authorised person stops being satisfied its retention as evidence is necessary.
- (7) However, the authorised person may keep the seized thing if the authorised person believes, on reasonable grounds, it is necessary to continue to keep it to prevent its use in committing an offence.

463 Forfeiture of seized thing on conviction

- (1) Despite section 462, if the owner of the seized thing is convicted of an offence for which the thing was retained as evidence, the court may order its forfeiture to—
 - (a) if the authorised person exercised the power of seizure in the enforcement of a matter devolved to a local government—the local government; or
 - (b) if paragraph (a) does not apply—the State.
- (2) The forfeited thing becomes the property of the local government or State and may be destroyed or disposed of as directed by the administering executive.
- (3) This section does not limit the court's powers under the *Penalties and Sentences Act 1992* or any other law.

Part 3 Other enforcement powers of authorised persons

464 Power to require name and address

- (1) An authorised person may require a person to state the person's name and address if the authorised person—
 - (a) finds the person committing an offence against this Act; or
 - (b) finds the person in circumstances that lead, or has information that leads, the authorised person to suspect on reasonable grounds that the person has committed an offence against this Act.
- (2) When making the requirement, the authorised person must warn the person that it is an offence against this Act to fail to state the person's name and address, unless the person has a reasonable excuse.
- (3) The authorised person may require the person to give evidence of the correctness of the person's name or address if the authorised person suspects on reasonable grounds that the name or address given is false.

465 Power to require answers to questions

- (1) This section applies if an authorised person suspects, on reasonable grounds, that—
 - (a) an offence against this Act has happened; and
 - (b) a person may be able to give information about the offence.
- (2) The authorised person may—
 - (a) require the person to answer a question about the suspected offence; or

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- (b) by written notice given to the person, require the person to attend a stated reasonable place at a stated reasonable time, to answer questions about the suspected offence.
- (3) When making the requirement, the authorised person must warn the person it is an offence to fail to comply with the requirement, unless the person has a reasonable excuse.
- (4) A notice given under subsection (2)(b) must—
 - (a) identify the suspected offence; and
 - (b) state that the authorised person believes the person may be able to give information about the suspected offence; and
 - (c) include the warning required to be given under subsection (3).

466 Power to require production of documents

- (1) An authorised person may require a person to produce to the authorised person for inspection a document required to be held or kept under this Act or a development condition of a development approval.
- (2) The authorised person may keep a produced document to take an extract from, or make a copy of, the document.
- (3) The authorised person must return the document to the person as soon as practicable after taking the extract or making the copy.

Part 4 **Emergency powers of authorised persons**

466A Application of pt 4

This part applies if an authorised person is satisfied on reasonable grounds that an emergency exists.

466B What is an *emergency*

An *emergency* exists if—

- (a) either—
 - (i) human health or safety is threatened; or
 - (ii) serious or material environmental harm has been or is likely to be caused; and
- (b) urgent action is necessary to—
 - (i) protect the health or safety of persons; or
 - (ii) prevent or minimise the harm; or
 - (iii) rehabilitate or restore the environment because of the harm.

467 Authorised person may take or direct someone to take stated action

- (1) To deal with the emergency, the authorised person may—
 - (a) give a direction (an *emergency direction*) to a person to take stated reasonable action within a stated reasonable time, including to release a contaminant into the environment; or
 - (b) take the action, or authorise another person to take the action.
- (2) The authorised person may impose reasonable conditions on the direction.

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- (3) The direction may be given orally or by written notice.
- (4) However, if the direction is given orally, the authorised person must, as soon as practicable, confirm the direction by written notice given to the person.
- (5) If the authorised person decides to take the action, the authorised person may—
 - (a) without a warrant, enter any place (other than premises, or the part of premises, used only for residential purposes) and take the action; and
 - (b) in taking the action, exercise any of the powers under this chapter; and
 - (c) if, in taking the action, the authorised person finds a thing that may provide evidence of the commission of an offence against this Act—sections 461(1) and 462 apply to the thing as if the thing were the evidence mentioned in the provisions and a warrant had been issued to the authorised person authorising the authorised person to seize it.
- (6) The authorised person may exercise the powers mentioned in subsection (5) (**emergency powers**) at the time, with the help, and using the force, that is necessary and reasonable in the circumstances.
- (7) If a person or thing is obstructing or preventing entry to, or action being taken at, any place by an authorised person while exercising or attempting to exercise emergency powers, a police officer may, if asked by the authorised person, using the force that is necessary and reasonable—
 - (a) remove the person or thing from the place; and
 - (b) take all reasonable measures to ensure the person or thing does not again obstruct or prevent the action being taken.
- (8) In exercising or attempting to exercise emergency powers, an authorised person must take all reasonable steps to ensure the

authorised person causes as little inconvenience, and does as little damage, as is practicable in the circumstances.

- (9) This section does not limit any power an authorised person has apart from this section.
- (10) If an authorised person authorises a person to take action under subsection (1)(b)—
- (a) the person may exercise the powers mentioned in subsection (5)(a); and
 - (b) the authorised person must inform the person—
 - (i) of the action the person is authorised to take; and
 - (ii) of the person's powers under this section; and
 - (iii) in general terms, of the provisions of section 486; and
 - (c) subsections (6), (7) and (8) (so far as they relate to the power mentioned in subsection (5)(a)) apply to the person as if the person were the authorised person.
- (11) A person who takes an action in compliance with an emergency direction does not commit an offence against this Act merely because the person takes the action.

Part 5 Offences

469 Failure of authorised person to return identity card

A person who ceases to be an authorised person must return the person's identity card to the administering executive who issued it as soon as practicable after ceasing to be an authorised person, unless the person has a reasonable excuse for not returning it.

Maximum penalty—50 penalty units.

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470 Failure to give information to administering authority

- (1) This section applies if a person is given a notice under section 451.
- (2) The person must comply with the notice unless the person has a reasonable excuse for not complying with it.
Maximum penalty—50 penalty units.
- (3) It is a reasonable excuse for the individual to fail to comply with the notice if complying with it might tend to incriminate the individual.
- (4) The person does not commit an offence against this section if the information sought by the administering authority is not in fact relevant to the administration or enforcement of this Act.

471 Failure to comply with signal

- (1) A person must obey a signal under section 459(2) to stop or not to move a vehicle, unless the person has a reasonable excuse for not obeying the signal.
Maximum penalty—50 penalty units.
- (2) It is a reasonable excuse for the person to fail to stop or to move the vehicle if—
 - (a) to obey immediately the signal would have endangered the person or another person; and
 - (b) the person obeys the signal as soon as it is practicable to obey the signal.

472 Failure to comply with requirements about vehicles

- (1) In this section—
required action for a vehicle, means—
 - (a) to bring the vehicle to a place; and
 - (b) to remain in control of the vehicle at a place for a reasonable time.

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- (2) A person who is required by an authorised person under section 459(3)(b) to give reasonable help to the authorised person to enable the entering or boarding of a vehicle must comply with the requirement, unless the person has a reasonable excuse for not complying with it.

Maximum penalty—50 penalty units.

- (3) A person who is required by an authorised person under section 460(1)(i) to take required action in relation to a vehicle must comply with the requirement, unless the person has a reasonable excuse for not complying with it.

Maximum penalty—50 penalty units.

473 Failure to help authorised person—emergency

- (1) This section applies if—
- (a) in an emergency, an authorised person is exercising or attempting to exercise emergency powers; and
 - (b) for dealing with the emergency, the authorised person requires a person under section 460(1)(h) to give reasonable help to the authorised person in relation to the exercise of a power.

- (2) The person must comply with the requirement, unless the person has a reasonable excuse for not complying with it.

Maximum penalty—100 penalty units.

- (3) If the help required is the answering of a question or producing of a document by an individual (other than a document required to be held or kept by the individual under this Act or a development condition of a development approval), it is not a reasonable excuse for the individual to fail to answer the question, or produce the document, on the ground that complying with the requirement might tend to incriminate the individual.

- (4) When making a requirement mentioned in subsection (3), the authorised person must inform the individual of the following—

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- (a) the individual is obliged to answer the question or produce the document despite the rule of law relating to privilege against self-incrimination;
 - (b) the individual may answer the question or produce the document subject to the objection that complying with the requirement might tend to incriminate the individual;
 - (c) if the individual makes an objection—the answer or the producing of the document may not be admitted in evidence against the individual in a prosecution for an offence against this Act, other than an offence (constituted by the giving of the answer or producing of the document) against any of the following sections—
 - section 480
 - section 480A
 - section 481.
- (5) If, before giving the answer or producing the document, the individual makes an objection, the answer or producing of the document is not admissible in evidence against the individual in a prosecution for an offence against this Act, other than an offence (constituted by the giving of the answer or producing of the document) against any of the following sections—
- section 480
 - section 480A
 - section 481.

474 Failure to help authorised person—other cases

- (1) This section applies if—
- (a) an authorised person requires a person under section 460(1)(h) to give reasonable help to the authorised person in relation to the exercise of a power; but
 - (b) section 473 does not apply.

- (2) The person must comply with the requirement, unless the person has a reasonable excuse for not complying with it.

Maximum penalty—50 penalty units.

- (3) If the help required is the answering of a question or producing of a document (other than a document required to be held or kept by the individual under this Act or a development condition of a development approval), it is a reasonable excuse for the individual to fail to answer the question, or produce the document, if complying with the requirement might tend to incriminate the individual.

475 Failure to give name and address etc.

- (1) A person who is required by an authorised person under section 464(1) to state the person's name or address must comply with the requirement, unless the person has a reasonable excuse for not complying with it.

Maximum penalty—50 penalty units.

- (2) A person who is required by an authorised person under section 464(3) to give evidence of the correctness of a name or address must give the evidence, unless the person has a reasonable excuse for not complying with it.

Maximum penalty—50 penalty units.

- (3) The person does not commit an offence against this section if—
- (a) the authorised person required the person to state the person's name and address on suspicion of the person having committed an offence against this Act; and
 - (b) the person is not proved to have committed the offence.

476 Failure to attend or answer questions

- (1) This section applies if—

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- (a) an authorised person requires a person under section 465 to—
 - (i) answer a question; or
 - (ii) attend a stated reasonable place at a stated reasonable time, to answer questions; but
 - (b) section 473 does not apply.
- (2) The person must comply with the requirement, unless the person has a reasonable excuse for not complying with it.
- Maximum penalty—50 penalty units.
- (3) For subsection (1), it is a reasonable excuse for an individual to fail to answer a question if answering the question might tend to incriminate the individual.
- (4) The person does not commit an offence against this section if the information sought by the authorised person is not in fact relevant to the offence.

477 Failure to produce document

A person who is required under section 466 to produce a document must comply with the requirement, unless the person has a reasonable excuse for not complying with it.

Maximum penalty—50 penalty units.

478 Failure to comply with authorised person's direction in emergency

A person to whom an emergency direction is given must—

- (a) comply with the direction (including a condition of the direction), unless the person has a reasonable excuse for not complying with it; and
- (b) take all reasonable and practicable precautions to prevent or minimise—
 - (i) environmental harm being caused; and

- (ii) the risk of death or injury to humans and animals;
and
- (iii) loss or damage to property.

Maximum penalty—2000 penalty units.

480 False or misleading documents

- (1) A person must not give to the administering authority or an authorised person a document containing information that the person knows, or ought reasonably to know, is false or misleading in a material particular.

Maximum penalty—1665 penalty units or 2 years imprisonment.

- (2) Subsection (1) does not apply to a person who, when giving the document—
- (a) informs the administering authority or authorised person of the extent to which the document is false or misleading; and
 - (b) gives the correct information to the administering authority or authorised person if the person has, or can reasonably obtain, the correct information.
- (3) It is enough for a complaint for an offence against subsection (1) to state the person knew, or ought reasonably to have known, the document was false or misleading, without specifying which of the following applies—
- (a) the person knew it was false;
 - (b) the person knew it was misleading;
 - (c) the person ought reasonably to have known it was false;
 - (d) the person ought reasonably to have known it was misleading.

[s 480A]

480A Incomplete documents

- (1) This section applies to a person who is required under this Act to give a document to the administering authority or an authorised person.
- (2) The person must not give to the administering authority or authorised person a document the person knows, or ought reasonably to know, contains incomplete information in a material particular.

Maximum penalty—1665 penalty units or 2 years imprisonment.

- (3) Subsection (2) does not apply to a person who, when giving the document—
 - (a) informs the administering authority or authorised person of the extent to which the document is incomplete; and
 - (b) gives the complete information to the administering authority or authorised person if the person has, or can reasonably obtain, the information.
- (4) It is enough for a complaint for an offence against subsection (2) to state the person knew, or ought reasonably to have known, the document was incomplete, without specifying whether the person knew it was incomplete or whether the person ought reasonably to have known it was incomplete.

481 False or misleading information

- (1) A person must not—
 - (a) state anything to an authorised person that the person knows is false or misleading in a material particular; or
 - (b) omit from a statement made to an authorised person anything without which the statement is, to the person's knowledge, misleading in a material particular.

Maximum penalty—1665 penalty units or 2 years imprisonment.

- (2) A complaint against a person for an offence against subsection (1)(a) or (b) is sufficient if it states that the statement made was false or misleading to the person's knowledge.

482 Obstruction of authorised persons

- (1) A person must not obstruct an authorised person in the exercise of a power under this chapter, unless the person has a reasonable excuse for obstructing the authorised person.

Maximum penalty—165 penalty units.

- (2) In this section—

authorised person includes a person who is—

- (a) acting under an authorised person's direction under section 363K; or
- (b) authorised by an authorised person to take action under section 467(1)(b); or
- (c) helping an authorised person under this chapter.

483 Impersonation of authorised person

A person must not pretend to be an authorised person.

Maximum penalty—50 penalty units.

484 Attempts to commit offences

- (1) A person who attempts to commit an offence against this Act commits an offence.

Maximum penalty—half the maximum penalty for committing the offence.

- (2) The Criminal Code, section 4, applies to subsection (1).

Part 6 General

485 Consent to entry

- (1) This section applies if an authorised person intends to seek the consent of an occupier of a place to an authorised person entering the place under this chapter.
- (2) Before seeking the consent, the authorised person must inform the occupier—
 - (a) of the purpose of the entry; and
 - (b) that anything found and seized may be used in evidence in court; and
 - (c) that the occupier is not required to consent.
- (3) If the consent is given, the authorised person may ask the occupier to sign an acknowledgement of the consent.
- (4) The acknowledgement must—
 - (a) state the occupier was informed—
 - (i) of the purpose of the entry; and
 - (ii) that anything found and seized may be used in evidence in court; and
 - (iii) that the occupier was not required to consent; and
 - (b) state the occupier gave the authorised person consent under this chapter to enter the place and exercise powers under this chapter.
- (5) If the occupier signs an acknowledgement of consent, the authorised person must immediately give a copy to the occupier.

486 Authorised person to give notice of seizure or damage

- (1) This section applies if—

- (a) an authorised person seizes or damages anything in the exercise of a power under this chapter; or
 - (b) a person acting under an authorised person's direction under section 363K damages anything in the exercise of a power under that section; or
 - (c) a person who is authorised by an authorised person under section 467(1)(b) to take action damages anything in the exercise of a power under section 467.
- (2) The authorised person must immediately give written notice of the particulars of the seizure or damage.
- (3) The notice must be given to—
- (a) if anything is seized—the person from whom the thing was seized; or
 - (b) if anything is damaged—the person who appears to the authorised person to be the owner of the thing.
- (4) If, for any reason, it is not practicable to comply with subsection (2), the authorised person must—
- (a) leave the notice at the place where the seizure or damage happened; and
 - (b) ensure it is left—
 - (i) in a reasonably secure way; and
 - (ii) in a conspicuous position.

487 Compensation

- (1) A person may claim compensation if the person incurs loss or expense because of the exercise or purported exercise of a power under this chapter, including, for example, in complying with a requirement made of the person under this chapter.
- (2) Subsection (1) does not apply to a prescribed person for a contamination incident in relation to the exercise of a power relating to the incident.

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- (3) The compensation must be claimed from—
 - (a) if the power or requirement that gives rise to the claim was exercised or made by an authorised person appointed by the chief executive officer of a local government, or a person authorised by such an authorised person under section 458 or 467(1)(b) to take action—the local government; or
 - (b) if paragraph (a) does not apply—the State.
- (4) Payment of compensation may be claimed and ordered in a proceeding for—
 - (a) compensation brought in a court of competent jurisdiction; or
 - (b) an offence against this Act brought against the person making the claim for compensation.
- (5) A court may order the payment of compensation for the loss or expense only if it is satisfied it is just to make the order in the circumstances of the particular case.

488 Administering authority to reimburse costs and expenses incurred

- (1) If a person incurs costs and expenses in complying with a direction under section 467(1)(a), the administering authority must reimburse the person's reasonable costs and expenses.
- (2) Subsection (1) does not apply to the person who caused or allowed the relevant emergency to happen or, in the case of a contamination incident, a prescribed person for the incident.

489 Costs of investigation or remediation to be paid by recipient

- (1) The amount properly and reasonably incurred by the administering authority in conducting a site investigation, or remediating land, is a debt payable to the administering

authority by the recipient of the notice to conduct or commission the investigation or remediate the land.

- (2) If more than 1 person failed to perform the work, the amount incurred is payable by the persons jointly and severally.
- (3) However, subsection (1) does not apply if the requirement for the recipient to conduct or commission the investigation, or carry out the remediation has been waived by the administering authority.

Chapter 10 Legal proceedings

Part 1 Evidence

490 Evidentiary provisions

- (1) This section applies to a proceeding under or in relation to this Act.
- (2) Unless a party, by reasonable notice, requires proof of—
 - (a) the appointment of an authorised person under this Act; or
 - (b) the authority of an authorised person to do an act under this Act;the appointment or authority must be presumed.
- (3) A signature purporting to be the signature of the administering executive or an authorised person is evidence of the signature it purports to be.
- (4) A certificate purporting to be signed by the Minister stating that a stated person is or was the administering authority or administering executive at a time, or during a stated period, is evidence of the matter stated in the certificate.

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- (5) A certificate purporting to be signed by the administering executive stating any of the following matters is evidence of the matter—
- (a) a stated document is a copy of a notice, direction, decision, order, report, accredited ERMP, environmental requirement or other authority or permit issued or given under this Act;
 - (b) on a stated day, or during a stated period, a stated person was or was not the holder of an environmental requirement, permit or other authority issued or given under this Act;
 - (c) an accredited ERMP, environmental requirement or other authority or permit issued or given under this Act—
 - (i) was or was not issued or given for a stated term; or
 - (ii) was or was not in force on a stated day or during a stated period; or
 - (iii) was or was not subject to a stated condition;
 - (d) on a stated day, an environmental authority or registration was suspended for a stated period or cancelled;
 - (e) on a stated day, a stated person was given a stated notice, direction, or order under this Act;
 - (f) a stated document is a copy of a part of, or an extract from, a register kept under this Act;
 - (g) a stated amount is payable under this Act by a stated person and has not been paid;
 - (h) that a stated substance is a contaminant or an ozone depleting substance;
 - (i) that a stated method of storage, preservation, handling or transportation of a sample taken under this Act has not materially affected the attributes of the sample;
 - (j) another matter prescribed by regulation.

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- (6) In a complaint starting a proceeding, a statement that the matter of the complaint came to the complainant's knowledge on a stated day is evidence of the matter.
 - (7) The production by the prosecutor of a certificate purporting to be signed by an appropriately qualified person (the *analyst*) and stating—
 - (a) the analyst received from a stated person the sample mentioned in the certificate; and
 - (b) the analyst analysed the sample on a stated day and at a stated place; and
 - (c) the results of the analysis;is evidence of the matter stated in the certificate.
 - (8) Any instrument, equipment or installation prescribed by regulation that is used by an authorised person or analyst in accordance with the conditions (if any) prescribed by the regulation is taken to be accurate and precise in the absence of evidence to the contrary.
 - (9) In a proceeding in which the administering authority applies to recover the costs and expenses incurred by it, a certificate by the administering executive stating that stated costs and expenses were incurred and the way and purpose for which they were incurred is evidence of the matters stated.

491 Special evidentiary provision—particular emissions

- (1) This section applies to a proceeding for an offence against section 440 or 440Q in which it is claimed the defendant caused environmental nuisance or contravened a noise standard by an emission made from a person, place or thing (the *alleged source*).

Editor's note—

section 440 (Offence of causing environmental nuisance) or 440Q (Offence of contravening a noise standard)

- (2) An authorised person may give evidence, without any need to call further opinion evidence, that the authorised person

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formed the opinion based on the authorised person's own senses that—

- (a) the emission was made from the alleged source and travelled to another place; and
 - (b) for an offence against section 440—the level, nature or extent of the emission within the other place was an unreasonable interference with an environmental value.
- (3) Evidence may be given under subsection (2) whether or not another emission was made to the other place from a person, place or thing other than the alleged source.
- (4) In this section—

emission means an emission of aerosols, fumes, light, noise, odour, particles or smoke.

491A Further special evidentiary provisions for noise

- (1) This section applies if, in a proceeding for an offence against this Act, it is claimed audible noise was made.
- (2) If it is claimed the noise was made from a particular person, place or thing (the *alleged source*)—
 - (a) an individual (the *occupier*) who was, when the noise was made (the *relevant time*), an occupier of a building may give evidence that—
 - (i) the occupier could, at the relevant time, hear the noise at the building; and
 - (ii) the occupier formed the opinion, based on the occupier's own senses, that the noise was made from the alleged source and travelled to the building; and
 - (b) an authorised person who, at the relevant time, was present at the building with the occupier and could hear the noise at the building may give evidence—
 - (i) that the authorised person could, at the relevant time, hear the noise at the building; and

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- (ii) that the authorised person formed the opinion, based on the person's own senses, that the noise was made from the alleged source and travelled to the building.
- (3) Evidence may be given under subsection (2)(b)—
 - (a) without any need to call the occupier; and
 - (b) whether or not other audible noise was made to the building from a person, place or thing other than the alleged source.
 - (4) Opinion evidence mentioned in this section may be given without any need to call further opinion evidence.
 - (5) Evidence mentioned in this section may be given without any requirement for the noise to have been measured.
 - (6) If the noise is established as audible noise, the rate of its audibility is not required to be established.
 - (7) The noise may be measured in a way prescribed under a regulation.

492 Responsibility for acts or omissions of representatives

- (1) If, in a proceeding for an offence against this Act, it is relevant to prove a person's state of mind about a particular act or omission, it is enough to show—
 - (a) the act or omission was done or omitted to be done by a representative of the person within the scope of the representative's actual or apparent authority; and
 - (b) the representative had the state of mind.
- (2) An act or omission done or omitted to be done for a person by a representative of the person within the scope of the representative's actual or apparent authority is taken, in a proceeding for an offence against this Act, to have been done or omitted to be done also by the person, unless the person proves the person took all reasonable steps to prevent the acts or omissions.

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- (3) If—
- (a) an individual is convicted of an offence against this Act; and
 - (b) the individual would not have been convicted of the offence if subsections (1) and (2) had not been enacted;
- the individual is not liable to be punished by imprisonment for the offence.
- (4) In this section—
- representative**, of a person, means—
- (a) if the person is a corporation—
 - (i) an executive officer, employee or agent of the corporation; and
 - (ii) if, under the Corporations Act, the corporation (the **parent corporation**) controls another corporation or another corporation is a subsidiary of the parent corporation—
 - (A) the controlled corporation or the subsidiary corporation; and
 - (B) an executive officer, employee or agent of the controlled corporation or the subsidiary corporation; or
 - (b) if the person is an individual—an employee or agent of the individual.

Part 2 Executive officer liability

493 Executive officers must ensure corporation complies with Act

- (1) The executive officers of a corporation must ensure that the corporation complies with this Act.

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- (2) If a corporation commits an offence against a provision of this Act, each of the executive officers of the corporation also commits an offence, namely, the offence of failing to ensure the corporation complies with this Act.

Maximum penalty—the penalty for the contravention of the provision by an individual.

- (3) Evidence that the corporation committed an offence against this Act is evidence that each of the executive officers committed the offence of failing to ensure that the corporation complies with this Act.
- (4) However, it is a defence for an executive officer to prove—
- (a) if the officer was in a position to influence the conduct of the corporation in relation to the offence—the officer took all reasonable steps to ensure the corporation complied with the provision; or
 - (b) the officer was not in a position to influence the conduct of the corporation in relation to the offence.

Part 2A Unlawfulness of particular acts

493A When environmental harm or related acts are unlawful

- (1) This section applies in relation to any of the following acts (*relevant acts*)—
- (a) an act that causes serious or material environmental harm or an environmental nuisance;
 - (b) an act that contravenes a noise standard;
 - (c) a deposit of a contaminant, or release of stormwater run-off, mentioned in section 440ZG.

Editor's note—

See chapter 8, part 3 (Offences relating to environmental harm), section 440Q (Offence of contravening a noise standard) and section 440ZG

[s 493A]

(Depositing prescribed water contaminants in waters and related matters).

- (2) A relevant act is unlawful unless it is authorised to be done under—
 - (a) an environmental protection policy; or
 - (b) a transitional environmental program; or
 - (c) an environmental protection order; or
 - (d) an environmental authority; or
 - (e) a development condition of a development approval; or
 - (f) a prescribed condition for a small scale mining activity; or
 - (g) an emergency direction.
- (3) However, it is a defence to a charge of unlawfully doing a relevant act to prove—
 - (a) the relevant act was done while carrying out an activity that is lawful apart from this Act; and
 - (b) the defendant complied with the general environmental duty.
- (4) The defendant is taken to have complied with the general environmental duty if the defendant proves—
 - (a) an accredited ERMP applied to the doing of the relevant act; and
 - (b) to the extent it is relevant, the defendant complied with the ERMP.
- (5) The defendant is also taken to have complied with the general environmental duty if the defendant proves—
 - (a) a code of practice applied to the doing of the relevant act; and
 - (b) to the extent it is relevant, the defendant complied with the code; and

- (c) no accredited ERMP applied to the doing of the relevant act.
- (6) A reference in this section to an act includes an omission and a reference to doing an act includes making an omission.

Part 3 Legal proceedings

494 **Indictable and summary offences**

- (1) An offence against this Act for which the maximum penalty of imprisonment is 2 years or more is an indictable offence.
- (1A) An indictable offence against this Act is—
 - (a) for an offence for which the maximum penalty of imprisonment is 5 or more years—a crime; or
 - (b) otherwise—a misdemeanour.
- (2) Any other offence against this Act is a summary offence.

495 **Proceedings for indictable offences**

- (1) A proceeding for an indictable offence against this Act may be taken, at the election of the prosecution—
 - (a) by way of summary proceedings under the *Justices Act 1886*; or
 - (b) on indictment.
- (2) A magistrate must not hear an indictable offence summarily if—
 - (a) the defendant asks at the start of the hearing that the charge be prosecuted on indictment; or
 - (b) the magistrate considers that the charge should be prosecuted on indictment.

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- (3) If subsection (2) applies—
 - (a) the magistrate must proceed by way of an examination of witnesses for an indictable offence; and
 - (b) a plea of the person charged at the start of the proceeding must be disregarded; and
 - (c) evidence brought in the proceeding before the magistrate decided to act under subsection (2) is taken to be evidence in the proceeding for the committal of the person for trial or sentence; and
 - (d) before committing the person for trial or sentence, the magistrate must make a statement to the person as required by the *Justices Act 1886*, section 104(2)(b).
- (4) The maximum penalty of imprisonment that may be summarily imposed for an indictable offence is 1 year's imprisonment.

496 Limitation on who may summarily hear indictable offence proceedings

- (1) A proceeding must be before a magistrate if it is a proceeding—
 - (a) for the summary conviction of a person on a charge for an indictable offence; or
 - (b) for an examination of witnesses for a charge for an indictable offence.
- (2) However, if a proceeding for an indictable offence is brought before a justice who is not a magistrate, jurisdiction is limited to taking or making a procedural action or order within the meaning of the *Justices of the Peace and Commissioners for Declarations Act 1991*.

497 Limitation on time for starting summary proceedings

A proceeding for an offence against this Act by way of summary proceeding under the *Justices Act 1886* must start—

- (a) within 1 year after the commission of the offence; or
- (b) within 1 year after the offence comes to the complainant's knowledge, but within 2 years after the commission of the offence.

498 Notice of defence

- (1) If a person intends to rely on a defence under chapter 8, the person must give written notice of the intention to the prosecutor—
 - (a) for a charge being prosecuted by way of summary proceeding under the *Justices Act 1886*—at least 10 business days before the charge is heard; or
 - (b) for a charge being prosecuted on indictment—at least 5 business days before the charge is set down for hearing.
- (2) If the person has not given the written notice under subsection (1), the court may, on the application of the prosecution, make either or both of the following orders—
 - (a) an order to adjourn the hearing;
 - (b) an order that the person pay the prosecution the costs incurred by the prosecution because of the application for the adjournment.

499 Proof of authority

If a provision for an offence against this Act refers to a person unlawfully doing an act or making an omission, the *Justices Act 1886*, section 76, applies as if the doing of the act or the making of the omission with an environmental authority were an exemption contained in the provision.

500 Fines payable to local government

- (1) This section applies if—

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- (a) the administration and enforcement of a matter has been devolved or delegated to a local government; and
 - (b) a proceeding for an offence about the matter is taken; and
 - (c) a court imposes a fine for the offence.
- (2) The fine must be paid to the local government.
- (3) If a person other than the local government prosecutes the offence, subsection (2) does not apply to any part of the fine the court orders be paid to the party.

501 Recovery of costs of rehabilitation or restoration etc.

- (1) This section applies if, in a proceeding for an offence against this Act—
- (a) the court finds the defendant has caused environmental harm by a contravention of this Act that constitutes an offence; and
 - (b) the court finds the administering authority has reasonably incurred costs and expenses—
 - (i) in taking action to prevent or minimise the harm or to rehabilitate or restore the environment because of the contravention; or
 - (ii) reimbursing costs and expenses under section 488; and
 - (c) the administering authority applies to the court for an order against the defendant for the payment of the costs and expenses.
- (2) The court must order the defendant to pay the administering authority's reasonable costs and expenses to the authority unless it is satisfied it would not be just to make the order in the circumstances of the particular case.
- (3) This section does not limit the court's powers under the *Penalties and Sentences Act 1992* or any other law.

502 Court may make particular orders

- (1) This section applies if, in a proceeding for an offence against this Act—
 - (a) the court finds the defendant has caused environmental harm by a contravention of this Act that constitutes an offence; or
 - (b) the court finds the defendant has committed an offence against any of the following—
 - (i) section 426;
 - (ii) section 430;
 - (iii) section 435A;
 - (iv) section 440ZG.
- (2) The court may, on application by the prosecution, make 1 or more of the following orders against the defendant—
 - (a) a rehabilitation or restoration order;
 - (b) a public benefit order;
 - (c) an education order;
 - (d) a monetary benefit order;
 - (e) a notification order.
- (3) Subsection (4) applies if the court finds that, because of the act or omission constituting the offence, another person has—
 - (a) suffered loss of income; or
 - (b) suffered a reduction in the value of, or damage to, property; or
 - (c) incurred costs or expenses in replacing or repairing property, or in preventing or minimising, or attempting to prevent or minimise, a loss, reduction or damage mentioned in paragraph (a) or (b).
- (4) In addition to any order the court makes under subsection (2), the court may, on application by the prosecution, order the defendant to do either or both of the following—

[s 502]

- (a) pay to the other person an amount of compensation the court considers appropriate for the loss, reduction or damage suffered, or costs or expenses incurred;
 - (b) take stated remedial action the court considers appropriate.
- (5) An order under this section must state the time within which the order must be complied with.
 - (6) This section does not limit the court's powers under the *Penalties and Sentences Act 1992* or any other law.
 - (7) In this section—

education order means an order requiring the person against whom it is made to conduct a stated advertising or education campaign to promote compliance with this Act.

monetary benefit order means an order requiring the person against whom it is made to pay an amount representing any financial or other benefit the person has received because of the act or omission constituting the offence in relation to which the order is made.

Example of a monetary benefit order—

If a defendant is found to have carried out an environmentally relevant activity without an environmental authority, the court may order the defendant to pay the administering authority an amount equal to the annual fees for the period for which the activity was carried out without an environmental authority.

notification order means an order requiring the person against whom it is made to notify in a stated way a person, or class of persons, of—

- (a) the act or omission constituting the offence in relation to which the order is made; and
- (b) other stated information about the act or omission.

Examples of ways the notification may be required to be given to particular persons—

- by publishing the notification in the person's annual report
- by giving the notification to persons affected by the act or omission

public benefit order means an order requiring the person against whom it is made to carry out a stated project to restore or enhance the environment in a public place or for the public benefit.

rehabilitation or restoration order means an order requiring the person against whom it is made to take stated action to rehabilitate or restore the environment that was adversely affected because of the act or omission constituting the offence in relation to which the order is made.

502A Administering authority may take action and recover costs

- (1) This section applies if an order is made against a person under section 502, and the person fails to comply with the order within the time stated in the order.
- (2) The administering authority may carry out work or take any other action reasonably necessary to fulfil the requirements of the order.
- (3) The costs reasonably incurred by the administering authority in carrying out work or taking other action under subsection (2) are a debt payable by the person to the administering authority.

503 Recovery of costs of investigation

- (1) This section applies if—
 - (a) a person is convicted of an offence against this Act; and
 - (b) the court finds the prosecution has reasonably incurred costs and expenses in investigating the offence; and
 - (c) the prosecution applies for an order against the person for the payment of the costs and expenses.
- (2) Without limiting subsection (1)(b), costs and expenses in investigating the offence may include costs and expenses of

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taking any sample or conducting any inspection, test, measurement or analysis during the investigation.

- (3) The court may order the person to pay to the prosecution the reasonable costs and expenses incurred by the prosecution if it is satisfied it would be just to make the order in the circumstances of the particular case.
- (4) This section does not limit the court's powers under the *Penalties and Sentences Act 1992* or any other law.

Part 4 Restraint orders

505 **Restraint of contraventions of Act etc.**

- (1) A proceeding may be brought in the Court for an order to remedy or restrain an offence against this Act, or a threatened or anticipated offence against this Act, by—
 - (a) the Minister; or
 - (b) the administering authority; or
 - (c) someone whose interests are affected by the subject matter of the proceeding; or
 - (d) someone else with the leave of the Court (even though the person does not have a proprietary, material, financial or special interest in the subject matter of the proceeding).
- (2) In deciding whether or not to grant leave to a person under subsection (1)(d), the Court—
 - (a) must be satisfied—
 - (i) environmental harm has been or is likely to be caused; and
 - (ii) the proceeding would not be an abuse of the process of the Court; and

- (iii) there is a real or significant likelihood that the requirements for the making of an order under this section would be satisfied; and
 - (iv) it is in the public interest that the proceeding should be brought; and
 - (v) the person has given written notice to the Minister or, if the administering authority is a local government, the administering executive, asking the Minister or authority to bring a proceeding under this section and the Minister or executive has failed to act within a time that is a reasonable time in the circumstances; and
 - (vi) the person is able to adequately represent the public interest in the conduct of the proceeding; and
- (b) may have regard to other matters the Court considers relevant to the person's standing to bring and maintain the proceeding.
- (3) However, the Court must not refuse to grant leave merely because the person's interest in the subject matter of the proceeding is no different from someone else's interest in the subject matter.
- (4) The Court may grant leave subject to conditions, including, for example—
- (a) a condition requiring the person to give security for the payment of costs of the proceeding that may be awarded against the person; or
 - (b) a condition requiring the person to give an undertaking about damages.
- (5) If the Court is satisfied—
- (a) an offence against this Act has been committed (whether or not it has been prosecuted); or
 - (b) an offence against this Act will be committed unless restrained;

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the Court may make the orders it considers appropriate to remedy or restrain the offence.

- (6) An order—
 - (a) may direct the defendant—
 - (i) to stop an activity that is or will be a contravention of this Act; or
 - (ii) to do anything required to comply with, or to cease a contravention of, this Act; and
 - (b) may be in the terms the Court considers appropriate to secure compliance with this Act; and
 - (c) must specify the time by which the order is to be complied with; and
 - (d) may include an order for the defendant to pay the costs reasonably incurred by the administering authority in monitoring the defendant's actions in relation to the offence.
- (7) The Court's power to make an order to stop an activity may be exercised whether or not—
 - (a) it appears to the Court the person against whom the order is made intends to engage, or to continue to engage, in the activity; or
 - (b) the person has previously engaged in an activity of that kind; or
 - (c) there is danger of substantial damage to the environment if the person engages, or continues to engage, in the activity.
- (8) The Court's power to make an order to do anything may be exercised whether or not—
 - (a) it appears to the Court the person against whom the order is made intends to fail, or to continue to fail, to do the thing; or

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- (b) the person has previously failed to do a thing of that kind; or
 - (c) there is danger of substantial damage to the environment if the person fails, or continues to fail, to do the thing.
- (9) Without limiting the powers of the Court, the Court may make an order—
- (a) restraining the use of plant or equipment or a place; or
 - (b) requiring the demolition or removal of plant or equipment, a structure or another thing; or
 - (c) requiring the rehabilitation or restoration of the environment.
- (10) The Court must order a plaintiff to pay costs if the Court is satisfied the proceeding was brought for obstruction or delay.
- (11) The Court's power under this section is in addition to its other powers.
- (12) A person who contravenes an order commits an offence against this Act.
- Maximum penalty for subsection (12)—3000 penalty units or 2 years imprisonment.

506 Power of Court to make order pending determination of proceeding

- (1) This section applies if a proceeding has been brought by a person in the Court under section 505 and the Court has not determined the proceeding.
- (2) On the person's application, the Court may make an order of a kind mentioned in section 505 pending determination of the proceeding if it is satisfied it would be proper to make the order.
- (3) The Court's power to make an order to stop an activity may be exercised whether or not—

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- (a) it appears to the Court the person against whom the order is made intends to engage, or to continue to engage, in the activity; or
 - (b) the person has previously engaged in an activity of that kind; or
 - (c) there is an imminent danger of substantial damage to the environment if the person engages, or continues to engage, in the activity.
- (4) The Court's power to make an order to do anything may be exercised whether or not—
- (a) it appears to the Court the person against whom the order is made intends to fail, or to continue to fail, to do the thing; or
 - (b) the person has previously failed to do a thing of that kind; or
 - (c) there is an imminent danger of substantial damage to the environment if the person fails, or continues to fail, to do the thing.
- (5) The Court's power under this section is in addition to its other powers.
- (6) A person who contravenes an order commits an offence against this Act.

Maximum penalty for subsection (6)—3000 penalty units or 2 years imprisonment.

Chapter 11 Administration

Part 1 Devolutions

514 Devolution of powers

- (1) The Governor in Council may, by regulation, devolve to a local government the administration and enforcement of—
 - (a) the whole or part of an environmental protection policy; or
 - (b) the issue of environmental authorities; or
 - (c) another matter under this Act (other than chapter 2 or chapter 7, part 8).
- (2) The administration and enforcement of this Act for a matter relating to an area below the high or low water mark forming the boundary of a local government's area may be devolved to the local government.
- (3) On the commencement of the regulation—
 - (a) the local government becomes the administering authority for the devolved matter; and
 - (b) the local government's chief executive officer becomes the administering executive for the devolved matter; and
 - (c) the administration and enforcement of the devolved matter is a function of local government to be performed by the local government for its area.
- (4) If the devolved matter relates to a matter mentioned in subsection (2), the local government's area is, for subsection (3)(c), taken to include the area to which the matter relates.
- (5) To remove any doubt, the local government may—
 - (a) make a resolution or local law (not inconsistent with this Act) about the fees payable to it for the devolved matter; and

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- (b) make a local law (not inconsistent with this Act) about any matter for which it is necessary or convenient to make provision for carrying out or giving effect to the devolved matter.
- (6) Despite subsection (5)(a), a local government may make a resolution or local law prescribing a different fee, whether higher or lower, for something for which a fee is prescribed under a regulation.
- (6A) Despite subsection (5)(b), a local government may make a local law, for carrying out or giving effect to the devolved matter, that is inconsistent with a regulation if the local law imposes requirements in relation to environmental nuisance.
- (7) If the chief executive is satisfied the local government has failed to do anything in the administration or enforcement of the devolved matter—
 - (a) the chief executive may do the thing; and
 - (b) the reasonable costs and expenses incurred by the chief executive are a debt payable by the local government to the State.

Part 2 Delegations

515 Delegation by Minister

The Minister may delegate the Minister's powers under this Act to an appropriately qualified public service officer.

516 Delegation by chief executive

- (1) The chief executive may delegate the executive's powers under this Act as the chief executive to—
 - (a) an appropriately qualified—

- (i) authorised person; or
 - (ii) public service officer; or
 - (b) a local government.
- (2) A delegation of a chief executive's power to a local government may permit the subdelegation of the power to an appropriately qualified entity.

517 Delegation by administering executive or local government chief executive officer

- (1) The chief executive's powers under this Act as the administering executive may be delegated or subdelegated in the same way as the chief executive's powers may be delegated or subdelegated under section 516.
- (2) A local government's chief executive officer may delegate the officer's powers under this Act, as the administering executive or otherwise, to an appropriately qualified employee of the local government.
- (3) A delegation under subsection (2) of a power of a local government's chief executive officer to an employee of a local government may permit the subdelegation of the power to another appropriately qualified employee of the local government.

518 Delegation by administering authority

- (1) An administering authority may—
 - (a) if the authority is the chief executive—delegate the authority's powers under this Act to—
 - (i) an authorised person or public service officer; or
 - (ii) a local government; or
 - (b) if the authority is a local government—by resolution, delegate the authority's powers under this Act to an appropriately qualified entity.

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- (2) A delegation of a power as follows may permit the subdelegation of the power to an appropriately qualified entity—
- (a) a power of the chief executive, as the administering authority, delegated to a local government;
 - (b) a power of a local government as the administering authority.

Part 3 **Review of decisions and appeals**

Division 1 **Interpretation**

519 **Original decisions**

- (1) A decision mentioned in schedule 2 is an *original decision*.
- (2) A decision under an environmental protection policy or regulation that the policy or regulation declares to be a decision to which this part applies is also an *original decision*.

520 **Dissatisfied person**

- (1) A *dissatisfied person*, for an original or review decision, is—
 - (a) if the decision is about an EIS or the EIS process for an EIS—the relevant proponent under chapter 3, part 1, for the project to which the EIS relates; or
 - (b) if the decision is to refuse to accredit an ERMP—the person who submitted it; or
 - (c) if the decision is about an application for an environmental authority—the applicant; or

- (d) if the decision is about an environmental authority, including financial assurance for an authority—the holder of the authority; or
- (e) if the decision is about an application for registration of a person as a suitable operator—the applicant; or
- (f) if the decision is about a registered suitable operator—the operator; or
- (g) if the decision is to give an audit notice under section 322 or 323—the recipient; or
- (h) if the decision is to conduct an environmental audit or prepare an environmental report for an audit under section 326—the relevant environmental authority holder; or
- (i) if the decision is about an ERMP direction, environmental investigation or environmental protection order—the recipient; or
- (j) if the decision is about a transitional environmental program—the holder of an approval for the program or person or public authority that is required to submit, or submits, the program; or
- (ja) if the decision is about a temporary emissions licence—
 - (i) the applicant for the licence; or
 - (ii) the holder of the licence; or
- (k) if the decision is to issue a direction notice, clean-up notice or cost recovery notice—the recipient; or
- (l) if the decision is about recording particulars of land in, or removing particulars of land from, the environmental management register or contaminated land register—the land's owner; or
- (m) if the decision is about a site investigation of land—
 - (i) the recipient for the notice to conduct or commission the site investigation; and

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- (ii) the land's owner, other than for a decision under section 378 or 385; and
 - (iii) if another person conducts or commissions the site investigation—the other person; or
- (n) if the decision is about the remediation of contaminated land—
 - (i) the recipient for the remediation notice; and
 - (ii) the land's owner, other than for a decision under section 392; and
 - (iii) if another person conducts or commissions work to remediate the land—the other person; or
- (o) if the decision is about a site management plan for contaminated land—
 - (i) the recipient for the notice to prepare or commission the site management plan, other than for a decision under section 413; and
 - (ii) the land's owner, other than for a decision under section 407; and
 - (iii) if another person prepares or commissions the plan—the other person, other than for a decision under section 413; or
- (p) if the decision is about erecting signs on contaminated land—the land's owner; or
- (q) if the decision is about a disposal permit—the applicant for the permit; or
- (r) if the decision is about an exemption under chapter 8, part 3F, division 3—the person applying for, or given, the exemption; or
- (s) if the decision is to give a notice under section 451(1)—the person to whom the notice is given; or

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- (t) if the decision is about an application for approval as an auditor under chapter 12, part 3A, division 2—the applicant; or
 - (u) if the decision is about an auditor—the auditor; or
 - (v) if the decision is about a complaint under chapter 12, part 3A, division 5—the person who made the complaint; or
 - (w) if the decision is about a conversion application under section 695—the applicant; or
 - (x) if the decision is a decision under an environmental protection policy or a regulation that the policy or regulation declares to be a decision to which this part applies—the person declared under the policy or regulation to be a dissatisfied person for the decision.
- (2) A submitter for an application is also a *dissatisfied person* if the decision is about—
- (a) a site-specific application for an environmental authority for a petroleum activity; or
 - (b) an amendment application under chapter 5, part 7 for an environmental authority for a resource activity, other than a mining activity; or
 - (c) the submission of a transitional environmental program to which section 335 applies.

Division 2 Internal review of decisions

521 Procedure for review

- (1) A dissatisfied person may apply for a review of an original decision.
- (2) The application must—
 - (a) be made in the approved form to the administering authority within—

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- (i) 10 business days after the day on which the person receives notice of the original decision or the administering authority is taken to have made the decision (the *review date*); or
 - (ii) the longer period the authority in special circumstances allows; and
- (b) be supported by enough information to enable the authority to decide the application.
- (3) On or before making the application, the applicant must send the following documents to the other persons who were given notice of the original decision—
 - (a) notice of the application (the *review notice*);
 - (b) a copy of the application and supporting documents.
- (4) The review notice must inform the recipient that submissions on the application may be made to the administering authority within 5 business days (the *submission period*) after the application is made to the authority.
- (5) If the administering authority is satisfied the applicant has complied with subsections (2) and (3), the authority must, within the decision period—
 - (a) review the original decision; and
 - (b) consider any submissions properly made by a recipient of the review notice; and
 - (c) make a decision (the *review decision*) to—
 - (i) confirm or revoke the original decision; or
 - (ii) vary the original decision in a way the administering authority considers appropriate.
- (6) The application does not stay the original decision.
- (7) The application must not be dealt with by—
 - (a) the person who made the original decision; or

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- (b) a person in a less senior office than the person who made the original decision.
- (8) Within 10 business days after making the review decision, the administering authority must give written notice of the decision to the applicant and persons who were given notice of the original decision.
- (9) The notice must—
- (a) include the reasons for the review decision; and
 - (b) inform the persons of their right of appeal against the decision.
- (10) If the administering authority does not comply with subsection (5) or (8), the authority is taken to have made a decision confirming the original decision.
- (11) Subsection (7) applies despite the *Acts Interpretation Act 1954*, section 27A.
- (12) This section does not apply to an original decision made by—
- (a) for a matter, the administration and enforcement of which has been devolved to a local government—the local government itself or the chief executive officer of the local government personally; or
 - (b) for another matter—the chief executive personally.
- (13) Also, this section does not apply to an original decision to issue a clean-up notice.
- (14) In this section—
- decision period*** means—
- (a) if a submission is received within the submission period—15 business days after the administering authority receives the application; or
 - (b) if no submissions are received within the submission period—10 business days after the administering authority receives the application.

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522 Stay of operation of particular original decisions

- (1) If an application is made for review of an original decision mentioned in schedule 2, part 1 or 2, the applicant may immediately apply for a stay of the decision to—
 - (a) for an original decision mentioned in schedule 2, part 1—the Land Court; or
 - (b) for an original decision mentioned in schedule 2, part 2—the Court.
- (2) The Land Court or the Court may stay the decision to secure the effectiveness of the review and any later appeal to the Land Court or the Court.
- (3) A stay may be given on conditions the Land Court or the Court considers appropriate and has effect for the period stated by the Land Court or the Court.
- (4) The period of a stay must not extend past the time when the administering authority reviews the decision and any later period the Land Court or the Court allows the applicant to enable the applicant to appeal against the review decision.

Division 3 Appeals

Subdivision 1 Appeals to Land Court

523 Review decisions subject to Land Court appeal

This subdivision applies if the administering authority makes an original decision mentioned in schedule 2, part 1.

524 Right of appeal

A dissatisfied person who is dissatisfied with the decision may appeal against the decision to the Land Court.

525 Appeal period

- (1) The appeal must be started within 22 business days after the appellant receives notice of the decision.
- (2) However, the Land Court may at any time extend the time for starting the appeal.

526 Land Court mediation

- (1) Any party to the appeal may, at any time before the appeal is decided, ask the Land Court to conduct or provide mediation for the appeal.
- (2) The mediation must be conducted by the Land Court or a mediator chosen by the Land Court.

527 Nature of appeal

The appeal is by way of rehearing, unaffected by the review decision.

528 Land Court's powers for appeal

In deciding the appeal, the Land Court has the same powers as the administering authority.

530 Decision for appeals

- (1) In deciding the appeal, the Land Court may—
 - (a) confirm the decision; or
 - (b) set aside the decision and substitute another decision; or
 - (c) set aside the decision and return the matter to the administering authority who made the decision, with directions the Land Court considers appropriate.
- (2) In setting aside or substituting the decision, the Land Court has the same powers as the authority unless otherwise expressly stated.

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- (3) However, this part does not apply to a power exercised under subsection (2).
- (4) If the Land Court substitutes another decision, the substituted decision is taken for this Act, other than this subdivision, to be the authority's decision.

Subdivision 2 Appeals to Court

531 Who may appeal

- (1) A dissatisfied person who is dissatisfied with a review decision may appeal against the decision to the Court.
- (2) However, the following review decisions can not be appealed against to the Court—
 - (a) a review decision to which subdivision 1 applies;
 - (b) a review decision that relates to an original decision mentioned in schedule 2, part 3.
- (3) The chief executive may appeal against another administering authority's decision (whether an original or review decision) to the Court.
- (4) A dissatisfied person who is dissatisfied with an original decision to which section 521 does not apply may appeal against the decision to the Court.

532 How to start appeal

- (1) An appeal is started by—
 - (a) filing written notice of appeal with the registrar of the Court; and
 - (b) complying with rules of court applicable to the appeal.
- (2) The notice of appeal must be filed—

- (a) if the appellant is the chief executive—within 33 business days after the decision is made or taken to have been made; or
 - (b) if the appellant is not the chief executive—within 22 business days after the day the appellant receives notice of the decision or the decision is taken to have been made.
- (3) The Court may at any time extend the period for filing the notice of appeal.
 - (4) The notice of appeal must state fully the grounds of the appeal and the facts relied on.

533 Appellant to give notice of appeal to other parties

- (1) Within 8 business days after filing the notice of appeal, the appellant must serve notice of the appeal on—
 - (a) if the appellant is the chief executive—all persons who were given notice of the original decision; or
 - (b) if the appellant is not the chief executive—the other persons who were given notice of the original decision.
- (2) The notice must inform the persons that, within 10 business days after service of the notice of appeal, they may elect to become a respondent to the appeal by filing in the Court a notice of election under rules of court.

534 Persons may elect to become respondents to appeal

A person who properly files in the Court a notice of election becomes a respondent to the appeal.

535 Stay of operation of decisions

- (1) The Court may grant a stay of a decision appealed against to secure the effectiveness of the appeal.

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- (2) A stay may be granted on conditions the Court considers appropriate and has effect for the period stated by the Court.
- (3) The period of a stay must not extend past the time when the Court decides the appeal.
- (4) An appeal against a decision does not affect the operation or carrying out of the decision unless the decision is stayed.

535A Stay of decision to issue a clean-up notice

- (1) This section applies to an application under section 535 for a stay of a decision to issue a clean-up notice.
- (2) In deciding the application, the Court must have regard to—
 - (a) the quantity and quality of contamination of the environment that is likely to be caused if the stay is granted; and
 - (b) the proximity of the place at or from which the contamination incident is happening or happened to a place with environmental values that may be adversely affected by the contamination.

536 Hearing procedures

- (1) The procedure for an appeal is to be in accordance with the rules of court applicable to the appeal or, if the rules make no provision or insufficient provision, in accordance with directions of the judge.
- (2) An appeal is by way of rehearing, unaffected by the administering authority's decision.

537 Assessors

If the judge hearing an appeal is satisfied the appeal involves a question of special knowledge and skill, the judge may appoint 1 or more assessors to help the judge in deciding the appeal.

538 Appeals may be heard with planning appeals

- (1) This section applies if—
 - (a) a person appeals against an administering authority's decision (whether an original or review decision)—
 - (i) to refuse to accredit an ERMP; or
 - (ii) about an application for an environmental authority for a prescribed ERA; and
 - (b) a person appeals against the assessment manager's decision under the Planning Act about a planning or development matter for the premises to which the ERMP or the application for the authority relates.
- (2) The Court may order—
 - (a) the appeals to be heard together or 1 immediately after the other; or
 - (b) 1 appeal to be stayed until the other has been decided.
- (3) This section applies even though the parties, or all of the parties, to the appeals are not the same.

539 Powers of Court on appeal

- (1) In deciding an appeal, the Court may—
 - (a) confirm the decision appealed against; or
 - (b) vary the decision appealed against; or
 - (c) set aside the decision appealed against and make a decision in substitution for the decision set aside.
- (2) If on appeal the Court acts under subsection (1)(b) or (c), the decision is taken, for this Act (other than this part), to be that of the administering authority.

Part 4 General

540 Registers to be kept by administering authority

- (1) The administering authority must, for its administration under this Act, keep a register of the following—
 - (a) for chapter 5, the following—
 - (i) environmental authorities;
 - (ii) surrendered environmental authorities;
 - (iii) suspended or cancelled environmental authorities;
 - (iv) submitted plans of operations;
 - (b) for chapter 7, part 2—environmental evaluations and environmental reports;
 - (c) monitoring programs carried out under—
 - (i) this Act; or
 - (ii) a development condition of a development approval; or
 - (iii) a condition of an environmental authority;
 - (d) the results of monitoring programs mentioned in paragraph (c);
 - (e) transitional environmental programs;
 - (ea) temporary emissions licences;
 - (f) environmental protection orders;
 - (g) direction notices;
 - (h) clean-up notices;
 - (i) cost recovery notices;
 - (j) authorised persons;
 - (k) other documents or information prescribed under regulation.

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- (2) A reference to a document in subsection (1) includes a reference to any amendment of the document made under this Act.

540A Registers to be kept by chief executive

- (1) The chief executive must keep a register of the following—
- (a) for chapter 3, the following—
 - (i) submitted draft terms of reference for EISs;
 - (ii) written summaries of comments given to the chief executive about draft terms of reference for EISs;
 - (iii) final terms of reference published by the chief executive;
 - (iv) submitted EISs;
 - (v) EIS assessment reports;
 - (b) for chapter 4A—
 - (i) ERMP directions; and
 - (ii) accredited ERMPs;
 - (c) for chapter 5A, the following—
 - (i) eligibility criteria for environmentally relevant activities;
 - (ii) standard conditions;
 - (iii) codes of practice;
 - (iv) suitable operators;
 - (v) suspended or cancelled registrations;
 - (d) for chapter 7, part 8—
 - (i) an environmental management register; and
 - (ii) a contaminated land register;
 - (e) for chapter 12, part 1—

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- (i) guidelines made by the Minister; and
 - (ii) guidelines made by the chief executive;
 - (f) for chapter 12, part 3A—auditors;
 - (g) other documents or information prescribed under regulation.
- (2) A reference to a document in subsection (1) includes a reference to any amendment of the document made under this Act.

541 Keeping of registers

- (1) This section applies if the chief executive or administering authority (the *relevant entity*) is required to keep a register under section 540 or 540A.
- (2) If the relevant entity considers it impracticable to include a document in a register, it may include details of the document in the register instead of the document.
- (3) However, if the register only includes details of a document—
- (a) the relevant entity must keep the document open for public inspection in the way required of a register under section 542; and
 - (b) section 542 applies to the document as if it were included in a register.
- (4) If particulars of any land are recorded in the environmental management register or contaminated land register, they must include the real property description of the land.
- (5) Subject to subsections (2) to (4), the relevant entity may keep a register in the way it considers appropriate, including, for example, on a website.

542 Inspection of register

- (1) The relevant entity must, for a register mentioned in section 540(1) or 540A(1), other than the environmental management register or contaminated land register—
 - (a) keep the register open for inspection by members of the public during office hours on business days at the entity's relevant office for the administration of this Act; and
 - (b) permit a person to take extracts from the register or, on payment of the appropriate fee by a person, give the person a copy of the register, or part of it.
- (2) The fee for a copy of the register or part of it is the amount that—
 - (a) the relevant entity considers to be reasonable; and
 - (b) is not more than the reasonable cost of making the copy.
- (3) The chief executive must, on payment of the fee prescribed under a regulation, permit members of the public to obtain extracts from the environmental management register or contaminated land register.

543 Appropriate fee for copies

- (1) This section applies if, under this Act, the administering authority or other entity must, on payment of the appropriate fee to the entity, give a person a copy of a document, or a part of a document.
- (2) The fee for the copy of the document or part of it is the amount that is the lesser of the following—
 - (a) for the chief executive—the amount the chief executive decides is reasonable;
 - (b) otherwise—the amount the administering authority decides is reasonable;

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- (c) the amount that is no more than the reasonable cost incurred by the authority or other entity in making the copy and giving it to the person.
- (3) Despite subsection (2) or any other provision of this Act, the authority or other entity may give the document without the payment.
- (4) In this section—
document does not include the following registers or an extract from the registers—
 - (a) the environmental management register;
 - (b) the contaminated land register.

544 Approved forms

- (1) The administering executive may approve forms for use under this Act.
- (2) A form may be approved for use under this Act that is combined with, or is to be used together with, an approved form under another Act.

545 Advisory committees

- (1) The Minister may establish as many advisory committees as the Minister considers appropriate for the administration of this Act.
- (2) An advisory committee has the functions the Minister decides.
- (3) A member of an advisory committee is entitled to be paid the fees and allowances decided by the Governor in Council.

546 Chief executive may require administering authority to report

- (1) The chief executive may, by written notice, require an administering authority to give to the chief executive a report on its administration of this Act.
- (2) Subsection (1) does not apply if the chief executive is the administering authority.
- (3) The written notice must state—
 - (a) the information to be included in the report; and
 - (b) when the report is to be given to the chief executive.
- (4) If an administering authority is given a notice under subsection (1), the authority must comply with the notice.

546A Chief executive to provide annual report

- (1) Within 4 months after the end of each financial year, the chief executive must give to the Minister a report on the administration of this Act for the year.
- (2) The chief executive's report must include a statement about requests received by the Minister to prepare environmental protection policies and a brief statement of the reasons for refusing any request.
- (3) An administering authority's report given to the chief executive under section 546 for the preceding financial year must be attached to the chief executive's report.
- (4) The Minister must table a copy of the chief executive's report in the Legislative Assembly within 14 sitting days after receiving it.

547 State of environment report

- (1) At least every 4 years, the chief executive must prepare and publish a report on the state of Queensland's environment.
- (2) The report must—

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- (a) include an assessment of the condition of Queensland's major environmental resources; and
 - (b) identify significant trends in environmental values; and
 - (c) review significant programs, activities and achievements of persons and public authorities about the protection, restoration or enhancement of Queensland's environment; and
 - (d) evaluate the efficiency and effectiveness of environmental strategies implemented to achieve the object of this Act.
- (3) The Minister must table a copy of the report in the Legislative Assembly within 14 sitting days after receiving it.

Chapter 12 Miscellaneous

Part 1 Guidelines

548 Chief executive may make guidelines for administering authorities

- (1) The chief executive may make guidelines about how an administering authority complies with a regulatory requirement.
- (2) If the chief executive makes a guideline about how an administering authority complies with a regulatory requirement, the administering authority must follow the guidelines in complying with the regulatory requirement.
- (3) Before making a guideline, the chief executive must consult with the persons or entities the chief executive considers appropriate.

- (4) If a guideline is made, the chief executive must notify the making of the guideline in the gazette.

549 Chief executive may make guidelines to inform persons

- (1) The chief executive may make guidelines to inform persons about—
- (a) matters to be addressed in a draft terms of reference for an EIS submitted under section 41; or
 - (b) matters to be considered in making standard conditions under chapter 5A, part 2; or
 - (c) the qualifications and experience that may be relevant to suitably qualified persons performing regulatory functions; or
 - (d) another matter the chief executive considers appropriate for the administration of this Act.
- (2) Before making a guideline, the chief executive must consult with the persons or entities the chief executive considers appropriate.
- (3) If a guideline is made, the chief executive must notify the making of the guideline in the gazette.

Part 2 General provisions about applications and submissions

552 When documents are served

- (1) Despite the *Acts Interpretation Act 1954*, section 39A(1), if this Act requires or permits a document to be served by post, service—
- (a) may be effected by properly addressing, prepaying and posting the document as a letter; and

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- (b) is taken to have been effected at the time at which the letter is posted.
- (2) Subsection (1) applies whether the expression ‘deliver’, ‘give’, ‘notify’, ‘send’ or ‘serve’ or another expression is used.

553 Electronic applications and submissions

- (1) This section applies if—
 - (a) this Act requires an application or submission to be made in an approved form; and
 - (b) the form provides that the application or submission may be made at a stated email address.
- (2) The application or submission may be made by electronically transmitting to the email address the information required by the approved form in a format substantially similar to the approved form.

554 Electronic notices about applications and submissions

- (1) This section applies if an application or submission has been made in an approved form, whether or not it has been made under section 553.
- (2) A notice from the applicant to the administering authority about the application or submission may be given by electronically transmitting it to any email address for service for the authority stated in the approved form.
- (3) A notice from the authority or anyone else to the applicant about the application or submission may be given by electronically transmitting it to any email address for service for the applicant stated in the application.
- (4) In this section—

applicant, for a TEP submission, means the person or public authority that made the submission.

TEP submission means a submission for approval of, or an approval of an amendment to, a transitional environmental program.

558 Publication of decision or document by administering authority

- (1) This section applies if a provision of this Act requires the administering authority to publish a decision or document.
- (2) The publication may be made by placing a link to a record or register of the decision or to the document on the authority's website on the internet.
- (3) However, if a regulation requires the decision or document to be published in another way, it must be published in that way.
- (4) The decision or document may also be published in any other way decided by the chief executive.
- (5) In this section—

publish includes make available for public inspection, including, for example, insert or record particulars of in an appropriate register.

Part 3 Suitably qualified persons

564 Definitions for pt 3

In this part—

regulatory function means—

- (a) conducting a site investigation under chapter 7, part 8, division 3; or
- (b) preparing a validation report under chapter 7, part 8, division 4; or

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- (c) preparing a draft site management plan or draft amendment of a site management plan under chapter 7, part 8, division 5; or
- (d) another function prescribed under a regulation.

suitably qualified person, for performing a regulatory function, means a person who—

- (a) has qualifications and experience relevant to performing the function; and
- (b) if a regulation prescribes an organisation for this paragraph—is a member of the organisation.

565 Only suitably qualified person can perform regulatory functions

A regulatory function may only be performed by a suitably qualified person.

Note—

Under section 549(1)(c), the chief executive may make guidelines to inform persons about the qualifications and experience that may be relevant to suitably qualified person performing a regulatory function.

566 Declaration to accompany document

- (1) This section applies if a document about a regulatory function is prepared by a suitably qualified person and submitted to the administering authority.
- (2) The document must be accompanied by a declaration by the person stating all of the following—
 - (a) the person's qualifications and experience relevant to the function;
 - (b) that the person has not knowingly included false, misleading or incomplete information in the document;
 - (c) that the person has not knowingly failed to reveal any relevant information or document to the administering authority;

- (d) the document addresses the relevant matters for the function and is factually correct;
- (e) the opinions expressed in the document are honestly and reasonably held.

Part 3A Auditors

Division 1 Preliminary

567 Who is an *auditor*

An individual is an *auditor* if the individual is approved as an auditor under division 2.

568 Auditor's functions

An auditor may, subject to the terms of an approval under division 2—

- (a) conduct environmental audits and prepare environmental reports about audits under chapter 7, part 2, division 2; and
- (b) evaluate site investigation reports, validation reports, draft site management plans and draft amendments of site management plans prepared under chapter 7, part 8 against criteria prescribed under a regulation (the *prescribed criteria*) and—
 - (i) if the report or plan does not comply with the prescribed criteria—prepare a report about the evaluation; or
 - (ii) if the report or plan complies with the prescribed criteria—provide written certification that it complies with the criteria; and

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- (c) audit or evaluate another matter or thing prescribed under a regulation and prepare a report or written certification about the audit or evaluation.

Division 2 Obtaining approval as auditor

569 Who may apply

An individual may apply to the chief executive for approval as an auditor.

570 Requirements for application

An application for approval as an auditor must—

- (a) be made in the approved form; and
- (b) state the functions proposed to be performed by the applicant; and
- (c) be accompanied by the prescribed fee; and
- (d) state whether the applicant holds professional indemnity insurance; and
- (e) state whether the applicant has been convicted of an offence under this Act; and
- (f) include other information required to be included in the application under a guideline—
 - (i) made by the chief executive; and
 - (ii) prescribed under a regulation.

571 Deciding application

- (1) The chief executive must, within 30 business days after receiving the application, decide to—
 - (a) approve the application; or
 - (b) approve the application subject to conditions; or

- (c) refuse the application.
- (2) Without limiting subsection (1)(b), an approval may be subject to a condition that limits the functions the auditor may perform to a stated type of function.

572 Criteria for decision

In deciding the application, the chief executive must consider—

- (a) the application; and
- (b) whether the applicant—
 - (i) has qualifications and experience relevant to performing the functions of an auditor; and
 - (ii) is a member of an organisation prescribed under a regulation; and
 - (iii) has demonstrated knowledge of—
 - (A) the Act; and
 - (B) another Act the chief executive considers is relevant to performing the functions of an auditor; and
 - (iv) has professional indemnity insurance; and
 - (v) has committed an offence under this Act; and
 - (vi) has committed an offence under another Act involving misleading or fraudulent conduct; and
 - (vii) has been appointed or approved as an auditor under a corresponding law.

573 Notice of decision

- (1) The chief executive must, within 10 business days after the decision is made, give the applicant written notice of the decision.
- (2) The notice must—

[s 574]

- (a) if the decision is to approve the application—be accompanied by a certificate of approval; and
- (b) if the decision is to refuse the application—state the reasons for the decision.

574 Term of approval

An approval remains in force for the term stated in the approval, unless it is earlier cancelled or suspended.

Division 3 Performance of auditor's functions

574A Who may perform auditor's functions

- (1) A function mentioned in section 568 may be performed only by—
 - (a) the administering authority; or
 - (b) an auditor whose approval under division 2 allows the auditor to perform the function.
- (2) However, an auditor must not perform a function mentioned in section 568 if the auditor has a direct or indirect financial interest in a matter or thing relevant to the exercise of the function, other than any fee paid to the auditor for performing the function.

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

574B Auditor must comply with approval

An auditor must comply with the conditions of any approval given under section 571(1)(b), unless the auditor has a reasonable excuse.

Maximum penalty—100 penalty units.

574C Report and declaration to accompany document

- (1) This section applies if—
 - (a) an auditor prepares a report or certification about an audit or evaluation; and
 - (b) a document about the audit or evaluation must be submitted to the administering authority.
- (2) The document must be accompanied by a copy of the report or certification and a declaration by the auditor stating the following—
 - (a) the person's qualifications and experience relevant to the audit or evaluation;
 - (b) that the person has not knowingly included false, misleading or incomplete information in the report or certification;
 - (c) that the person has not knowingly failed to reveal any relevant information or document to the administering authority.
- (3) The declaration must also state that—
 - (a) the report or certification addresses the relevant matters for the audit or evaluation and is factually correct; and
 - (b) the opinions expressed in it are honestly and reasonably held.

Division 4 Suspension or cancellation of approval

574D Grounds for suspension or cancellation

Each of the following is a ground for suspending or cancelling an auditor's approval—

- (a) the auditor has contravened a condition of the approval;

[s 574E]

- (b) the auditor has not complied with a code of conduct for auditors made by the chief executive and prescribed under a regulation;
- (c) the auditor has been convicted of an offence under this Act;
- (d) the auditor has been convicted of an offence under another Act involving misleading or fraudulent conduct;
- (e) the auditor does not have the necessary expertise or experience to perform the auditor's functions;
- (f) the audits conducted by the auditor have not been conducted honestly, fairly or diligently.

574E Show cause notice

- (1) If the chief executive believes a ground exists to suspend or cancel the approval, the chief executive must give the auditor a written notice under this section (a *show cause notice*).
- (2) The show cause notice must state the following—
 - (a) the action the chief executive proposes taking under this division (the *proposed action*);
 - (b) the grounds for the proposed action;
 - (c) an outline of the facts and circumstances forming the basis for the grounds;
 - (d) if the proposed action is suspension of the approval—the proposed suspension period;
 - (e) that the auditor may, within a stated period (the *show cause period*), make written representations to the chief executive to show why the proposed action should not be taken.
- (3) The show cause period must end at least 15 business days after the auditor is given the show cause notice.

574F Representations about show cause notice

- (1) The auditor may make written representations about the show cause notice to the chief executive in the show cause period.
- (2) The chief executive must consider all representations made under subsection (1).

574G Suspension or cancellation

- (1) After considering any representations, the chief executive may—
 - (a) if the proposed action was to suspend the approval—suspend the approval for not longer than the proposed suspension period; or
 - (b) if the proposed action was to cancel the approval—cancel the approval or suspend it for a period.
- (2) If the chief executive decides to take action under subsection (1), the chief executive must give an information notice about the decision to the auditor.
- (3) The decision takes effect on the later of the following—
 - (a) the day the information notice is given to the auditor;
 - (b) the day stated in the information notice for that purpose.

Division 5 Complaints

574H Who may make a complaint

- (1) A person may make a complaint to the chief executive that a ground exists under section 574D for suspending or cancelling an auditor's approval.
- (2) The complaint must be written and state the particulars on which it is based.

[s 574I]

574I What happens after a complaint is made

- (1) As soon as practicable after the chief executive receives a complaint, the chief executive must consider and investigate the complaint.
- (2) After considering and investigating the complaint, the chief executive must decide—
 - (a) to accept the complaint for action under division 4; or
 - (b) to not take action on the complaint under division 4.

574J Notice of decision

- (1) Within 10 business days after making a decision under section 574I(2), the chief executive must give written notice of the decision to the complainant.
- (2) If the decision is not to take action under division 4, the notice given to the complainant must state the reasons for the decision.

Division 6 Miscellaneous

574K Obligation to keep certificate of approval

A person given a certificate of approval under section 573(2)(a) must keep the certificate for the term of the approval, unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

574L Impersonation of auditor

A person must not pretend to be an auditor.

Maximum penalty—100 penalty units.

574M False or misleading information about reports or certification

- (1) An auditor must not, in performing the auditor's functions, make a report or provide a certification that the auditor knows is false or misleading in a material particular.

Maximum penalty—1665 penalty units or 2 years imprisonment.

- (2) It is enough for a complaint for an offence against subsection (1) to state the report or certification was 'false or misleading' to the auditor's knowledge, without specifying which.

Part 4 Entry to land to comply with environmental requirement

575 Entry orders

- (1) This section applies if an environmental requirement requires a person to conduct work in relation to land to which the requirement relates (the *primary land*).
- (2) The person may apply to a Magistrates Court for an order (an *entry order*) to enter—
- (a) the primary land; or
 - (b) other land (*access land*) that is necessary or desirable to cross to enter the primary land.
- (3) The application must state fully the grounds on which the entry order is sought.
- (4) The applicant must serve a copy of the application on—
- (a) the owner of the primary land and any access land; and
 - (b) if the owner of the primary land or any access land is not the occupier of that land—the occupier.

[s 575]

- (5) The court may make an entry order only if it is satisfied it is necessary and reasonable to comply with the environmental requirement.
- (6) However, the court must not make an entry order that authorises entry to a building used for residential purposes.
- (7) Unless the court otherwise orders, an entry order remains in force until the environmental requirement is complied with.
- (8) An entry order must state each of the following—
 - (a) that the applicant may, with necessary and reasonable help—
 - (i) enter the primary land to conduct work to comply with a stated environmental requirement; and
 - (ii) cross any access land to enter the primary land under subparagraph (i);
 - (b) the hours of the day when an entry under paragraph (a) may be made;
 - (c) the nature of the work that may be conducted on the primary land;
 - (d) if the court has made an order under subsection (7)—when the entry order ends;
 - (e) if the court has not made an order under subsection (7)—that the entry order remains in force until the environmental requirement has been complied with.
- (9) An entry order may be made with other conditions.
- (10) Without limiting subsection (9), a condition may—
 - (a) require security to be given for the benefit of anyone who might suffer a cost, damage or loss because of the exercise or purported exercise of a power under an entry order; and
 - (b) provide for how and when the security may be released or used.

576 Procedure for entry under entry order

- (1) This section applies if—
 - (a) a person (the *entering person*) is intending to enter land under an entry order; and
 - (b) an occupier is present on the land.
- (2) Before entering the land, the entering person must do or make a reasonable attempt to—
 - (a) identify himself or herself to the occupier; and
 - (b) give the occupier a copy of the entry order; and
 - (c) tell the occupier that the entering person is permitted by the entry order to enter the land.

577 Duty to avoid damage

In exercising a power under an entry order, a person must take all reasonable steps to ensure the person causes as little inconvenience, and does as little damage, as is practicable.

578 Notice of damage

- (1) If a person who enters land under an entry order damages the land or something on the land, the person must, as soon as practicable, give written notice of the damage to—
 - (a) the owner of the land; and
 - (b) if the owner is not the occupier of the land—the occupier; and
 - (c) the administering authority.
- (2) However, if for any reason it is not practicable to comply with subsection (1), the person must—
 - (a) leave the notice at the place where the damage happened; and
 - (b) ensure it is left in a conspicuous position and in a reasonably secure way.

[s 579]

- (3) The notice must state—
 - (a) particulars of the damage; and
 - (b) that the person who suffered the damage may claim compensation under section 579 from the person who obtained the entry order.

579 Compensation

- (1) This section applies if a person (the *responsible person*) who, under this Act, must comply with an environmental requirement, enters, or authorises someone else to enter, land to which the requirement relates to comply with the requirement.
- (2) Compensation is payable from the responsible person to any owner or occupier of the land for any compensatable effect the owner or occupier suffers because of—
 - (a) the entry; or
 - (b) work conducted in relation to the land to comply, or purport to comply, with the environmental requirement.
- (3) However, compensation is not payable under subsection (2)(b) if the work was conducted by someone other than the responsible person and the responsible person did not authorise the other person to conduct the work.
- (3A) If the land is a licence area under the *Forestry Act 1959*—
 - (a) the plantation licensee or plantation sublicensee, as defined under that Act, for the licence area is an occupier of the land for the purposes of this section; and
 - (b) compensation is payable as provided under this section to the plantation licensee or plantation sublicensee as occupier of the licence area and the State as owner of the State forest of which the licence area forms part in the proportions decided by a court of competent jurisdiction.

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- (4) The compensation may be claimed and ordered in a proceeding brought in a court of competent jurisdiction, including, for example, in an application under any of the following provisions to which the responsible person and the owner or occupier are parties—
- (a) the Mineral Resources Act, section 281 or 283B;
 - (b) the *Petroleum Act 1923*, section 79R;
 - (c) the P&G Act, section 533;
 - (d) the GHG storage Act, section 321;
 - (e) the Geothermal Act, section 256.
- (5) A court may order the payment of the compensation only if it is satisfied it is just to make the order in the circumstances of the particular case.

- (6) In this section—

compensatable effect means all or any of the following in relation to the land—

- (a) deprivation of possession of its surface;
- (b) diminution of its value;
- (c) diminution of the use made, or that may be made, of the land or any improvement on it;
- (d) severance of any part of the land from other parts of the land or from other land that the owner or occupier owns;
- (e) any other cost or loss arising from the work.

enter includes an entry with the consent of the owner or occupier.

owner includes—

- (a) for land under the *Land Act 1994* for which there are trustees—the trustees; or
- (b) for land held under a lease under the *Aurukun and Mornington Shire Leases Act 1978*, section 3—a relevant local government; or

[s 579A]

- (c) for land that, under the *Aboriginal and Torres Strait Islander Land Holding Act 2013*, is lease land for a 1985 Act granted lease or a new Act granted lease—the lessee; or
- (d) for a regional park under the *Nature Conservation Act 1992* (the *NCA*) for which there are trustees—
 - (i) if, under the *NCA*, the park has trustees whose powers are not restricted—the trustees; or
 - (ii) otherwise—the chief executive of the department in which the *NCA* is administered; or
- (e) the State, for land that is any of the following—
 - (i) unallocated State land;
 - (ii) a reserve under the *Land Act* for which there is no trustee;
 - (iii) a national park, national park (Aboriginal land), national park (Torres Strait Islander land) or forest reserve under the *NCA*;
 - (iv) a State forest or timber reserve under the *Forestry Act 1959*;
 - (vi) a State-controlled road under the *Transport Infrastructure Act 1994*.

Part 4A Validation

579A Validation of amendment of environmental authority MIM800098402

- (1) This section applies to the amendment application made on 6 April 2005 for environmental authority (mining lease) number MIM800098402.

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- (2) The Minister's decision made on 8 March 2007 to grant the application is taken to have been validly made under chapter 5.
 - (3) The environmental authority as amended under the decision is taken to have been issued under chapter 5 on 22 March 2007.

Part 4B Protocols and standards

579B Protocols

- (1) A *protocol* is a procedure to be followed in—
 - (a) developing or carrying out a monitoring program; or
 - (b) taking samples; or
 - (c) making tests or measurements; or
 - (d) preserving or storing samples; or
 - (e) performing analyses on samples; or
 - (f) performing statistical analysis of the results of sample analyses and interpreting the results of the analyses; or
 - (g) reporting the results and interpretation of the analyses; or
 - (h) developing or applying a predictive model; or
 - (i) carrying out a risk assessment to predict or estimate the risk of adverse effects of contamination on human health or another part of the environment; or
 - (j) assessing the toxic characteristics of an element, compound or combination of compounds.
- (2) If this Act provides that, in a particular case, a thing is to be done under a protocol, without identifying a particular protocol, then the thing must be done under—

[s 579C]

- (a) a protocol of the department that the department publishes and makes available for inspection by members of the public; or
- (b) if there is no protocol mentioned in paragraph (a) that applies to the case—a protocol issued, before the commencement of this section, by the Australian and New Zealand Environment Conservation Council; or
- (c) if there is no protocol mentioned in paragraph (a) or (b) that applies to the case—a protocol under an Australian Standard or joint Standards Australia and Standards New Zealand standard; or
- (d) if there is no protocol mentioned in paragraphs (a) to (c) that applies to the case—a protocol issued by a Ministerial Council established by the Council of Australian Governments; or
- (e) if there is no protocol mentioned in paragraphs (a) to (d) that applies to the case—a protocol of an entity other than the department that the department publishes and makes available for inspection by members of the public.

579C Prescribed standards

A reference in a provision of this Act to a *prescribed standard* is a reference to an Australian Standard, or joint Standards Australia and Standards New Zealand standard, prescribed under a regulation for the provision.

Part 5 Regulations

580 Regulation-making power

- (1) The Governor in Council may make regulations under this Act.

- (2) Without limiting subsection (1), a regulation may be made about any of the following matters—
- (a) the matters for which fees are payable under this Act, the amounts of the fees, the persons who are liable to pay fees, when the fees are payable, the recovery of unpaid amount of fees, and the exemption from payment of fees or the waiver of fees;
 - (b) the records to be kept and returns to be made by persons and the inspection of the records;
 - (c) the types of tests and monitoring programs to be conducted by holders of environmental authorities;
 - (d) the types of plant or equipment that may be used for environmentally relevant activities and the way in which the plant or equipment is to be installed, operated and maintained;
 - (e) help, access and facilities to be provided to authorised persons by persons for inspections, examinations, tests and measurements for this Act;
 - (f) the taking, preserving and transporting of samples and the making of inspections, examinations, tests, measurements and analyses for this Act, and the proof of them;
 - (g) setting standards, controls or procedures for the manufacture, generation, sale, use, transportation, storage, treatment or disposal of a contaminant, including waste;
 - (h) the removal, collection, transport, deposit, storage or disposal of waste;
 - (i) the qualifications or licence required by a person engaged in carrying out an environmentally relevant activity, and the approval of training courses to provide the qualifications or licence;
 - (j) environmental impact assessments, reports, statements or studies;

[s 580]

- (k) requirements for EISs or the EIS process to allow—
 - (i) the process to be accredited under the Commonwealth Environment Act; or
 - (ii) the making of a bilateral agreement; or
 - (iii) the State to meet its obligations under a bilateral agreement;
 - (l) litter;
 - (m) the keeping of the environmental management register and contaminated land register, including, for example, the information to be included in the registers and made available to persons searching the registers;
 - (n) the carrying out of environmental audits;
 - (o) requirements for environmental audit reports;
 - (p) audit statements;
 - (q) financial assurance;
 - (r) a matter relating to an environmental value, other than a matter mentioned in this Act, that must be considered to decide an application relating to an activity that adversely affects, or may adversely affect, the environmental value;
 - (s) protecting an environmental value by requirements for labelling particular products.
- (3) Without limiting subsection (2)(a), a regulation may prescribe fees by reference to—
- (a) factors related to the quantity or quality of contamination caused or likely to be caused by the persons liable to pay the fees, or a score, assigned by the regulation to an activity to which the fees relate, that reflects the factors; or
 - (b) other factors.
- (4) Also, without limiting subsection (2)(a), a regulation may prescribe fees payable to the administering authority in

relation to its functions under the Planning Act, as assessment manager or concurrence agency, including, for example—

- (a) application fees for development applications; and
 - (b) fees for monitoring compliance with development conditions on a development approval.
- (5) A regulation may be made to give effect to, and enforce compliance with, a national environment protection measure made under the national scheme laws.
- (6) A regulation may be made—
- (a) creating offences against the regulation; and
 - (b) fixing a maximum penalty of a fine of 165 penalty units for an offence against the regulation.

581 Integrated development approval system regulations and guidelines

- (1) This section applies if the administering authority delegates the authority's powers under this Act to a local government.
- (2) A regulation may make provision about, or empower the administering authority to make guidelines about—
 - (a) the policy objectives and criteria to which the local government must have regard; and
 - (b) the way in which the local government must exercise a delegated power, including, for example, time limits for the making of decisions; and
 - (c) appeals from the local government's decisions; and
 - (d) the cases involving the exercise of a delegated power that must be referred to the administering authority or someone else for decision, including the criteria to be applied in deciding whether a particular case must be referred; and
 - (e) the conditions to which an authority issued by the delegate must be subject; and

- (f) the consequences of contravention of the regulation or guidelines.
- (3) This section does not limit the *Acts Interpretation Act 1954*, section 27A.

Chapter 13 Savings, transitional and related provisions

Part 1 Transitional provisions for Environmental Protection and Other Legislation Amendment Act 1997

582 Transfer of certain land on contaminated sites register to environmental management register

- (1) This section applies to land that, immediately before the commencement of this section, was recorded in the contaminated sites register under the *Contaminated Land Act 1991* as being classified as a probable site or restricted site.
- (2) The administering authority must, on or before the commencement, record particulars of the land in the environmental management register.
- (3) Any conditions on the use or management of the land recorded in the contaminated sites register continue to apply to the land as if the conditions were contained in a site management plan prepared for the land under this Act.
- (4) To remove any doubt, it is declared that the owner of land to which this section applies does not have a right of review under section 521, or appeal under section 531, in relation to

the recording of particulars of the land in the environmental management register.

583 Transfer of certain land on contaminated sites register to contaminated land register

- (1) This section applies to land that, immediately before the commencement of this section, was recorded in the contaminated sites register under the *Contaminated Land Act 1991* as being classified as a confirmed site.
- (2) The administering authority must, on or before the commencement, record particulars of the land in the contaminated land register.
- (3) To remove any doubt, it is declared that the owner of land to which this section applies does not have a right of review under section 521 or appeal under section 531 in relation to the recording of particulars of the land in the contaminated land register.

Part 2 Transitional provisions for Environmental Protection and Other Legislation Amendment Act 2000

Division 1 Preliminary

584 Definitions for pt 2

In this part—

additional conditions see section 603(3).

amending Act means the *Environmental Protection and Other Legislation Amendment Act 2000*.

amendment notice see section 606(2)(a).

commencement day means the day this section commences.

condition, of a mining tenement, for division 2, see section 585.

conversion application see section 603(2).

environmental document requirement means a requirement under section 608.

existing Act means this Act as it was in force immediately before chapter 5 commenced.

existing mining activity, under a mining tenement, means an activity carried out under the tenement on, or at any time before, the commencement day.

reminder notice see section 596(2).

special agreement Act means any of the following Acts and any agreement or lease under or mentioned in the Acts—

- (a) *Alcan Queensland Pty. Limited Agreement Act 1965*;
- (b) *Central Queensland Coal Associates Agreement Act 1968*;
- (c) *Central Queensland Coal Associates Agreement and Queensland Coal Trust Act 1984*;
- (d) *Central Queensland Coal Associates Agreement (Amendment) Act 1986*;
- (e) *Central Queensland Coal Associates Agreement Amendment Act 1989*;
- (f) *Commonwealth Aluminium Corporation Pty. Limited Agreement Act 1957*;
- (g) *Mount Isa Mines Limited Agreement Act 1985*;
- (h) *Queensland Nickel Agreement Act 1970*;
- (i) *Queensland Nickel Agreement Act 1988*;
- (j) *Thiess Peabody Coal Pty. Ltd. Agreement Act 1962*;

(k) *Thiess Peabody Mitsui Coal Pty. Ltd. Agreements Act 1965.*

transitional authority, for division 4, see section 592.

transitional period means the period from the commencement day to 5 years after the commencement day.

Division 2 Existing environmental authorities and mining activities

Subdivision 1 Preliminary

585 What is a *condition* of a mining tenement for div 2

- (1) For this division, a *condition* of a mining tenement means any of the following—
 - (a) a condition of the mining tenement determined, imposed or prescribed under the Mineral Resources Act;
 - (b) a condition of, or stated in, the mining tenement;
 - (c) a commitment, obligation, requirement or undertaking under, or stated in, the most recent version of a planning document for the mining tenement.
- (2) For subsection (1)(c), the most recent version of a planning document is taken to be the original planning document adopted by the MRA department, as amended from time to time by any amendment or purported amendment of the document adopted by that department.
- (3) For subsection (2), a document or amendment is taken to have been adopted by the MRA department if—
 - (a) it has been accepted or approved under the Mineral Resources Act by the MRA Minister, the mining registrar, the MRA department or an officer of that department; or

- (b) the MRA department, or an officer of that department, has accepted or approved, or purported to accept or approve, the document or amendment, whether or not the acceptance or approval was required by, or could lawfully have been made under, the Mineral Resources Act.

- (4) In this section—

Mineral Resources Act means that Act as in force from time to time before the commencement day.

MRA department means the department through which the Mineral Resources Act is administered.

planning document, for a mining tenement, means—

- (a) if the mining tenement is a mining claim—the outline under the Mineral Resources Act, section 61(1)(j)(iv) for the mining claim; or
- (b) if the mining tenement is an exploration permit—the statement under the Mineral Resources Act, section 133(f)(i) specifying a description of the program of work for the permit; or
- (c) if the mining tenement is a mineral development licence—the statement under the Mineral Resources Act, section 183(1)(m) containing proposals for the licence mentioned in that paragraph; or
- (d) if the mining tenement is a mining lease—
 - (i) any environmental management overview strategy for the lease; and
 - (ii) either—
 - (A) any plan of operations for the lease under the Mineral Resources Act, part 7; or
 - (B) if there is no plan of operations in force for the lease immediately before the commencement day—the most recent

expired plan of operations for the lease under the Mineral Resources Act, part 7.

Subdivision 2 Existing authorities for mining activities

586 Existing authority becomes an environmental authority (mining activities)

- (1) This section applies if, immediately before the commencement day—
 - (a) an environmental authority is in force; and
 - (b) the authority was for, or included, a mining activity.
- (2) On the commencement day, the authority, is taken to be an environmental authority (mining activities).
- (3) Chapter 5 applies to the authority, subject to division 4.

586A Existing authority becomes an environmental authority (mining activities)

- (1) This section applies if, on 1 January 2001—
 - (a) an environmental authority had been issued; and
 - (b) the authority was for, or included, a mining activity; and
 - (c) the authority could not take effect until a mining tenement was granted.
- (2) From the day the tenement was or is granted, the authority is taken to be an environmental authority (mining activities).
- (3) Chapter 5 applies to the authority, subject to division 4.

587 Conditions of environmental authority

- (1) The conditions of an environmental authority that, under section 586 or 586A, is taken to be an environmental authority (mining activities) are as follows—
 - (a) the conditions of the authority immediately before the commencement day;
 - (b) each condition of a relevant mining tenement that, had an environmental authority (mining activities) been granted for the relevant mining activity on the commencement day, would reasonably be expected to be a condition of the environmental authority (mining activities);
 - (c) any financial assurance condition imposed on the authority under section 598;
 - (d) another condition prescribed under a regulation.
- (2) If under subsection (1)(b) a condition of a relevant mining tenement becomes a condition of the authority, it ceases to have effect as a condition of the tenement.
- (3) Subsection (2) applies despite the Mineral Resources Act.

Subdivision 3 Existing mining activities without environmental authority

588 New environmental authority (mining activities) for existing activities

- (1) This section applies if, immediately before the commencement day—
 - (a) a person holds a mining tenement; and
 - (b) there is no environmental authority in force for any mining activity authorised under the mining tenement.
- (2) On the commencement day, the person, is taken to hold a single environmental authority (mining activities) for all

existing mining activities under the mining tenement that, immediately before the commencement day, were level 2 environmentally relevant activities.

- (3) However, if the mining tenement was part of a mining project, the person is taken to hold a single environmental authority (mining activities) for all existing mining activities under the mining tenements that form the project.
- (4) Chapter 5 applies to the authority, subject to division 4.

589 Conditions of environmental authority

- (1) The conditions of an environmental authority (mining activities) under section 588 are—
 - (a) each condition of a relevant mining tenement that would reasonably be expected to be a condition of the authority; and
 - (b) any financial assurance condition imposed on the authority under section 598; and
 - (c) another condition prescribed under a regulation.
- (2) If, under subsection (1)(a), a condition of a relevant mining tenement becomes a condition of the authority, it ceases to have effect as a condition of the tenement.
- (3) Subsection (2) applies despite the Mineral Resources Act.

Division 3 Unfinished applications

590 Procedure if certificate of application issued and conditions decided

- (1) The existing Act applies to an environmental authority application if, before the commencement day—
 - (a) a person applied for a mining tenement and an environmental authority in relation to the tenement; and

- (b) a certificate of application for the mining tenement application was endorsed by the mining registrar; and
 - (c) the administering authority has decided conditions for the environmental authority; and
 - (d) the mining tenement has not been granted and the environmental authority has not been issued.
- (2) An environmental authority issued by applying the existing Act becomes an environmental authority (mining activities) immediately after it is issued.
- (3) However, despite any provision of the existing Act, the conditions of the environmental authority must only be—
- (a) the decided conditions; and
 - (b) any condition that—
 - (i) under the Mineral Resources Act, would have been imposed on a relevant mining tenement had the amending Act not been enacted; and
 - (ii) had an environmental authority (mining activities) been granted for each relevant mining activity on the commencement day, would reasonably be expected to be a condition of the environmental authority (mining activities); and
 - (c) any financial assurance condition imposed on the authority under section 598.
- (4) Chapter 5 applies to the authority, subject to division 4.
- (5) In this section—

certificate of application means a certificate of application under the Mineral Resources Act, section 64 or 252, as in force immediately before the commencement day.

591 Procedure for other unfinished applications

- (1) This section applies if—

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- (a) before the commencement day, a person applied for a mining tenement; and
 - (b) the mining tenement has not been granted; and
 - (c) an environmental authority application in relation to the mining tenement is not an application to which, under section 590(1), the existing Act applies.
- (2) The environmental authority application is taken to have been made on the commencement day.
 - (3) Chapter 5 applies to the application.
 - (4) However, the following do not apply—
 - (a) a time requirement under that chapter for the administering authority to—
 - (i) make an assessment level decision; or
 - (ii) take a step for deciding the application; or
 - (iii) decide the application or make a decision about the application;
 - (b) sections 169 and 182.

Division 4 Transitional authorities for mining activities

Subdivision 1 Preliminary

592 Meaning of *transitional authority* for div 4

- (1) For this division, a *transitional authority* means—
 - (a) an existing environmental authority that, under section 586 or 586A is taken to be an environmental authority (mining activities); or
 - (b) a new environmental authority (mining activities) that, under section 588, is taken to be held by a person; or

- (c) an environmental authority (mining activities) if, under section 590(1), the existing Act applied to the application for the authority.
- (2) However, a transitional authority under subsection (1) ceases to be a transitional authority if it is—
 - (a) amended under subdivision 3; or
 - (b) transferred.

Editor's note—

See also subdivision 3 (Amendment and consolidation of transitional authorities).

- (3) Subsection (2) does not affect the authority continuing to be an environmental authority (mining activities) after it ceases to be a transitional authority.

Subdivision 2 Special provisions for transitional authorities

593 Transitional authority taken to be non-code compliant

A transitional authority is taken to be a non-code compliant authority under chapter 5, issued for a level 1 mining project.

594 Limited application of s 426 for transitional authority

- (1) Section 426 does not apply to a person carrying out an existing mining activity under a mining tenement that is not authorised under a transitional authority if the holder of a transitional authority has—
 - (a) made a relevant amendment application and the application has not been decided; or
 - (b) given the administering authority notice of the activity (*activity notice*) and no more than 30 days have passed since the notice was given.

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- (2) However, an activity notice can not be given if an activity notice has already been given for the activity or another activity that is substantially the same as the activity.
 - (3) An activity notice must state—
 - (a) the mining tenement under which the existing activity is being carried out; and
 - (b) the nature of the activity; and
 - (c) that the activity is not authorised under the conditions of the transitional authority.
 - (4) To remove any doubt, it is declared that this section does not limit the application of sections 430 and 431 to the transitional authority.
 - (5) In this section—

relevant amendment application means an application to amend the transitional authority that, if granted, would allow the carrying out of the activity under the authority.

595 Requirement to apply to amend, surrender or transfer transitional authority

- (1) The holder of a transitional authority must, within the required period, make in relation to the authority—
 - (a) a conversion application; or
 - (b) an amendment, surrender or transfer application under chapter 5.
- (2) Also, if the holder does not also hold a relevant mining tenement, the holder must, on the happening of the earlier of the following, make a surrender application or an application under section 607 for the authority—
 - (a) the replacement or amendment, under section 235, of any plan of operations for the authority;
 - (b) 90 days before the transitional period ends.
- (3) In this section—

required period means—

- (a) if the person is, under section 588, taken to hold the authority—6 months after the commencement day; or
- (b) otherwise—the transitional period.

596 Notice by administering authority to amend, surrender or transfer transitional authority

- (1) This section applies if the holder of a transitional authority does not make an application required under section 595.
- (2) The administering authority may, by written notice (a *reminder notice*), require the holder to make the application within a fixed period of at least 10 business days.
- (3) The reminder notice must state the following—
 - (a) the application the holder is required to make under section 595;
 - (b) the period fixed for making the application;
 - (c) reasons for the decisions to make the requirement and to fix the period;
 - (d) the review or appeal details for the decisions.

597 Consequences of failure to comply with reminder notice

- (1) A person to whom a reminder notice has been given must comply with the notice unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

- (2) The failure to comply with the reminder notice is, for applying chapter 5, part 12 to the transitional authority, taken to be an event mentioned in section 293(2).

598 Financial assurance for transitional authority

- (1) This section applies if, under the Mineral Resources Act, security has been deposited or required in relation to a relevant mining tenement for a transitional authority.
- (2) A condition is taken to have been imposed, under section 364, on the authority that the authority holder must give the administering authority financial assurance for each relevant mining tenement.
- (3) If the security has been deposited under the Mineral Resources Act for a relevant mining tenement, the requirement under the condition to give the financial assurance is taken to have been complied with for the tenement.
- (4) The financial assurance required under the condition is taken to be security for the matters mentioned in section 364(1)(a) and (b) in relation to the transitional authority.
- (5) Subsection (4) applies despite the Mineral Resources Act or the terms of an instrument granting the security or other document, including, for example, a term that the security or its benefit is not transferable.
- (6) For section 364(1), the form of the financial assurance for each relevant mining tenement is taken to have been required in the same form as each security given or required for the tenement.
- (7) However, the financial assurance is taken to have been given for valuable consideration and any instrument granting it is taken to have been executed as a deed under seal by each party to the instrument.
- (8) The amount of financial assurance for each relevant mining tenement is taken to have been decided under section 364(3) as the lesser of the following—
 - (a) the amount of security given or required for each relevant mining tenement;

- (b) any amount the administering authority decides would have been the amount under section 364(3) for the financial assurance had the amount been decided on the commencement day.
- (9) Section 365 and chapter 11, part 3 do not apply to financial assurance under this section or to a decision under subsection (8)(b).

599 Effect of financial assurance on security

- (1) The financial assurance condition under section 598 only affects a security to the extent provided under that section.
- (2) Without limiting subsection (1), section 598 does not affect or change—
 - (a) the security as a security under the Mineral Resources Act; or
 - (b) the matters for which the security was given under that Act; or
 - (c) the enforcement of the security under that Act, as amended by the amending Act.
- (3) Section 598, or any thing done under it, does not—
 - (a) discharge a security; or
 - (b) discharge or release a surety or other obligee, wholly or partly, from an obligation; or
 - (c) fulfil a condition allowing a person to terminate an instrument or be released, wholly or partly, from an obligation or modify the operation or effect of an instrument or obligation.
- (4) If the advice or consent of, or giving notice to, a person would be necessary to give effect to the giving of the financial assurance—
 - (a) the advice is taken to have been obtained; and
 - (b) the consent or notice is taken to have been given.

600 Plan of operations

- (1) This section applies if a transitional authority is an environmental authority (mining lease).
- (2) If a plan of operations for a relevant mining lease is in force under the Mineral Resources Act immediately before the commencement day, the plan—
 - (a) is taken to be the plan of operations for the transitional authority submitted under section 233; but
 - (b) continues in force only until the earlier of the following—
 - (i) the end of the period that the plan would, other than for the amending Act, have been in force under the Mineral Resources Act;
 - (ii) the plan is replaced under section 235.
- (3) If there is no plan of operations in force for a relevant mining lease immediately before the commencement day, the most recent expired plan of operations under the Mineral Resources Act for the lease—
 - (a) is taken to be the plan of operations for the transitional authority submitted under section 233; but
 - (b) continues in force only until 6 months after the commencement day.
- (4) Section 540(1)(e)(iv) does not apply to a plan of operations that, under this section, is taken to be the plan of operations for an authority.

601 Annual fee and return for first year of transitional period

- (1) This section applies to the holder of a transitional authority, instead of section 316, for the first year of the transitional period.
- (2) The holder must, unless the holder has a reasonable excuse, do the following on or before the end of the first year—

- (a) pay the administering authority the appropriate annual fee, other than in a circumstance prescribed under a regulation for this paragraph; and
 - (b) give the authority an annual return in the approved form.
Maximum penalty—100 penalty units.
- (3) The administering authority may recover, as a debt, a fee required to be paid under this section that has not been paid.
- (4) This section does not affect the application of section 316 for the holder or the transitional authority for any period other than the first year of the authority.

602 Anniversary day for certain transitional authorities

- (1) The anniversary day for a transitional authority is the commencement day if—
- (a) under section 588, a person is taken to hold the authority; or
 - (b) the authority was a level 2 approval under the existing Act.

Editor's note—

For other transitional authorities, see schedule 4, definition *anniversary day*.

- (2) If a transitional authority ceases to be a transitional authority, but becomes another type of environmental authority (mining activities), the anniversary day for the environmental authority (mining activities) is taken to be the day the authority ceased to be a transitional authority.

Subdivision 3 Amendment and consolidation of transitional authorities

603 Application to convert transitional authority to environmental authority for a level 2 mining project

- (1) This section applies despite chapter 5, part 8.
- (2) A transitional authority holder who holds each relevant mining tenement may apply (a *conversion application*) to the administering authority to convert the transitional authority to either of the following under chapter 5—
 - (a) a code compliant authority;
 - (b) a non-code compliant authority for a level 2 mining project.
- (3) If the application is for a non-code compliant authority for a level 2 mining project, it may also request that conditions (*additional conditions*) other than the relevant standard environmental conditions be imposed on the authority.

603A Requirements for conversion application

A conversion application must—

- (a) be in the approved form; and
- (b) state the type of environmental authority (mining activities) under section 603(2) to which the transitional authority is proposed to be converted; and
- (c) if the application is for a code compliant authority—certify that all mining activities proposed to be carried out under it comply with the criteria prescribed under section 151(2)(a) for the stated type of environmental authority to be a code compliant authority under chapter 5; and
- (d) if the application is for a non-code compliant authority for a level 2 mining project—certify that the applicant

can, in carrying out the relevant mining activities for the converted authority, comply with—

- (i) the relevant standard environmental conditions for the stated type of environmental authority; or
 - (ii) the relevant standard environmental conditions and any additional conditions requested; and
- (e) be accompanied by the fee prescribed under a regulation.

603B Automatic conversion for particular applications

- (1) This section applies on the making of a conversion application if it complies with section 603A.
- (2) If the application is for a code compliant authority, the relevant transitional authority becomes a code compliant authority under chapter 5.
- (3) If the application is for a non-code compliant authority for a level 2 mining project and no additional conditions are requested in the application, the relevant transitional authority becomes a non-code compliant authority for a level 2 mining project.

603C Deciding application if additional conditions requested

- (1) This section applies if the conversion application is for a non-code compliant authority for a level 2 mining project and additional conditions are requested in the application.
- (2) The administering authority must, within 10 business days after it receives the application, decide whether—
 - (a) to grant the application; and
 - (b) if it decides to grant—to impose the additional conditions.
- (3) However, an additional condition may be imposed only if the administering authority considers—

- (a) the condition is necessary or desirable; and
 - (b) that, if the condition is imposed, the proposed non-code compliant authority would still be for a level 2 mining project.
- (4) In making the decisions, the administering authority must consider the criteria mentioned in section 173(2).
- (5) On, the granting of the application, the relevant transitional authority is taken to be a non-code compliant authority for a level 2 mining project.
- (6) If additional conditions are imposed on the non-code compliant authority, the administering authority must, within 10 business days after the granting of the application—
- (a) amend the non-code compliant authority to include the conditions; and
 - (b) record particulars of the amendment in the appropriate register; and
 - (c) give the applicant a copy of the amended non-code compliant authority.

604 Other amendment applications

- (1) This section applies if an application, other than a conversion application, is made to amend a transitional authority.
- (2) Chapter 5, part 8, applies to the application.
- (3) However, chapter 5, part 6, division 6, does not apply to the application if—
 - (a) the activities authorised under each relevant mining tenement have not changed since the commencement day; and
 - (b) no application has been made to change the activities authorised under any relevant mining tenement.

605 Additional grounds for amendment by administering authority

For applying section 292 for a transitional authority, the following grounds apply, as well as the grounds under section 292(2)—

- (a) the ending of the transitional period;
- (b) the administering authority can not, by applying section 587 or 589, work out the conditions of the transitional authority;
- (c) a condition of the transitional authority under section 587 or 589 creates a right or imposes an obligation that the administering authority considers is uncertain or not reasonably enforceable;
- (d) if the transitional authority is an environmental authority (mining lease)—the authority holder submits or amends a plan of operations for the authority;
- (e) the amendment is necessary to prevent environmental harm not already authorised under the environmental authority.

606 Ministerial power to amend

- (1) This section applies to an environmental authority (mining activities) that is, or has been, a transitional authority.
- (2) During the transitional period the Minister may amend the authority if the Minister—
 - (a) gives the environmental authority holder a written notice (an *amendment notice*) stating—
 - (i) the proposed amendment; and
 - (ii) the Minister's reasons for the amendment; and
 - (iii) that the holder may, within a stated period of at least 10 business days, make written representations to show why the amendment should not be made; and

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- (b) considers any written representations made by the holder within the stated period.
 - (3) The administering authority must, within 10 business days after the Minister decides to amend the environmental authority—
 - (a) make the amendment; and
 - (b) give the holder a copy of the amended environmental authority; and
 - (c) record particulars of the amendment in the appropriate register.
 - (4) If the Minister gave an amendment notice, but decided not to make the proposed amendment, the administering authority must, within 10 business days after the decision is made, give the holder a written notice of the decision.

607 Consolidation of conditions for same mining project

- (1) This section applies—
 - (a) if more than 1 person holds a transitional authority for the same mining project; and
 - (b) despite chapter 5.
- (2) A person who holds a transitional authority for the project, may apply to the administering authority to—
 - (a) amend any environmental authority (mining activities) held by a stated holder of a relevant mining tenement to include the conditions of the applicant's transitional authority; and
 - (b) surrender the applicant's transitional authority.
- (3) The application must—
 - (a) be in the approved form; and
 - (b) if the stated mining tenement holder is not the applicant—be accompanied by the tenement holder's written consent.

- (4) The administering authority must, within 10 business days after it receives the application, decide either to grant or refuse it.
- (5) If the authority decides to grant the application, it must within 10 business days after the decision is made—
 - (a) amend the stated mining tenement holder's environmental authority (mining activities) to give effect to the amendment; and
 - (b) record the surrender in the appropriate register; and
 - (c) give the mining tenement holder a copy of the amended authority.
- (6) The amendment takes effect on the day of the amendment or a later day stated in the amended authority.
- (7) If the authority decides to refuse the application, it must within 10 business days after the decision is made, give each applicant an information notice about the decision.
- (8) This section does not limit the authority's power to amend an environmental authority (mining activities) under chapter 5, part 12 or section 605.

Subdivision 4 Environmental management plan requirements

608 Environmental management plan may be required

- (1) This section applies if a transitional authority is—
 - (a) an environmental authority (exploration); or
 - (b) an environmental authority (mineral development); or
 - (c) an environmental authority (mining lease).
- (2) During the transitional period, the administering authority may require the holder of the transitional authority to submit an environmental management plan to it.

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- (3) However, the requirement may be given to the holder only by a written notice—
- (a) stating the following—
 - (i) the holder's name;
 - (ii) the transitional authority;
 - (iii) the requirement;
 - (iv) a reasonable period of at least 28 days for the requirement to be complied with; and
 - (b) that is accompanied by, or includes, an information notice about the decision to make the requirement.
- (4) An environmental management plan submitted under this section is taken to be the submitted EM plan for the transitional authority.

609 Consequence of failure to comply with requirement

- (1) If a person fails to comply with an environmental document requirement for a transitional authority, section 293 applies for the transitional authority as if—
- (a) the failure was an event mentioned in section 293(2); and
 - (b) the reference to cancellation or suspension in section 293(1) is a reference only to suspension.
- (2) Subsection (1) does not prevent the administering authority deciding to amend the transitional authority under chapter 5, part 12.

Division 5 Transitional provisions other than for mining activities

610 Application of div 5

This division applies for an environmental authority, or an application for an environmental authority, under the existing Act, other than for a mining activity.

611 Unfinished applications under existing Act

- (1) An application for a licence under chapter 3, part 4, of the existing Act that, immediately before the commencement day, has not been decided is taken on the commencement day to be an application for a licence (without development approval) under chapter 4, part 3, division 2, subdivision 1.
- (2) An application for a level 1 approval under chapter 3, part 4, of the existing Act that, immediately before the commencement day, has not been decided is taken on the commencement day to be a conversion application under chapter 4, part 4.
- (3) An application for a licence under chapter 3, part 4A, of the existing Act that, immediately before the commencement day, has not been decided is taken on the commencement day to be an application for a licence (with development approval) under chapter 4, part 3, division 1.
- (4) An application for a level 1 approval under chapter 3, part 4A, of the existing Act that, immediately before the commencement day, has not been decided is taken on the commencement day to be a conversion application under chapter 4, part 4.
- (5) An application for a development approval under chapter 3, part 4B, of the existing Act that, immediately before the commencement day, has not been decided is taken on the commencement day to be an application to which chapter 4, part 2 applies.

- (6) An application under chapter 3 of the existing Act to amend an environmental authority that, immediately before the commencement day, has not been decided is taken on the commencement day to be an amendment application under chapter 4, part 5.
- (7) An application under chapter 3 of the existing Act to transfer an environmental authority that, immediately before the commencement day, has not been decided is taken on the commencement day to be a transfer application under chapter 4, part 6.

612 Environmental authorities under existing Act

- (1) A provisional licence in force under section 47 of the existing Act is taken on the commencement day to be a provisional licence issued on the same day as the day the provisional licence under section 47 was issued.
- (2) A licence in force under the existing Act is taken on the commencement day to be a licence under this Act as amended by the amending Act.
- (3) A level 1 approval in force under the existing Act is taken on the commencement day to be a level 1 approval under this Act as amended by the amending Act.
- (4) A level 2 approval in force under the existing Act is taken on the commencement day to be a level 2 approval under this Act as amended by the amending Act.
- (5) This section does not limit the *Environmental Protection Regulation 1998*, section 73.

Division 6 Original provisions about special agreement Acts

614 Existing Act continues to apply for special agreement Acts until div 7 commences

- (1) The existing Act continues to apply for an activity, circumstance, or matter provided for under, or to which, a special agreement Act applies as if the amending Act, other than for the insertion of section 584 and this section, had not been enacted.
- (2) Subsection (1) ceases to apply when division 7 commences.
- (3) Subsection (2) does not limit section 616D or 616K(2B).

Division 7 Provisions about special agreement Acts inserted under Environmental Protection and Other Legislation Amendment Act 2008

Subdivision 1 Preliminary

615 Definitions for div 7

In this division—

commencement means the commencement of this section.

condition, under a special agreement Act, see section 616.

current Act means this Act as in force from time to time.

new authority application see section 616N.

pre-amended MRA means the Mineral Resources Act—

- (a) as it was in force immediately before 1 January 2001;
and
- (b) as it has applied under section 735 of that Act.

relevant transitional authority see section 616N.

SAA environmental authority (mining) means an environmental authority for an SAA mining activity under the existing Act as it has applied under section 614(1).

SAA mining activity means a mining activity provided for under a special agreement Act, or to which a special agreement Act applies.

transitional authority (SAA) see section 616B(3).

616 What is a *condition* under a special agreement Act

(1) For this division, a *condition* under a special agreement Act means any of the following—

(a) a condition of a mining lease or special lease provided for under the special agreement Act and determined, imposed or prescribed under the pre-amended MRA or the repealed *Land Act 1962*;

Note—

For special leases, see the *Land Act 1994*, section 476 (Existing leases continue).

(b) a condition of, or stated in, a mining lease, special lease or agreement provided for under the special agreement Act;

(c) a requirement under, or stated in, the most recent version of the following planning documents for a mining lease or special lease provided for under the special agreement Act—

(i) for a mining lease provided for under the *Mount Isa Mines Limited Agreement Act 1985*—the relevant provisions of a mining plan approved under part 2 of the agreement defined under that Act relating to the lease;

(ii) for a lease mentioned in this subsection, other than a lease mentioned in subparagraph (i), each of the following—

- (A) an environmental management overview strategy, however called, for the lease;
 - (B) a plan of operations for the lease under part 7 of the pre-amended MRA or, if there is no plan of operations in force for the lease immediately before the commencement, the most recently expired plan of operations for the lease under part 7 of the pre-amended MRA.
- (2) For deciding, under subsection (1)(c), the most recent version of a planning document mentioned in subsection (1)(c)(ii), section 585(2) and (3) applies as if—
 - (a) a reference to the Mineral Resources Act were a reference to the pre-amended MRA; and
 - (b) a reference to the MRA department were a reference to the department through which the pre-amended MRA was administered.
- (3) In this section—

requirement includes a commitment, obligation or undertaking.

616A EPA provisions prevail

- (1) Subsection (2) applies if there is an inconsistency between—
 - (a) a provision of the current Act (an *EPA provision*); and
 - (b) a provision of a special agreement Act.
- (2) To remove any doubt, it is declared that the EPA provision prevails to the extent of the inconsistency.

Subdivision 2 Conversion of SAA environmental authorities (mining)

616B Conversion to transitional authority (SAA)

- (1) This section applies to an SAA environmental authority (mining) that was in force immediately before the commencement.
- (2) On the commencement, the SAA environmental authority (mining) is taken to be an environmental authority (mining lease).
- (3) An SAA environmental authority (mining) that is taken to be an environmental authority (mining lease) under subsection (2) is a *transitional authority (SAA)*.
- (4) Chapter 5 and section 316 apply to a transitional authority (SAA), subject to subdivisions 4 to 7.

616C Conditions of transitional authority (SAA)

The conditions of a transitional authority (SAA) for an SAA mining activity are all of the following—

- (a) the conditions of the authority immediately before the commencement;
- (b) each condition under the special agreement Act that, had an environmental authority (mining activities) been granted for the SAA mining activity on the commencement, would reasonably be expected to have been a condition of the environmental authority (mining activities), having regard to the conditions that—
 - (i) under section 210, may or must be included in a draft environmental authority; or
 - (ii) under section 305, may be imposed on an environmental authority (mining activities);

- (c) the condition about financial assurance imposed under section 616I.

616D Changing conditions of transitional authority (SAA)

- (1) Subsection (2) applies for changing a condition of a transitional authority (SAA).
- (2) Subject to subsection (3), the special agreement Act to which the transitional authority (SAA) relates and the existing Act continue to apply for changing the condition of the authority as if the amending Act, other than for the insertion of section 584, had not been enacted.

Note—

See also the Mineral Resources Act, section 735(3) and (4).

- (3) Subsection (2)—
 - (a) does not apply for making or deciding an application under section 616H(1)(b) to amend the authority; and
 - (b) does not limit subdivision 6; and
 - (c) stops applying if the authority is amended under subdivision 6 and the amended authority has taken effect under the current Act.

Subdivision 3 Unfinished applications

616E Procedure for unfinished applications

- (1) This section applies if—
 - (a) before the commencement, a person applied under the existing Act for, or in relation to, an SAA environmental authority (mining) for a mining lease provided for under a special agreement Act; and
 - (b) the application has not been decided.
- (2) Subject to subsections (3) to (7)—

- (a) the application is taken to have been made on the commencement; and
 - (b) chapter 5 applies to the application, with necessary changes, as if it were a non-code compliant application for a level 1 mining project.
- (3) If the application was accompanied by an environmental management overview strategy under the pre-amended MRA, section 245, the strategy is taken to be an environmental management plan submitted by the applicant under section 201.
- (4) If a certificate of application for the mining lease was endorsed by the mining registrar under the pre-amended MRA, section 252, the person is taken to have given and published an application notice under section 211 for the application.
- (5) If the person gave an environmental impact statement under the pre-amended MRA, section 264, the EIS process is taken to have been completed under section 60.
- (6) If an objection was lodged with the mining registrar under the pre-amended MRA, section 260, and not heard by the tribunal under that Act, the objection is taken to be a properly made objection under section 217.
- (7) If the tribunal made a recommendation under section 269 of the pre-amended MRA relating to an environmental matter, an objections decision on the same terms as the recommendation is taken to have been made under section 222.

Editor's notes—

- 1 pre-amended MRA, sections 252 (Certificate of application etc.), 245 (Application for grant of mining lease), 260 (Objection to application for grant of mining lease), 264 (What happens after environmental impact statement is prepared?) and 269 (Tribunal's recommendation on hearing)
- 2 sections 60 (When process is completed), 201 (Environmental management plan required), 211 (Public notice of application), 217 (Acceptance of objections) and 222 (Nature of objections decision) of the Act

Subdivision 4 Special provisions for transitional authorities (SAA)

616F Transitional authority (SAA) taken to be non-code compliant

A transitional authority (SAA) is taken to be a non-code compliant authority under chapter 5, issued for mining activities for a level 1 mining project.

616G Limited application of s 426 for transitional authority (SAA)

- (1) Section 426 does not apply to a person carrying out an SAA mining activity that is not authorised under a transitional authority (SAA) if—
 - (a) the person was carrying out the activity immediately before the commencement; and
 - (b) either—
 - (i) the holder of the authority has made a relevant amendment application or a relevant new application about the activity under the authority and the application has not been decided; or
 - (ii) the holder of the authority has given the administering authority notice of the activity (an *activity notice*) and no more than 30 days have passed since the notice was given.
- (2) However, an activity notice can not be given if an activity notice has already been given for the activity or another activity that is substantially the same as the activity.
- (3) An activity notice must state—
 - (a) the mining lease or agreement under which the activity is being carried out; and
 - (b) the nature of the activity; and

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- (c) that the activity is not authorised under the conditions of the authority.
- (4) To remove any doubt, it is declared that this section does not limit the application of sections 430 and 431 to the holder of the authority.

- (5) In this section—

relevant amendment application, about an SAA mining activity under a transitional authority (SAA), means an application to amend the authority that, if granted, would allow the carrying out of the activity under the transitional authority (SAA).

relevant new application, about an SAA mining activity under a transitional authority (SAA), means an application under the current Act for an environmental authority (mining activities) for a level 1 mining project, that, if granted, would allow the carrying out of the activity under the environmental authority (mining activities).

616H Requirement to apply for new authority or amend etc. transitional authority (SAA)

- (1) The holder of a transitional authority (SAA) must, within 3 years after the commencement, apply under the current Act for—
- (a) an environmental authority (mining activities) for a level 1 mining project; or
 - (b) an amendment of the transitional authority (SAA) for converting it to an environmental authority (mining activities) for a level 1 mining project; or
 - (c) the surrender of the transitional authority (SAA); or
 - (d) the transfer of the transitional authority (SAA) to an entity other than a wholly-owned subsidiary of the holder of the authority within the meaning of the Corporations Act.

Note—

If subsection (1) is not complied with, the transitional authority (SAA) ends. See section 616M.

- (2) To remove any doubt, it is declared that the transfer of a transitional authority (SAA) to a wholly-owned subsidiary of the holder of the authority within the meaning of the Corporations Act does not constitute compliance with the obligation under subsection (1).

616I Financial assurance for transitional authority (SAA)

- (1) This section applies if, under the Mineral Resources Act or a special agreement Act, security has been deposited, lodged or required in relation to a relevant mining lease for a transitional authority (SAA).
- (2) A condition is taken to have been imposed, under section 364, on the authority that the authority holder must give the administering authority financial assurance for each relevant mining lease.
- (3) If the security has been deposited under the Mineral Resources Act or a special agreement Act for a relevant mining lease, the requirement under the condition to give the financial assurance is taken to have been complied with for the lease—
 - (a) from the time the whole amount of the security has been deposited; and
 - (b) until the plan of operations for the lease is amended or replaced under section 235.
- (4) The financial assurance required under the condition is taken to be security for the matters mentioned in section 364(1)(a) and (b) in relation to the authority.
- (5) Subsection (4) applies despite the Mineral Resources Act or the terms of an instrument granting the security or other document, including, for example, a term that the security or its benefit is not transferable.

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- (6) The form of each security given or required to be given for a relevant mining lease is taken to be the form of the financial assurance for the lease decided under section 364(3).
 - (7) However, the financial assurance for the relevant mining lease is taken to have been given for valuable consideration and any instrument granting it is taken to have been executed as a deed under seal by each party to the instrument.
 - (8) The amount of financial assurance for each relevant mining lease is taken to have been decided under section 364(3) as the lesser of the following—
 - (a) the amount of security given or required for each relevant mining lease;
 - (b) any amount the administering authority decides would have been the amount under section 364(3) for the financial assurance had the amount been decided on the commencement.
 - (9) Section 365 and chapter 11, part 3 do not apply to financial assurance under this section or to a decision under subsection (8)(b).

616J Effect of financial assurance on security

- (1) The financial assurance condition under section 616I only affects a security to the extent provided under that section.
- (2) Without limiting subsection (1), section 616I does not affect or change—
 - (a) the security as a security under the Mineral Resources Act or a special agreement Act; or
 - (b) the matters for which the security was given under the Mineral Resources Act or special agreement Act; or
 - (c) the enforcement of the security under the Mineral Resources Act or special agreement Act.
- (3) Section 616I, or any thing done under it, does not—
 - (a) discharge a security; or

- (b) discharge or release a surety or other obligee, wholly or partly, from an obligation; or
 - (c) fulfil a condition allowing a person to terminate an instrument or be released, wholly or partly, from an obligation or modify the operation or effect of an instrument or obligation.
- (4) If the advice or consent of, or giving notice to, a person would be necessary to give effect to the giving of the financial assurance—
- (a) the advice is taken to have been obtained; and
 - (b) the consent or notice is taken to have been given.

616K Plan of operations

- (1) This section applies if a plan of operations for a relevant mining lease for a transitional authority (SAA) was in force under the Mineral Resources Act immediately before the commencement.
- (2) The plan of operations—
- (a) is taken to be the plan of operations for the authority submitted under section 233; and
 - (b) continues in force only until the earlier of the following—
 - (i) the end of the period, stated in the plan, to which the plan applies;
 - (ii) the plan is replaced under section 235.
- (2A) Subsection (2)(a) is subject to subsection (2B) and the Mineral Resources Act, section 735(4A).
- (2B) The special agreement Act to which the authority relates and the existing Act continue to apply for amending the plan of operations as if the amending Act, other than for the insertion of section 584, had not been enacted.

- (3) Section 540(1)(e)(vi) does not apply to a plan of operations that, under this section, is taken to be the plan of operations for a transitional authority (SAA).
- (4) For this section, the relevant provisions of a mining plan approved under part 2 of the agreement defined under the *Mount Isa Mines Limited Agreement Act 1985* are taken to be a plan of operations for each mining lease to which they relate.

616L First anniversary day for transitional authority (SAA)

The first anniversary day for a transitional authority (SAA) is—

- (a) if the SAA environmental authority (mining) forming the basis for the transitional authority (SAA) was a licence under the existing Act—the next occurring anniversary of the anniversary day of the authority under the existing Act; or
- (b) otherwise—1 year after the commencement.

616M End of transitional authority (SAA)

- (1) A transitional authority (SAA) ends if—
 - (a) the holder of the authority does not comply with section 616H(1); or
 - (b) the authority is amended under subdivision 6 and the amended authority has taken effect under the current Act; or
 - (c) the authority is transferred under chapter 5, part 9 and the transfer has taken effect under the current Act; or
 - (d) the surrender of the authority is approved under the current Act; or
 - (e) an environmental authority (mining activities) for the SAA mining activity the subject of the transitional

authority (SAA) is issued and has taken effect under the current Act.

- (2) However, despite subsection (1)(c), if a transitional authority (SAA) is transferred under chapter 5, part 9 to a wholly-owned subsidiary of the holder of the authority within the meaning of the Corporations Act, the authority does not end.
- (3) To remove any doubt, it is declared that subsection (1) does not limit chapter 5, part 12.

Subdivision 5 Applications for new authorities

616N Application of sdiv 5

This subdivision applies if the holder of a transitional authority (SAA) (the *relevant transitional authority*) makes an application under section 616H(1)(a) (the *new authority application*) for an environmental authority (mining activities) for a level 1 mining project of which the SAA mining activity the subject of the relevant transitional authority is a part.

616O Application of current Act to new authority application

Chapter 5, parts 2 and 6 apply to the making and deciding of the new authority application, subject to sections 616P and 616Q.

616P No public notice or EIS requirement for particular new authority application

- (1) This section applies for processing the new authority application if each mining activity that forms the mining project to which the application relates is authorised under the conditions of the relevant transitional authority.

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- (2) Sections 211 to 215, 216(1)(a), 217(1)(c), 219(4)(c) and 219(5)(a) do not apply for the application.
 - (3) For applying sections 216(1), 217(1)(b) and 218(1) a reference to an entity, each entity or the entity is taken to be a reference to the applicant.
 - (4) For applying section 219(5)(b), the reference to each objector is taken to be a reference to the applicant.
 - (5) The objection period for the application starts on the day the administering authority gives the applicant a draft environmental authority and ends 20 business days after that day.
 - (6) Subsections (7) and (8) apply for processing the application if—
 - (a) no part of the application relates to a wild river area; and
 - (b) an EIS is not required for the application under section 162(3A).
 - (7) The administering authority is taken to have decided under section 162(1) that no EIS is required for the application.
 - (8) Section 163 does not apply for the application.

616Q Reference to State government agreement includes particular rights

- (1) Subsection (2) applies to the administering authority for considering the standard criteria in making a decision under section 207 to refuse the new authority application or allow it to proceed.
- (1A) If there is a current objection relating to the new authority application, subsection (2) also applies to the Land Court for considering the standard criteria under section 223 in making the objections decision for the application.
- (2) The reference to a state government agreement in schedule 4, definition *standard criteria*, paragraph (c) includes a reference to—

- (a) an agreement under, or mentioned in, a special agreement Act; and
- (b) the rights granted under an agreement mentioned in paragraph (a).

Subdivision 6 Amendment of transitional authorities (SAA) for conversion to new authorities

616R Application of sdiv 6

This subdivision applies if an application is made under section 616H(1)(b) to amend a transitional authority (SAA) for converting it to an environmental authority (mining activities) for a level 1 mining project.

616S Application of current Act to amendment application

Chapter 5, part 8 applies to the making and deciding of the amendment application for the transitional authority (SAA), subject to sections 616T and 616U.

616T No public notice or EIS requirement for particular amendment applications

- (1) This section applies for processing the amendment application for the transitional authority (SAA) if each mining activity to which the application relates is authorised under the conditions of the authority.
- (2) Chapter 5, part 6, division 6, and section 254 do not apply for the application.
- (3) Subsection (4) applies if the assessment level decision for the application under section 246(1)(a) or 247(3) is that the level of environmental harm is likely to be significantly increased.

- (4) The EIS decision for the application is taken to be that an EIS is not required for the proposed amendment.

616U Reference to State government agreement includes particular rights

- (1) This section applies to the administering authority for considering the standard criteria in making a decision under section 257 to grant or refuse the amendment application for the transitional authority (SAA).
- (2) The reference to a state government agreement in schedule 4, definition *standard criteria*, paragraph (c) includes a reference to—
- (a) an agreement under, or mentioned in, a special agreement Act; and
 - (b) the rights granted under an agreement mentioned in paragraph (a).

616V Consolidation of conditions for same mining project

Section 607 applies for consolidating conditions for the same mining project as if—

- (a) a reference to a transitional authority were a reference to a transitional authority (SAA); and
- (b) the reference to section 605 were a reference to section 616W.

Subdivision 7 Amendment of transitional authorities (SAA) other than by application

616W Additional grounds for amendment by administering authority

For applying section 292 for a transitional authority (SAA), the following grounds apply, as well as the grounds under section 292(2)—

- (a) the administering authority can not, by applying section 616C, work out the conditions of the authority;
- (b) a condition of the authority under section 616C creates a right or imposes an obligation that the administering authority considers is uncertain or not reasonably enforceable;
- (c) the holder of the authority submits or amends a plan of operations for the authority;
- (d) the amendment of the transitional authority (SAA) is necessary to prevent environmental harm not already authorised under the authority.

616X Ministerial power to amend

- (1) The Minister may amend a transitional authority (SAA) if the Minister—
 - (a) gives the authority holder an amendment notice proposing the amendment; and
 - (b) considers the written representations, if any, made by the holder within the stated period in the notice.
- (2) If the Minister decides to amend the authority under subsection (1), the administering authority must, within 10 business days after the decision—
 - (a) make the amendment proposed in the notice; and

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- (b) give the authority holder a copy of the amended authority; and
 - (c) record particulars of the amendment in the appropriate register.
- (3) If the Minister gives an amendment notice under subsection (1) and decides not to make the amendment proposed in the notice, the administering authority must, within 10 business days after the decision is made, give the holder a written notice of the decision.

Subdivision 8 Provisions for chapter 4 activities

616Y Application of sdiv 8

- (1) This subdivision applies if—
 - (a) immediately before the commencement, an environmental authority was in force under the existing Act as it applied under section 614(1); and
 - (b) the authority is for a chapter 4 activity to which a special agreement Act applies.
- (2) Subsection (3) applies to an activity that—
 - (a) is carried out under a sublease of a mining lease; and
 - (b) would be a chapter 4 activity if it were not carried out under a sublease of a mining lease.
- (3) To remove any doubt, it is declared that the activity is a chapter 4 activity.

616Z Continuing effect of environmental authority as a registration certificate and development approval

- (1) From the commencement—
 - (a) the environmental authority has effect as if it were a registration certificate for the activity; and

- (b) the environmental authority has effect as if the holder of the authority were the registered operator for the activity; and
 - (c) the environmental authority has effect as if it were—
 - (i) if the activity would, after the commencement, be a mobile and temporary activity—a development approval for a material change of use under the repealed *Integrated Planning Act 1997*, schedule 8, part 1, table 5, item 3; or
 - (ii) in any other case—a development approval for a material change of use under the repealed *Integrated Planning Act 1997*, schedule 8, part 1, table 2, item 1; and
 - (d) any condition of the environmental authority has effect as if it were a development condition of the development approval.
- (2) The conditions of the environmental authority are taken to include any condition that the administering authority is, under section 73B(2), required to impose under a regulatory requirement had it been deciding a development application for the chapter 4 activity at the commencement.
 - (3) This section stops applying if the environmental authority ends under section 616ZB.

616ZA Additional ground for changing or cancelling development conditions

- (1) The administering authority may change or cancel a condition of the environmental authority if—
 - (a) the change or cancellation is necessary because the condition is no longer appropriate as a development condition of a development approval for the activity; or
 - (b) the condition needs to be changed or cancelled so that the administering authority, in applying section 616Z,

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- can accurately and reliably identify the conditions of the development approval; or
- (c) the conditions are otherwise unclear, uncertain or contradictory.
- (2) However, the administering authority must not act under subsection (1) if the change or cancellation adversely affects the interests of the registered operator for the activity.
- (3) If the condition is changed it must in substance reflect the intent of the condition as included in the environmental authority as it existed before the commencement.
- (4) If the administering authority changes or cancels a condition, it must within 10 business days—
- (a) record the particulars of the change or cancellation in the appropriate register; and
- (b) give the registered operator—
- (i) a copy of the development conditions as applying after the change or cancellation; and
- (ii) a registration certificate.
- (5) In this section—
- condition***, of the environmental authority, does not include any condition taken to be included under section 616Z(2).

616ZB End of environmental authority

An environmental authority for a chapter 4 activity under this subdivision ends if any of the following happens—

- (a) the person carrying out the activity changes;
- (b) there is a material change of use of premises for the activity, as defined under the Planning Act, section 10(1), definition *material change of use*, paragraph (a) or (b);

- (c) if the activity is carried out under a sublease of a mining lease—the sublease expires or is cancelled or surrendered;
- (d) a development approval for the activity takes effect.

616ZC Administering authority may issue replacement documents

- (1) The administering authority may give to the person carrying out the chapter 4 activity—
 - (a) if the activity was carried out at 1 location—a development approval for the location; or
 - (b) if the activity was carried out at more than 1 location and is not a mobile and temporary environmentally relevant activity—a development approval for each location; or
 - (c) if the activity is a mobile and temporary environmentally relevant activity—a development approval for a mobile and temporary environmentally relevant activity.
- (2) If the person carrying out the activity does not have a registration certificate for the activity, the administering authority may also give the person a registration certificate for the activity.
- (3) The development approval must contain the same details about the activity and conditions for carrying out the activity as were contained in the authority or included in it under section 616Z(2).
- (4) If the administering authority acts under subsection (1) or subsections (1) and (2), the administering authority must give the person carrying out the activity an information notice about the administering authority's decision to give the approval or approval and certificate.
- (5) The approval or approval and certificate have effect and the environmental authority ends—

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- (a) if there is no appeal against the administering authority's decision under subsection (4)—from the day after the appeal period expires; or
 - (b) if there is an appeal against the administering authority's decision under subsection (4)—from the day after the appeal is finally decided or is otherwise ended.

Subdivision 9 Other matters

616ZCA Continuing effect of particular environmental authorities

- (1) This section applies to an environmental authority that—
 - (a) is for a chapter 4 activity to which a special agreement Act applies; and
 - (b) was a constituent part of an integrated authority under the pre-2005 Act; and
 - (c) was in force immediately before the commencement.
- (2) To remove any doubt, it is declared that sections 619 to 621 apply, and have always applied, to the environmental authority.
- (3) In this section—

pre-2005 Act means this Act as it was in force immediately before 1 January 2005.

616ZCB Validation of particular development approvals and registration certificates

- (1) This section applies if, before the commencement, a development approval was issued or a registration certificate was granted for a chapter 4 activity to which a special agreement Act applies.

- (2) The development approval or registration certificate is, and always has been, as valid as it would have been if section 614(1) had not been enacted.

Division 8 Miscellaneous provision

616ZD Requirement to seek advice from MRA chief executive

The requirement under section 302 applies for a decision by the Minister or the administering authority to amend an environmental authority (mining activities) under this part, unless the authority holder has agreed in writing to the amendment.

Part 3 Validation provision for Environmental Protection and Another Act Amendment Act 2002

617 Validation of particular environmental authorities

- (1) This section applies to an environmental authority issued or purporting to have been issued—
- (a) on or after 1 July 1998 and before the commencement of this section; and
 - (b) for—
 - (i) a mining activity as defined in this Act when the authority was issued or purported to have been issued; or
 - (ii) a petroleum activity.

- (2) The environmental authority is taken to be, and to always have been, valid.

Part 4 **Transitional provision for Environmental Protection and Other Legislation Amendment Act 2002**

618 Section 318A does not apply for transitional authority

- (1) The anniversary day for an environmental authority (mining activities) that, under section 592, is a transitional authority can not be changed under section 318A.
- (2) Subsection (1) ceases to apply if the authority ceases to be a transitional authority under section 592(2).

Part 5 **Transitional provisions for Environmental Protection Legislation Amendment Act 2003**

619 Continuing effect of particular environmental authorities

- (1) Subsection (2) applies for an environmental authority for a chapter 4 activity (other than an approval mentioned in section 624(1)(b)), if—
- (a) the authority is in force immediately before the commencement of this section; and
- (b) there is no development approval for the activity.

[s 619]

- (2) From the commencement—
 - (a) the authority has effect as if it were a registration certificate for the activity; and
 - (b) the authority has effect as if the holder of the authority were the registered operator for the activity; and
 - (c) the authority has effect as if it were—
 - (i) if the activity would, after the commencement, be a mobile and temporary activity—a development approval for a material change of use under the repealed *Integrated Planning Act 1997*, schedule 8, part 1, table 5, item 3; or
 - (ii) in any other case—a development approval for a material change of use under the repealed *Integrated Planning Act 1997*, schedule 8, part 1, table 2, item 1; and
 - (d) any condition of the authority, has effect as if it were a development condition of the development approval; and
 - (e) if the authority is a provisional licence, or is for a level 2, chapter 4 activity and was granted for a stated period—the authority (including as it has effect as a registration certificate and as a development approval) has effect only until the end of the period for which the authority would have had effect if the *Environmental Protection Legislation Amendment Act 2003* had not been enacted.
- (3) Subsection (4) applies for an environmental authority for a chapter 4 activity (other than an approval mentioned in section 624(1)(b)), if—
 - (a) the authority is in force immediately before the commencement of this section; and
 - (b) there is a development approval for the activity.
- (4) From the commencement—

- (a) the development approval continues to have effect; and
- (b) the authority has effect as if it were a registration certificate for the activity; and
- (c) the authority has effect as if the holder of the authority were the registered operator for the activity; and
- (d) any condition of the authority, has effect as if it were a development condition of the development approval.

620 Additional ground for changing or cancelling development conditions

- (1) This section applies to a condition of an environmental authority given continuing effect under section 619(2)(d) or (4)(d).
- (2) The administering authority for the environmental authority may change or cancel the condition if—
 - (a) the change or cancellation is necessary because the condition is no longer appropriate as a development condition of a development approval for the activity; or
 - (b) the condition needs to be changed or cancelled so that the administering authority, in applying section 619, can accurately and reliably identify the conditions of the development approval; or
 - (c) the conditions are otherwise unclear, uncertain or contradictory.
- (3) However, the administering must not act under subsection (2) if the change to or cancellation of the condition adversely affects the interests of the registered operator for the activity.
- (4) If the condition is changed it must in substance reflect the intent of the condition as included in the environmental authority as it existed before section 619 commenced.
- (5) If the administering authority changes or cancels a condition, it must within 10 business days—

[s 621]

- (a) record the particulars of the change or cancellation in the appropriate register; and
- (b) give the registered operator—
 - (i) a copy of the development conditions as applying after the change or cancellation; and
 - (ii) a registration certificate.

621 Administering authority may issue replacement documents

- (1) The administering authority may, for an activity being carried out under an environmental authority mentioned in section 619(1), give to the person carrying out the activity—
 - (a) if the activity was carried out at 1 location—a development approval for the location; or
 - (b) if the activity was carried out at more than 1 location and is not a mobile and temporary environmentally relevant activity—a development approval for each location; or
 - (c) if the activity is a mobile and temporary environmentally relevant activity—a development approval for a mobile and temporary environmentally relevant activity.
- (2) If the person carrying out the activity does not have a registration certificate for the activity, the administering authority may also give the person a registration certificate for the activity.
- (3) The development approval must contain the same details about the activity and conditions for carrying out the activity as were contained in the authority.
- (4) If the administering authority acts under subsection (1) or subsections (1) and (2), the administering authority must give the person carrying out the activity an information notice about the administering authority's decision to give the approval or approval and certificate.

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- (5) The approval or approval and certificate have effect and the environmental authority is cancelled—
- (a) if there is no appeal against the administering authority's decision under subsection (4)—from the day after the appeal period expires; or
 - (b) if there is an appeal against the administering authority's decision under subsection (4)—from the day after the appeal is finally decided or is otherwise ended.

623 Effect of commencement on level 1 approvals for particular environmentally relevant activities

- (1) Subsection (2) applies to a level 1 approval, for a level 1 chapter 4 activity that, under section 619 is taken to be a registration certificate.
- (2) Section 316 does not apply to the registration certificate unless the administering authority gives the registered operator a notice stating the administering authority is satisfied the risk of environmental harm from carrying out the activity is no longer insignificant.
- (3) In this section—

level 1 approval means a level 1 approval immediately before the commencement of the *Environmental Protection Legislation Amendment Act 2003*.

624 Effect of commencement on particular approvals

- (1) This section applies for a person who immediately before the commencement of this section was the operator of, and was carrying out, a level 2 chapter 4 activity under—
 - (a) a development approval in force immediately before the commencement; or
 - (b) an approval that—
 - (i) is mentioned in—

[s 624]

- (A) the repealed *Environmental Protection (Interim) Regulation 1995*, (the **repealed regulation**) as in force on 1 March 1995, section 63 or 65; or
 - (B) the repealed regulation, as in force on 28 June 1996, section 65; and
- (ii) was in force immediately before the commencement.
- (1A) However, this section does not apply if the activity is authorised under an environmental authority to which section 619 applies.
 - (2) From the commencement, the person is, for 1 year after the commencement, taken to be the registered operator for the activity, and—
 - (a) for an approval mentioned in subsection (1)(a)—the approval, and any conditions of the approval, continue to have effect; or
 - (b) for an approval mentioned in subsection (1)(b)—the approval ceases to have effect on the first of the following to happen—
 - (i) the person carrying out the activity changes;
 - (ii) there is a material change of use of premises for the activity, as defined under the Planning Act, section 10(1), definition *material change of use*, paragraph (a) or (b);
 - (iii) a development approval for the activity takes effect.
 - (3) The person must, within 1 year of the commencement, give the administering authority the same details the person would have to give the administering authority if the person were applying for a registration certificate.
 - (4) If the person complies with subsection (3), the administering authority must give the person a registration certificate.

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- (5) To remove any doubt, it is declared that the registration certificate does not limit or otherwise affect subsection (2)(a) or (b).

625 Effect of commencement on applications for development approvals for level 2 environmentally relevant activities

- (1) Subsection (2) applies for an application for a development approval for a level 2 chapter 4 activity that had not lapsed immediately before the commencement of this section.
- (2) Before carrying out the activity under the development approval, the person who proposes to carry out the activity must obtain a registration certificate.

626 Effect of commencement on particular applications in progress

- (1) This section applies to—
- (a) an application for an environmental authority for a chapter 4 activity not decided before the commencement of this section, including an application mentioned in section 611; or
 - (b) an application to amend, surrender or transfer an environmental authority for a chapter 4 activity not decided before the commencement of this section.
- (2) From the commencement—
- (a) processing of the application and all matters incidental to the processing must proceed as if the *Environmental Protection Legislation Amendment Act 2003* had not been enacted; and
 - (b) any environmental authority granted, amended or transferred is taken to be an environmental authority to which section 619 applies.
- (3) However, subsection (4) applies for an application mentioned in subsection (1) if—

[s 627]

- (a) the administering authority, by written notice, asks the applicant to give the administering authority a stated document or information relevant to the application; and
 - (b) the applicant does not give the document or information to the administering authority within the time stated in the request or such other time the administering authority agrees to in writing.
- (4) The application lapses at the end of the time stated in the request or agreed to.

627 Effect of commencement on development approval applications in progress

- (1) Subsection (2) applies if an application for a development approval, or for an amendment of a development condition of a development approval, for a chapter 4 activity, has not been decided and has not lapsed, immediately before the commencement of this section.
- (2) From the commencement, processing of the application and all matters incidental to the processing must proceed as if the *Environmental Protection Legislation Amendment Act 2003* had not been enacted.

628 Effect of commencement on particular actions in progress

- (1) This section applies for an environmental authority mentioned in section 619.
- (2) Subsection (3) applies if, immediately before the commencement of this section, all action, that could have been taken under this Act in relation to a notice given under section 133 or 135 about the amendment, suspension or cancellation of the environmental authority, had not been taken.
- (3) From the commencement, any action that had not been taken before the commencement may be taken under this Act, as

amended by the *Environmental Protection Legislation Amendment Act 2003*, with necessary changes.

- (4) Subsection (5) applies if, immediately before the commencement of this section the environmental authority, remained suspended.
- (5) From the commencement, the environmental authority, taken under section 619 to be a registration certificate, remains suspended for the period the environmental authority would have been suspended but for the commencement of the *Environmental Protection Legislation Amendment Act 2003*.

630 Continuing operation of s 611 (Unfinished applications under existing Act)

References to provisions of this Act in section 611 continue to operate as if the *Environmental Protection Legislation Amendment Act 2003* had not been enacted.

Part 6 Transitional provisions for Petroleum and Other Legislation Amendment Act 2004

631 Financial assurance if security for related petroleum authority is monetary

- (1) This section applies to an environmental authority if—
 - (a) under the *Petroleum Act 1923* or the *Petroleum and Gas (Production and Safety) Act 2004*, the environmental authority is the relevant environmental authority for a petroleum authority; and

[s 632]

- (b) the *Petroleum Act 1923*, section 159 or the *Petroleum and Gas (Production and Safety) Act 2004*, section 920 applies to security held for the petroleum authority.
- (2) A condition is taken to have, under section 364, been imposed on the environmental authority that its holder must give the administering authority financial assurance for the environmental authority in the amount required to be transferred under either section mentioned in subsection (1)(b).
- (3) The amount is taken to also be the financial assurance.
- (4) The financial assurance is taken to be for the matters mentioned in section 364(1) in relation to the environmental authority.
- (5) On the making of the transfer, the requirement under the condition to give the financial assurance is taken to have been complied with.

632 Financial assurance if security for related petroleum authority is non-monetary

- (1) This section applies to an environmental authority if—
 - (a) under the *Petroleum Act 1923* or the *Petroleum and Gas (Production and Safety) Act 2004*, the environmental authority is the relevant environmental authority for a petroleum authority; and
 - (b) the *Petroleum Act 1923*, section 160 or the *Petroleum and Gas (Production and Safety) Act 2004*, section 921 applies to security held for the petroleum authority.
- (2) A condition is taken to have, under section 364, been imposed on the environmental authority that its holder must give the administering authority financial assurance for the environmental authority.
- (3) The security mentioned in either section mentioned in subsection (1)(b) is taken to also be the financial assurance.

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- (4) The financial assurance is taken to be for the matters mentioned in section 364(1) in relation to the environmental authority.
 - (5) Subsection (3) and (4) applies despite the terms of an instrument granting the security or any other document, including, for example, a term that the security or its benefit is not transferable.
 - (6) The condition ends at the earlier of the following to happen—
 - (a) the amendment, under section 634, of the condition;
 - (b) the end of 12 months after the 2004 Act start day under the *Petroleum and Gas (Production and Safety) Act 2004*.

633 Effect of financial assurance on the security

- (1) A condition about financial assurance imposed under this part only affects a security to the extent provided under this part.
- (2) Without limiting subsection (1), section 632 does not affect or change—
 - (a) the security mentioned in section 632(1) as a security under the *Petroleum Act 1923* or the *Petroleum and Gas (Production and Safety) Act 2004*; or
 - (b) the matters for which the security was given under that Act; or
 - (c) the enforcement of the security under that Act.
- (3) Section 632, or any thing done under it, does not—
 - (a) discharge a security; or
 - (b) discharge or release a surety or other obligee, wholly or partly, from an obligation; or
 - (c) fulfil a condition allowing a person to terminate an instrument or be released, wholly or partly, from an obligation or modify the operation or effect of an instrument or obligation.

- (4) If the advice or consent of, or giving notice to, a person would be necessary to give effect to the giving of the financial assurance—
 - (a) the advice is taken to have been obtained; and
 - (b) the consent or notice is taken to have been given.

634 Amendment of financial assurance condition under this part

- (1) The administering authority may amend a condition about financial assurance imposed under this part to require the giving of replacement financial assurance, in a form and amount decided by the authority.
- (2) Section 364 applies for the amendment as if a reference in the section to the imposition of a condition requiring financial assurance were a reference to the amendment.
- (3) Chapter 7, part 6, applies for the financial assurance.

**Part 7 Transitional provisions for
Environmental Protection and
Other Legislation Amendment
Act 2004**

Division 1 Original provisions

Subdivision 1 Preliminary

635 Definitions for div 1

In this division—

commencement means the commencement of the *Environmental Protection and Other Legislation Amendment Act 2004*, section 32.

existing Act means this Act as in force immediately before the commencement.

new chapter 4A means chapter 4A immediately after the commencement.

old chapter 4A means chapter 4A under the existing Act.

Subdivision 2 Provisions for former integrated authorities

636 Application of sdiv 2

This subdivision applies to the constituent parts of an integrated authority that, under the existing Act, were in force immediately before the commencement.

637 Continuing status of each constituent part as an environmental authority

- (1) This section—
 - (a) applies despite the repeal of former chapter 6, part 1; and
 - (b) is subject to section 638.
- (2) From the commencement, each of the constituent parts continues to be an environmental authority of the type stated in the integrated authority.
- (3) The repeal does not change the anniversary days of the environmental authorities.
- (4) The relevant provisions of new chapter 4A or chapter 5 and chapter 6 apply to the environmental authorities.

638 Re-issuing of environmental authorities if they do not form a single mining or petroleum project

- (1) The administering authority may, at any time after the commencement, decide whether the constituent parts together form a single mining or petroleum project.
- (2) If the administering authority decides the constituent parts are for different mining or petroleum projects, it may—
 - (a) cancel the constituent parts as environmental authorities; and
 - (b) issue to the former holder of the cancelled constituent parts new environmental authorities (mining activities) or environmental authorities (petroleum activities) for each of the different mining or petroleum projects.
- (3) The conditions of each of the new environmental authorities must be the conditions of the cancelled constituent parts that applied to the mining or petroleum project the subject of the new environmental authority, subject to any necessary changes.

Subdivision 3 Other provisions

639 Environmental authorities under old chapter 4A

- (1) A licence, other than a provisional licence, under old chapter 4A in force immediately before the commencement is, on the commencement, taken to be a non-code compliant authority under new chapter 4A for a level 1 petroleum activity.
- (2) On the commencement, a provisional licence under old chapter 4A ceases to be an environmental authority.
- (3) A level 2 approval under old chapter 4A in force immediately before the commencement is, on the commencement, taken to be a non-code compliant authority under new chapter 4A, for a level 2 petroleum activity.

640 Applications in progress under old chapter 4A

- (1) An environmental authority application under old chapter 4A that, immediately before the commencement, had not been decided is taken to be an application—
 - (a) if it is for a level 2 petroleum activity—under new chapter 4A, part 2, division 3, subdivision 2; or
 - (b) if it is for a level 1 petroleum activity—under new chapter 4A, part 2, division 4.
- (2) An amendment, surrender or transfer application under old chapter 4A that, immediately before the commencement had not been decided is, on the commencement, taken to be the corresponding type of application under new chapter 4A.

641 Existing environmental management documents

The current environmental management plan or current EMOS under the existing Act for, or for an application for, an environmental authority (mining activities), is on the commencement taken to be the submitted EM plan for the environmental authority or application.

Editor's note—

See the existing Act, sections 187 (Environmental management plan required), 201 (EMOS required) and 253 (Previous environmental management document may be amended).

Division 2 Provisions inserted under Environmental Protection and Other Legislation Amendment Act 2007

641A Definition for div 2

In this division—

commencement means the commencement of the *Environmental Protection and Other Legislation Amendment Act 2004*, part 3.

641B Non-standard environmental authority taken to be environmental authority for level 1 mining project

- (1) This section applies to a non-standard environmental authority (mining activities) that was in force under the Act immediately before the commencement and has remained in force since the commencement.
- (2) The authority is taken to be an environmental authority (mining activities) for a level 1 mining project.

641C Standard environmental authority taken to be environmental authority for level 2 mining project

- (1) This section applies to a standard environmental authority (mining activities) that was in force under the Act immediately before the commencement and has remained in force since the commencement.
- (2) The authority is taken to be an environmental authority (mining activities) for a level 2 mining project.

Part 8 Transitional provisions for Environmental Protection and Other Legislation Amendment Act 2005

642 EISs currently undergoing EIS process

Sections 56A and 56B do not apply for an EIS if the draft terms of reference for the EIS were, under section 41, submitted before the commencement of sections 56A and 56B.

643 Transitional provision for amended ss 619 and 624

- (1) Subsection (2) applies if, immediately before the commencement of this section, section 619 applied in relation to an approval mentioned in section 624(1)(b), as in force on the commencement of this section.
- (2) To remove any doubt, it is declared that section 619, as amended by the *Environmental Protection and Other Legislation Amendment Act 2005*, ceases to apply in relation to the approval on the commencement of this section.

Part 9

**Transitional provision for
Environmental Protection and
Other Legislation Amendment
Act 2007**

**644 References to environmental management programs
or draft programs**

- (1) A reference to an environmental management program in an Act or document is taken, if the context permits, to be a reference to a transitional environmental program.
- (2) A reference to a draft environmental management program in an Act or document is taken, if the context permits, to be a reference to a draft transitional environmental program.

Part 10 **Savings provisions for Environmental Protection and Other Legislation Amendment Act (No. 2) 2008**

645 **Definition for pt 10**

In this part—

commencement day means the day of commencement of the provision in which the term appears.

646 **Accrediting entity for s 440ZL**

A reference in section 440ZL to a certificate issued by an accredited entity includes a certificate issued, before the commencement day, by the Energy Information Centre in South Australia.

Editor's note—

section 440ZL (Sale of solid fuel-burning equipment for use in residential premises and related matters)

Part 11 **Transitional provisions for Greenhouse Gas Storage Act 2009**

Division 1 **Preliminary**

647 **Definitions for div 1**

assent means the date of assent of the GHG storage Act.

converted authorities see section 648(2)(b).

document includes an approved form, a notice, an environmental authority and subordinate legislation.

former, for a provision mentioned in this part, means the provision to which the reference relates is a provision of this Act as in force before assent.

Zerogen means Zerogen Pty Ltd (ACN 118 696 932).

Division 2 Provisions for Zerogen

648 New environmental authority for Zerogen's converted GHG permits

- (1) This section applies to the environmental authorities (petroleum activities) in force immediately before assent held by Zerogen (the *old authorities*) relating to its authorities to prospect under the P&G Act, numbered 830 and 835.

Note—

On the date of assent of the GHG storage Act the authorities to prospect became GHG permits under that Act. See the GHG storage Act, section 431.

- (2) On assent, the old authorities—
 - (a) cease to be environmental authorities for petroleum activities; and
 - (b) are taken to be environmental authorities (chapter 5A activities) for greenhouse gas storage activities (the *converted authorities*).
- (3) The converted authorities are non-code compliant, for a level 2 chapter 5A activity.
- (4) The conditions of the converted authorities are all of the conditions of the old authorities that are relevant to the carrying out of greenhouse gas storage activities under the authority to prospect to which the converted authority relates.
- (5) Chapter 5A applies to the converted authorities.

[s 649]

649 New environmental authority for Zerogen's new GHG permit

- (1) This section applies for the GHG permit that, under the GHG storage Act section 432, Zerogen is taken to have been granted on the date of assent of that Act.
- (2) On assent, Zerogen is taken to have been granted an environmental authority (chapter 5A activities) for all greenhouse gas storage activities authorised under the GHG permit.
- (3) The environmental authority is non-code compliant, for a level 2 chapter 5A activity.
- (4) The conditions of the environmental authority are all of the conditions of the environmental authority (chapter 5A activities) No. PEN 200040607, granted on 22 October 2007 as in force on assent that are relevant to the carrying out of greenhouse gas storage activities under the GHG permit.
- (5) Chapter 5A applies to the environmental authority.

Division 3 Provisions for replacement of former chapter 4A with chapter 5A

650 References to former chapter 4A

- (1) A reference in an Act or a document to former chapter 4A is taken to be a reference to chapter 5A.
- (2) A reference in an Act or a document to a particular provision of former chapter 4A (the *repealed provision*) is taken to be a reference to the provision of chapter 5A that corresponds, or substantially corresponds, to the repealed provision.

651 Environmental authorities (petroleum activities) other than converted authorities

- (1) This section applies to an environmental authority (petroleum activities) in force under former chapter 4A immediately before assent, other than the converted authorities.
- (2) On assent the environmental authority is taken to be an environmental authority (chapter 5A activities) granted under chapter 5A that is—
 - (a) of the same level; and
 - (b) for the same activities; and
 - (c) subject to the same conditions.
- (3) Chapter 5A applies to the environmental authority.

652 References to environmental authorities (petroleum activities) and their levels

- (1) A reference in an Act or document to an environmental authority (petroleum activities) is taken to be a reference to an environmental authority (chapter 5A activities) for—
 - (a) if the environmental authority is a converted authority—greenhouse gas storage activities; or
 - (b) otherwise—petroleum activities.
- (2) A reference in an Act or document to a level 1 petroleum activity is taken to be to a level 1 chapter 5A activity.
- (3) A reference in an Act or document to a level 2 petroleum activity is taken to be to a level 2 chapter 5A activity.

653 Migration of undecided applications

If, immediately before assent, an application has been made under former chapter 4A, but not decided, the application is taken to have been made under chapter 5A for the corresponding matter under that chapter.

[s 654]

654 Migration of decisions and documents

- (1) This section applies to a decision or document in force immediately before assent given under former chapter 4A about a matter under that chapter.
- (2) On assent, the decision or document is taken to have been given under chapter 5A about the corresponding matter under that chapter.
- (3) However, subsection (2) does not change the time at which the decision or document was given.
- (4) In this section—
given, for a decision or document, includes its making or submission.

655 Migration of outstanding appeals

If, immediately before assent, an appeal about a matter under former chapter 4A had not been decided, on assent the appeal is taken to be an appeal about the corresponding matter under chapter 5A.

Part 13 Transitional provisions for Great Barrier Reef Protection Amendment Act 2009

657 Deferral of automatic ERMP requirement for existing agricultural ERAs

Section 88(a) does not apply to an agricultural ERA carried out before the commencement of this section until 6 months after the commencement.

658 Provision for appeals for ch 4

The *Great Barrier Reef Protection Amendment Act 2009*, section 19(2) is taken to have had effect from 23 February 2009.

Part 14 Transitional provision for Sustainable Planning Act 2009

659 Continuing application of ch 4, pt 1

- (1) This section applies to a development application made but not decided under the repealed *Integrated Planning Act 1997* before the commencement.
- (2) Chapter 4, part 1 as in force before the commencement continues to apply to the development application as if the *Sustainable Planning Act 2009* had not commenced.
- (3) In this section—
commencement means the day this section commences.

Part 15 Transitional provisions for South-East Queensland Water (Distribution and Retail Restructuring) and Other Legislation Amendment Act 2010

660 Definitions for pt 15

In this part—

commencement day means the day this section commences.

CSG amendment, to an existing CSG authority, means an amendment relating to managing coal seam gas water generated in connection with carrying out a relevant CSG activity.

existing CSG authority means a coal seam gas environmental authority that was in force immediately before the commencement day.

661 Temporary prohibition on constructing CSG evaporation dams under existing CSG authority

- (1) While this section applies, an existing CSG authority does not authorise the construction of a CSG evaporation dam in connection with carrying out a relevant CSG activity.

Note—

See section 426A (Environmental authority required for chapter 5A activity).

- (2) However, subsection (1) does not apply if the construction of the dam has substantially commenced before the commencement day.
- (3) This section stops applying when—
 - (a) a CSG amendment is made to the authority; or
 - (b) the holder of the authority gives the administering authority a revised (CSG) EM plan for the authority and the administering authority gives the holder a written notice approving construction of the dam.

662 Revised (CSG) EM plan required for existing CSG authority

- (1) The holder of an existing CSG authority must within 1 year after the commencement day give the administering authority a revised (CSG) EM plan for the existing CSG authority.

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- (2) Even if the authority holder does not give a revised (CSG) EM plan within 1 year after the commencement day, the obligation under subsection (1) continues until—
- (a) the holder gives the administering authority a revised (CSG) EM plan; or
 - (b) a CSG amendment is made to the existing CSG authority.

Note—

Under section 312E(1) the administering authority may amend an environmental authority (chapter 5A activities) if it considers the amendment is necessary or desirable because of a matter mentioned in section 312E(2), including (under section 312E(2)(a)) a contravention of this Act by the holder.

663 First annual return for existing CSG authority

Section 316A does not apply to the first annual return that the holder of an existing CSG authority is required to lodge after the commencement day unless the holder has given the administering authority a revised (CSG) EM plan for the existing CSG authority.

Part 16 Transitional provisions for Geothermal Energy Act 2010

664 Deferral of requirement for environmental authority for existing authorised geothermal activities

- (1) This section applies if—
- (a) immediately before the commencement of this section, a geothermal activity was authorised to be carried out under the repealed *Geothermal Exploration Act 2004*; and

[s 665]

- (b) a person was carrying out the activity before the commencement.
- (2) Section 426 does not apply to the person—
 - (a) within 12 months after the commencement; and
 - (b) if, within the 12 months, the person applies for an environmental authority for the carrying out of the activity—until the application has been decided.

665 Deferral of requirement for environmental authority for Birdsville geothermal lease

- (1) This section applies for the geothermal lease that, under the Geothermal Act, section 389(1) Ergon Energy is taken to have been granted on the date of assent of that Act.
- (2) Section 426 does not apply to Ergon Energy or another person who, under the Geothermal Act, carries out an authorised activity for the lease—
 - (a) within 12 months after the commencement of this section; and
 - (b) if, within the 12 months, Ergon Energy applies for an environmental authority for authorised activities for the lease—until the application has been decided.
- (3) In this section—

Ergon Energy means Ergon Energy Corporation Limited ACN 087 646 062 or anyone else who holds the lease mentioned in subsection (1).

Part 17 **Transitional provisions for the Environmental Protection and Other Legislation Amendment Act 2011**

666 Definitions for pt 17

In this part—

amending Act means the *Environmental Protection and Other Legislation Amendment Act 2011*.

commencement means commencement of this section.

unamended Act means this Act as in force from time to time before the commencement.

667 Existing EISs

- (1) This section applies to an EIS submitted under section 47 before the day this section commences, for which the chief executive has not made a decision under section 49 on the day this section commences.
- (2) The EIS must be considered under this Act even though a fee has not been paid as required under section 47(2) as in force immediately after the day this section commences.

668 Existing application for registration to carry out chapter 4 activity

- (1) This section applies to an application under section 73D made before the commencement that has not been decided at the commencement.
- (2) The application must be decided under the unamended Act.
- (3) For subsection (2), the unamended Act continues in effect as if it had not been amended by the amending Act.

669 Registration to carry out chapter 4 activity

- (1) This section applies if—
 - (a) before the commencement, the administering authority issued a registration certificate to a person and, at the commencement, the person does not have a development permit; or
 - (b) the administering authority issues a registration certificate to a person under the unamended Act as applied by section 668, and the person does not have a development permit.
- (2) Section 73G as in force immediately before the commencement applies in relation to the registration certificate.

670 Existing non-code compliant application for a level 1 mining project

- (1) This section applies to an environmental authority (mining lease) application made before the commencement if—
 - (a) it is a non-code compliant application for a level 1 mining project; and
 - (b) the Land Court has, under section 222 of the unamended Act, given a recommendation to the MRA Minister; and
 - (c) at the commencement, the EPA Minister has not decided the application.
- (2) Sections 224 and 225 of the unamended Act continue to apply in relation to the application as if the sections had not been amended by the amending Act.

671 Existing draft transitional environmental programs

- (1) This section applies to a draft transitional environment program submitted under section 332 or 333 before the commencement if, at the commencement, the administering authority has not decided whether to approve it.

- (2) The administering authority must consider, or continue to consider, the draft transitional environment program and decide whether to approve it under the unamended Act.
- (3) For subsection (2), the unamended Act continues in effect as if it had not been amended by the amending Act.

672 Transitional environmental programs

A transitional environmental program in force at the commencement, or approved under the unamended Act as applied by section 671, continues in effect even if it does not comply with section 331 as in force immediately after the commencement.

673 Existing application for disclosure exemption

- (1) This section applies to an application for a disclosure exemption made under section 564 of the unamended Act before the commencement that has not been decided at the commencement.
- (2) At the commencement, the application is taken to have been withdrawn.

674 Existing reviews and appeals about disclosure exemptions

- (1) Subsection (2) applies to an application for a review of an original decision mentioned in schedule 2, part 1, division 5 of the unamended Act that—
 - (a) was made under section 521 before the commencement; and
 - (b) has not been decided at the commencement.
- (2) At the commencement, the application is taken to have been withdrawn.

- (3) Subsection (4) applies to an appeal against a review decision for an original decision mentioned in schedule 2, part 1, division 5 of the unamended Act that—
 - (a) was made under section 524 before the commencement; and
 - (b) has not been decided at the commencement.
- (4) At the commencement—
 - (a) the appeal is taken to have been withdrawn; and
 - (b) if the Land Court has started to hear the appeal, the Land Court must stop hearing the appeal.

675 Existing disclosure exemptions

- (1) This section applies to a disclosure exemption granted under the unamended Act.
- (2) Chapter 12, part 3 of the unamended Act continues to apply in relation to the disclosure exemption as if this Act had not been amended by the amending Act.

Part 18 Transitional provisions for Environmental Protection (Greentape Reduction) and Other Legislation Amendment Act 2012

Division 1 Preliminary

676 Definitions for pt 18

In this part—

amending Act means the *Environmental Protection (Greentape Reduction) and Other Legislation Amendment Act 2012*.

chapter 4 activity means a chapter 4 activity under the unamended Act, schedule 4.

code of environmental compliance means a code of environmental compliance under the unamended Act, schedule 4.

commencement means the commencement of this section.

conversion application—

(a) for division 5—see section 695; or

(b) for division 5A—see section 698B.

environmental authority (chapter 5A activities) means an environmental authority (chapter 5A activities) under former section 309A(3).

environmental authority (mining activities) means an environmental authority (mining activities) under former section 146(2).

former, for a provision mentioned in this part, means the provision as in force immediately before the amendment or repeal of the provision under the amending Act.

former holder see section 698A.

non-transitional ERA see section 676A(1).

registration certificate means a registration certificate under former section 73F.

standard environmental conditions means standard environmental conditions under the unamended Act, schedule 4.

surrendered registration certificate see section 698A.

UDA development approval see the ULDA Act, schedule.

UDA development condition see the ULDA Act, section 55(4)(b).

ULDA Act means the *Urban Land Development Authority Act 2007*.

unamended Act means this Act as in force from time to time before the commencement.

Division 2 Provisions for chapter 4 activities

Subdivision 1 Non-transitional ERAs

676A Environmentally relevant activity may be prescribed as non-transitional ERA

- (1) A regulation may prescribe a section 19 activity as an environmentally relevant activity for which the development authority or registration certificate for the activity does not transition to an environmental authority after the commencement (a ***non-transitional ERA***).
- (2) In this section—
section 19 activity means an activity that, before the commencement, was prescribed under section 19 as an environmentally relevant activity.

Subdivision 2 Chapter 4 activities that are not transitioned

676B Application of sdiv 2

This subdivision applies to a non-transitional ERA.

676C Continuing effect of unamended Act for non-transitional ERA

- (1) The unamended Act continues to apply to a non-transitional ERA until a day prescribed under a regulation.
- (2) However, the unamended Act, section 427 does not apply to a person who starts carrying out a chapter 4 activity after the commencement.

Subdivision 3 Chapter 4 activities that are transitioned

676D Application of sdiv 3

This subdivision does not apply to a non-transitional ERA.

677 Continuing effect of existing development permit for chapter 4 activity as environmental authority

- (1) This section applies if, immediately before the commencement, a development permit for a chapter 4 activity is in effect.
- (2) From the commencement—
 - (a) if the chapter 4 activity the subject of the permit is a mobile and temporary environmentally relevant activity—
 - (i) the permit becomes an environmental authority for a prescribed ERA; and
 - (ii) the development conditions of the permit become conditions of the environmental authority, as standard conditions; and
 - (b) if the chapter 4 activity the subject of the permit is an activity other than a mobile and temporary environmentally relevant activity—

- (i) the development conditions of the permit become an environmental authority for a prescribed ERA; and
 - (ii) the development conditions of the permit become conditions of the environmental authority; and
- (c) the holder of the registration certificate for the activity the subject of the permit becomes the holder of the environmental authority.
- (3) The environmental authority is taken to have had effect on the day the development permit had effect under the Planning Act.
- (4) The anniversary day for the environmental authority is the same as the anniversary day that applied to the registration certificate immediately before the commencement.

678 Existing development application for chapter 4 activity

- (1) This section applies for a development application for a chapter 4 activity made, but not decided, before the commencement.
- (2) From the commencement—
 - (a) section 115 does not apply to the application; and
 - (b) former chapter 4, part 1 continues to apply to the application as if the amending Act had not been enacted.

678A Application to convert particular existing conditions into environmental authority

- (1) Subsection (2) applies if—
 - (a) immediately before the commencement, a development permit for a chapter 4 activity is in effect, but no registration certificate for the activity was issued; or
 - (b) after the commencement, a development permit for a chapter 4 activity comes into effect under section 678.

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- (2) A person may apply to the chief executive to convert the development conditions of the permit into an environmental authority for a prescribed ERA.
- (3) Subsection (4) applies if—
- (a) immediately before the commencement—
 - (i) a UDA development approval for a chapter 4 activity is in effect; and
 - (ii) UDA development conditions (the *relevant conditions*) of the UDA development approval nominate the administering authority to be the nominated assessing authority for the conditions under the ULDA Act, section 58(a); and
 - (iii) no registration certificate for the activity was issued; or
 - (b) after the commencement—
 - (i) a PDA development approval for a chapter 4 activity, applied for before the commencement, comes into effect; and
 - (ii) PDA development conditions (also the *relevant conditions*) of the UDA development approval nominate the administering authority to be the nominated assessing authority for the conditions under the *Economic Development Act 2012*, section 88(a); and
 - (iii) no registration certificate for the activity is issued.
- (4) A person may apply to the chief executive to convert the relevant conditions into an environmental authority for a prescribed ERA.
- (5) In this section—

PDA development approval see the *Economic Development Act 2012*, schedule 1.

PDA development condition see the *Economic Development Act 2012*, section 85(4)(b).

678B Requirements for conversion application

- (1) An application under section 678A must—
 - (a) be written; and
 - (b) describe all environmentally relevant activities for the application; and
 - (c) describe the land on which each activity will be carried out; and
 - (d) state whether the applicant is a registered suitable operator for the carrying out of the activity; and
 - (e) if the applicant is not a registered suitable operator for the carrying out of the activity, include an application, under section 318F, for registration as a suitable operator for the carrying out of the activity; and
 - (f) state whether the applicant wants any environmental authority granted for the application to take effect on a day nominated by the applicant.
- (2) No fee is payable for an application under section 678A.

678C Criterion for decision

An application under section 678A may be granted only if the applicant is a registered suitable operator for the carrying out of the activity.

678D Grant of environmental authority for conversion

- (1) If the chief executive decides to approve an application under section 678A(2)—
 - (a) the chief executive must grant the applicant an environmental authority for a prescribed ERA; and
 - (b) the development conditions of the permit become the conditions of the environmental authority.
- (2) If the chief executive decides to approve an application under section 678A(4)—

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- (a) the chief executive must grant the applicant an environmental authority for a prescribed ERA; and
 - (b) the relevant conditions under section 678A(3) become the conditions of the environmental authority.

678E When environmental authority takes effect

The environmental authority has effect—

- (a) if the authority states that it takes effect on the day nominated by the holder of the authority in a written notice given to the chief executive—on the nominated day; or
- (b) otherwise—on the day the authority is issued.

678F Notice of decision

- (1) This section applies if—
 - (a) the chief executive decides to refuse the application; and
 - (b) the application was made together with an application, under section 318F, for registration as a suitable operator for the carrying out of the activity.
- (2) The notice that the chief executive must give the applicant under section 318I(2) must include notice of the decision.

679 Continuing effect of existing UDA development approval for chapter 4 activity as environmental authority

- (1) This section applies if, immediately before the commencement—
 - (a) a UDA development approval for a chapter 4 activity is in effect; and
 - (b) UDA development conditions (the *relevant conditions*) of the UDA development approval nominate the administering authority to be the nominated assessing

authority for the conditions under the ULDA Act, section 58(a).

Note—

See also the *Economic Development Act 2012*, section 205 for the application of this provision following the commencement of that Act.

- (2) From the commencement—
 - (a) the relevant conditions of the UDA development approval—
 - (i) become an environmental authority for a prescribed ERA; and
 - (ii) become conditions of the environmental authority; and
 - (b) the holder of the registration certificate for the activity the subject of the UDA development approval becomes the holder of the environmental authority; and
 - (c) the carrying out of the prescribed ERA under the environmental authority is not a UDA development offence.
- (3) The environmental authority is taken to have had effect on the day the UDA development approval had effect under the ULDA Act.
- (4) The anniversary day for the environmental authority is the anniversary of the day the UDA development approval was given.
- (5) In this section—

UDA development offence see the ULDA Act, schedule.

680 Continuing effect of existing registration certificate as environmental authority

- (1) This section applies if, immediately before the commencement—
 - (a) a registration certificate is in effect; and

- (b) a code of environmental compliance applied to the chapter 4 activity stated in the certificate.
- (2) From the commencement—
 - (a) the registration certificate becomes an environmental authority for a prescribed ERA; and
 - (b) the standard environmental conditions of the code of environmental compliance become conditions of the authority, as standard conditions; and
 - (c) the registered operator for the registration certificate becomes the holder of the environmental authority.
- (3) The environmental authority is taken to have had effect on the day the registration certificate had effect under the unamended Act.
- (4) The anniversary day for the environmental authority is the anniversary day for the registration certificate.

681 Existing application for registration to carry out chapter 4 activity

- (1) This section applies for an application for registration to carry out a chapter 4 activity made, but not decided, under former chapter 4, part 2 before the commencement.
- (2) From the commencement, former chapter 4, part 2 continues to apply to the application as if the amending Act had not been enacted.
- (3) Subsection (4) applies if—
 - (a) a registration certificate is given for the application; and
 - (b) immediately before the commencement, a code of environmental compliance applied to the chapter 4 activity stated in the certificate.
- (4) The registration certificate is taken to be one to which section 680 applies.

- (5) If subsection (4) does not apply and a registration certificate is given for the application, the registration certificate is taken to be one to which section 677 applies.

Division 3 Provisions for environmental authorities (mining activities)

682 Continuing effect of existing environmental authority (mining activities) as environmental authority

- (1) This section applies if, immediately before the commencement, an environmental authority (mining activities) is in effect.
- (2) From the commencement, the environmental authority (mining activities) becomes an environmental authority for mining activities.
- (3) The environmental authority is taken to have had effect on the day the environmental authority (mining activities) had effect under the unamended Act.
- (4) The anniversary day for the environmental authority is the anniversary day for the environmental authority (mining activities).

683 Effect of commencement on particular applications

- (1) This section applies to the following applications made, but not decided, before the commencement—
 - (a) an application for an environmental authority (mining activities) made under former chapter 5; and
 - (b) an application to amend, surrender or transfer an environmental authority (mining activities).
- (2) From the commencement—

- (a) processing of the application and all matters incidental to the processing must proceed as if the amending Act had not been enacted; and
- (b) an environmental authority granted, amended or transferred is taken to be an environmental authority to which section 682 applies.

684 Existing progressive certification

- (1) This section applies if the administering authority has, under former chapter 5, part 9A given a progressive certification for a particular area within a relevant mining tenement for a level 1 mining project.
- (2) From the commencement—
 - (a) the certification becomes a progressive certification for the mining tenure for chapter 5A, part 6; and
 - (b) the area the subject of the progressive certification is a certified rehabilitated area for the mining tenure for chapter 5A, part 6.
- (3) In this section—

level 1 mining project means a level 1 mining project under former section 151(1).

685 Existing application for progressive certification

- (1) This section applies if an application for progressive certification is made, but not decided, under former chapter 5, part 9A before the commencement.
- (2) From the commencement—
 - (a) the application becomes a progressive certification application under section 318ZC; and
 - (b) chapter 5A, part 6 applies to the application.

686 Existing surrender notice

- (1) This section applies if the administering authority has given a surrender notice to the holder of an environmental authority (mining activities) under former section 271(2) before the commencement.
- (2) From the commencement, the surrender notice becomes a surrender notice under section 258.

687 Existing audit notices

- (1) This section applies if the administering authority has given the holder of an environmental authority (mining activities) an audit notice under former section 280(1) before the commencement.
- (2) From the commencement, the audit notice becomes an audit notice under section 322.

688 Existing appointment of auditor

- (1) This section applies if an individual is appointed as an auditor under former section 285(1) before the commencement and the term of the appointment has not ended.
- (2) On the commencement, the individual holds approval as an auditor under chapter 12, part 3A, division 2.

689 Existing notice of proposed amendment, cancellation or suspension of environmental authority

- (1) This section applies if the administering authority has given the holder of an environmental authority (mining activities) notice of a proposed action under former section 295(1) before the commencement.
- (2) From the commencement—
 - (a) if the proposed action is to amend the environmental authority—

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- (i) the notice becomes a notice given under section 217; and
 - (ii) chapter 5, part 6, divisions 2 and 3 apply for the notice; or
- (b) if the proposed action is to suspend or cancel the environmental authority—
- (i) the notice becomes a notice given under section 280; and
 - (ii) chapter 5, part 11, divisions 2 and 3 apply for the notice.

Division 4 Provisions for other environmental authorities

690 Continuing effect of existing environmental authority (chapter 5A activities) as environmental authority

- (1) This section applies if, immediately before the commencement, an environmental authority (chapter 5A activities) is in effect.
- (2) From the commencement, the environmental authority (chapter 5A activities) becomes an environmental authority for a resource activity.
- (3) The environmental authority is taken to have had effect on the day the environmental authority (chapter 5A activities) had effect under the unamended Act.
- (4) The anniversary day for the environmental authority is the anniversary day for the environmental authority (chapter 5A activities).

691 Existing application for environmental authority (chapter 5A activities)

- (1) This section applies to the following applications made, but not decided, before the commencement—
 - (a) an application for an environmental authority (chapter 5A activities) made under former chapter 5A; and
 - (b) an application to amend, surrender or transfer an environmental authority (chapter 5A activities).
- (2) From the commencement—
 - (a) processing of the application and all matters incidental to the processing must proceed as if the amending Act had not been enacted; and
 - (b) an environmental authority granted, amended or transferred is taken to be an environmental authority to which section 690 applies.

692 Existing surrender notice

- (1) This section applies if the administering authority has given a surrender notice to the holder of an environmental authority (chapter 5A activities) under former section 312B(2) before the commencement.
- (2) From the commencement, the surrender notice becomes a surrender notice under section 258.

693 Existing notice of proposed amendment, cancellation or suspension of environmental authority

- (1) This section applies if the administering authority has given the holder of an environmental authority (chapter 5A activities) notice of a proposed action under former section 312H(1) before the commencement.
- (2) From the commencement—
 - (a) if the proposed action is to amend the environmental authority—

-
- (i) the notice becomes a notice given under section 217; and
 - (ii) chapter 5, part 6, divisions 2 and 3 apply for the notice; or
- (b) if the proposed action is to suspend or cancel the environmental authority—
- (i) the notice becomes a notice given under section 280; and
 - (ii) chapter 5, part 11, divisions 2 and 3 apply for the notice.

Division 5 Transitional authorities for environmentally relevant activities

694 Definition for div 5

In this division—

transitional authority means—

- (a) an environmental authority that, under section 682 or 690, is taken to be an environmental authority under chapter 5; or
- (b) a development permit or development conditions of a development permit that, under section 677, are taken to be an environmental authority under chapter 5; or
- (c) UDA development conditions of a UDA development approval that, under section 679, are taken to be an environmental authority under chapter 5; or
- (d) a registration certificate that, under section 680, is taken to be an environmental authority under chapter 5.

695 Application to convert conditions of transitional authority to standard conditions

- (1) The holder of a transitional authority may apply (a *conversion application*) to the administering authority to convert the conditions of the transitional authority to the standard conditions for the authority or relevant activity.
- (2) Subsection (1) applies despite chapter 5, part 7.

696 Requirements for conversion application

A conversion application must be—

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

697 Deciding conversion application

- (1) The administering authority must, within 10 business days after receiving the application, decide whether to—
 - (a) approve the application; or
 - (b) refuse the application.
- (2) In deciding the application, the administering authority must consider the criteria mentioned in section 175(2).
- (3) Despite subsection (1), the administering authority may only approve an application if—
 - (a) eligibility criteria are in effect for the relevant activity for the authority; and
 - (b) the relevant activity complies with the eligibility criteria.

698 Steps after making decision

- (1) If the administering authority decides to approve the application, it must, within 10 business days—

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- (a) amend the environmental authority to give effect to the conversion; and
 - (b) record particulars of the amendment in the relevant register; and
 - (c) issue the amended environmental authority to the applicant.
- (2) If the administering authority decides to refuse the application, it must, within 10 business days after the decision is made, give the applicant an information notice about the decision.

Division 5A Suspended activities

698A Application of div 5A

This division applies if, before the commencement, a person (the *former holder*)—

- (a) surrendered a registration certificate for a development permit (a *surrendered registration certificate*) that, but for the surrender, would be taken under section 677 to be an environmental authority under chapter 5; or
- (b) surrendered a registration certificate (also a *surrendered registration certificate*) that, but for the surrender, would be taken under section 680 to be an environmental authority under chapter 5.

698B Application to convert surrender of registration certificate to suspension of environmental authority

The former holder may, within 2 years after the commencement, apply (a *conversion application*) to the administering authority to convert the surrendered registration certificate to an environmental authority that has been suspended under chapter 5, part 11A.

698C Application of ch 5, pt 11A, divs 2 to 4 to conversion application

Chapter 5, part 11A, divisions 2 to 4 apply to the conversion application as if the conversion application were a suspension application.

698D Effect of conversion

- (1) This section applies if the conversion application is approved.
- (2) From the day of the conversion, the former holder of the surrendered registration certificate becomes—
 - (a) the holder of an environmental authority that has been suspended under chapter 5, part 11A; and
 - (b) a registered suitable operator.
- (3) From the day of the conversion—
 - (a) for a surrendered registration certificate mentioned in section 698A(a)—the development conditions of the development permit become conditions of the suspended environmental authority; or
 - (b) for a surrendered registration certificate mentioned in section 698A(b)—the standard environmental conditions of the code of environmental compliance become conditions of the suspended environmental authority, as standard conditions.
- (4) The anniversary day for the suspended environmental authority is—
 - (a) for a surrendered registration certificate mentioned in section 698A(a)—the same as the anniversary day that applied to the registration certificate immediately before the commencement; or
 - (b) for a surrendered registration certificate mentioned in section 698A(b)—the anniversary day for the registration certificate.

Division 6 Financial assurance

699 Existing financial assurance requirement

- (1) This section applies if, before the commencement, the administering authority required—
 - (a) the giving of financial assurance under former section 312O(2) or 312P(1)(a); or
 - (b) a change to financial assurance under former section 312P(1)(b).
- (2) From the commencement, the requirement continues to apply.
- (3) The holder of an environmental authority to which a requirement applies must not carry out the relevant activity under the environmental authority until the financial assurance is given.

Maximum penalty—1665 penalty units.

Division 7 Provisions about codes of practice

700 Existing codes of practice

- (1) This section applies for a code of practice (an *existing code of practice*) approved under former section 548 before the commencement.
- (2) On the commencement, the existing code of practice becomes a code of practice under section 318E.
- (3) However, despite section 318E(4), an existing code of practice expires 2 years after the commencement.

Division 8 Provisions about environmental management plans

701 Conditions about environmental management plans for particular environmental authorities

- (1) This section applies if—
 - (a) an old authority becomes, under section 682 or 690, an environmental authority under chapter 5 (the *new authority*); and
 - (b) either—
 - (i) the old authority had a condition requiring compliance with an environmental management plan; or
 - (ii) an environmental management plan for the old authority states environmental protection commitments for rehabilitation of the land to be disturbed under each relevant resource tenement.
- (2) The administering authority may amend the new authority to impose conditions consistent with the environmental management plan.
- (3) However, the amendment may only be made if—
 - (a) the procedure under chapter 5, part 6, division 2 is followed or the holder of the authority has agreed in writing to the amendment; and
 - (b) the amendment is made within the later of the following periods—
 - (i) 2 years after the commencement; or
 - (ii) 2 years after the environmental authority takes effect.
- (4) Section 221 applies to the amendment as if the amendment was made under chapter 5, part 6.

(5) This section does not apply if a conversion application is made for the environmental authority under section 695.

(6) In this section—

environmental management plan means an environmental management plan under the unamended Act, schedule 4.

old authority means any of the following under the unamended Act—

- (a) an environmental authority (exploration);
- (b) an environmental authority (mineral development);
- (c) an environmental authority (mining lease);
- (d) an environmental authority (prospecting);
- (e) an environmental authority (mining claim);
- (f) an environmental authority (chapter 5A activities).

Division 9 Provisions about plans of operations

702 Existing plan of operations

- (1) This section applies for a plan of operations for an environmental authority (mining lease) submitted, or taken to have been submitted, to the administering authority under former section 233 before the commencement.
- (2) On the commencement, the plan of operations becomes a plan of operations under section 287.
- (3) The plan of operations is taken to have been submitted on the day it was submitted under the unamended Act.

703 Plan of operations for environmental authority for petroleum activity that relates to petroleum lease

- (1) This section applies for an environmental authority for a petroleum activity authorised under a petroleum lease if the authority—
 - (a) was issued before the commencement; and
 - (b) chapter 5, part 12, division 1 applies to the authority.
- (2) The holder of the authority must, within 6 months after the commencement, give the administering authority a plan of operations for all relevant activities.

Maximum penalty—100 penalty units.
- (3) Section 287 does not apply to the holder of the authority until the earlier of the following—
 - (a) the day a plan of operations is given to the administering authority for all relevant activities;
 - (b) the day that is 6 months after the commencement.
- (4) If a plan of operations for the environmental authority is given to the administering authority, the administering authority may amend the environmental authority to remove any conditions that relate to matters included in the plan.
- (5) However, an amendment mentioned in subsection (4) may only be made if—
 - (a) the procedure under chapter 5, part 6, division 2 is followed or the holder of the authority has agreed in writing to the amendment; and
 - (b) the amendment is made within 12 months after the commencement.
- (6) Section 221 applies to the amendment as if the amendment was made under chapter 5, part 6.

Division 10 Miscellaneous provisions

704 Existing application to change anniversary day

- (1) This section applies if—
 - (a) an application to change the anniversary day for a registration certificate or environmental authority is made, but not decided, under former section 318A before the commencement; and
 - (b) under section 680, 682 or 690, the registration certificate or environmental authority becomes an environmental authority.
- (2) From the commencement—
 - (a) the application becomes an application under section 310; and
 - (b) chapter 5, part 12, division 3, subdivision 2 applies to the application.

705 Particular persons taken to be registered suitable operator

- (1) This section applies to—
 - (a) a person who holds a registration certificate, given under former section 73F before or after the commencement, that has not been cancelled; or
 - (b) the holder of an environmental authority issued under former chapter 5 or 5A before or after the commencement.
- (1A) However, this section does not apply to a person who holds a registration certificate for a non-transitional ERA.
- (2) On the commencement, the person becomes a registered suitable operator.

- (3) Subsection (4) applies if, immediately before the commencement, a registration certificate mentioned in subsection (1)(a) was suspended.
- (4) The suspension becomes a suspension of the registration of the holder of the registration certificate as a registered suitable operator under section 318N.

706 Effect of proposed standard environmental conditions prepared before commencement of amending Act

- (1) This section applies if—
 - (a) a draft code of environmental compliance (a *draft code*) was prepared under the unamended Act before the commencement; and
 - (b) the draft code includes proposed standard environmental conditions (the *proposed conditions*); and
 - (c) the draft code is not approved or made under the unamended Act before the commencement.
- (2) The chief executive may, under section 318D(1), make the proposed conditions, with or without changes, as standard conditions for an environmentally relevant activity or environmental authority, without complying with section 318C if—
 - (a) public consultation was carried out for the draft code; and
 - (b) the public consultation was carried out in a way that is substantially similar to the requirements under section 318C.

707 Deferment of application of s 426 to newly prescribed ERAs

- (1) This section applies to a person carrying out an activity at premises if—

- (a) the activity is prescribed for the first time as an environmentally relevant activity under section 19 (the *relevant change*); and
 - (b) the activity was carried out at the premises before the relevant change; and
 - (c) the activity continues to be carried out at the premises after the relevant change.
- (2) Section 426 does not apply to the person in carrying out the activity at the premises until 1 year after the relevant change.

707A Eligibility criteria and standard conditions for particular environmentally relevant activities

- (1) This section applies for an environmentally relevant activity if, immediately before the commencement, the activity would have constituted either of the following and would have been subject to a code of environmental compliance under the unamended Act—
- (a) a chapter 4 activity, or aspects of a chapter 4 activity;
 - (b) a mining activity.
- (2) From the commencement—
- (a) the matters identified as eligibility criteria in the code of environmental compliance are taken to be the eligibility criteria for the environmentally relevant activity until new eligibility criteria for the activity take effect under section 318(3); and
 - (b) standard environmental conditions of the code of environmental compliance are taken to be the standard conditions for the environmentally relevant activity until new standard conditions for the activity take effect under section 318D(5).

707B Eligibility criteria prescribed for mining activities

- (1) A regulation may prescribe eligibility criteria for a mining activity.
- (2) Eligibility criteria for a mining activity that are prescribed under subsection (1) are in addition to any eligibility criteria for the mining activity that are in effect under section 707A(2)(a).
- (3) This section expires 3 years after the commencement.
- (4) This section is declared to be a law to which the *Acts Interpretation Act 1954*, section 20A applies.

708 References to chapter 4 activity, development approval or registration certificate

- (1) A reference in an Act to a chapter 4 activity may, if the context permits, be taken to be a reference to a prescribed ERA.
- (2) A reference in an Act to a development approval or registration certificate that is in effect for a chapter 4 activity may, if the context permits, be taken to be a reference to the environmental authority under section 677 or 680.

709 References to former chapters 5 and 5A

- (1) A reference in an Act or a document to former chapter 5 or 5A may, if the context permits, be taken to be a reference to chapter 5.
- (2) A reference in an Act or a document to a particular provision of former chapter 5 or 5A (the *repealed provision*) may, if the context permits, be taken to be a reference to the provision of chapter 5 that corresponds, or substantially corresponds, to the repealed provision.

710 References to former terms

- (1) A reference in an Act or a document to a term of the unamended Act (the *former term*) stated in column 1 of the following table may, if the context permits, be taken to be a reference to the term stated opposite the former term in column 2 of the table—

Table

Column 1	Column 2
1 chapter 5A activity	resource activity other than a mining activity
2 chapter 5A activity project	ERA project for a resource activity other than a mining activity
3 coal seam gas environmental authority	environmental authority for a CSG activity
4 code compliant conditions	standard conditions
5 code compliant application	standard application
6 code compliant authority	environmental authority for an eligible ERA subject to the standard conditions
7 environmental authority (chapter 5A activities)	environmental authority for a resource activity, other than a mining activity
8 environmental authority (exploration)	environmental authority for a mining activity relating to an exploration permit
9 environmental authority (mineral development)	environmental authority for a mining activity relating to a mineral development licence

	Column 1	Column 2
10	environmental authority (mining activities)	environmental authority for a mining activity
11	environmental authority (mining claim)	environmental authority for a mining activity relating to a mining claim
12	environmental authority (mining lease)	environmental authority for a mining activity relating to a mining lease
13	environmental authority (prospecting)	prescribed conditions for a small scale mining activity
14	GHG residual risks requirement	residual risks requirement for a GHG storage activity
15	non-code compliant application	variation application
16	non-code compliant authority	environmental authority for an eligible ERA subject to varied standard conditions
17	mining project	resource project for a mining activity
18	level 1 mining project	resource project for a mining activity that is an ineligible ERA
19	level 1 chapter 5A activity	resource activity, other than a mining activity, that is an ineligible ERA
20	level 2 mining project	resource project for a mining activity that is an eligible ERA

Column 1	Column 2
21 level 2 chapter 5A activity	resource activity, other than a mining activity, that is an eligible ERA
22 standard environmental conditions	standard conditions
(2) In this section— <i>eligible ERA</i> see section 112. <i>ineligible ERA</i> see section 112.	

Part 19 Transitional provisions for the Mining and Other Legislation Amendment Act 2013

711 Provision about cancellation of environmental authority

- (1) This section applies if, on the cancellation of an environmental authority under section 277A, there is no prescribed condition requiring the holder of the mining tenure for carrying out the small scale activity to which the authority relates—
 - (a) to give the administering authority financial assurance;
or
 - (b) to rehabilitate land.
- (2) On the cancellation of the environmental authority, a current condition of the authority is taken to be a prescribed condition for carrying out the small scale mining activity.
- (3) Subsection (2) applies in relation to the carrying out of the small scale mining activity until a regulation under section

[s 712]

21A prescribes a condition requiring the holder of the mining tenure for carrying out the small scale mining activity—

- (a) to give the administering authority financial assurance;
or
 - (b) to rehabilitate land.
- (4) In this section—

current condition, of an environmental authority, means a condition of the authority requiring the holder of the authority—

- (a) to give the administering authority financial assurance;
or
- (b) to rehabilitate land.

712 Provision about financial assurance

- (1) This section applies to financial assurance for an environmental authority (*EA financial assurance*) if—
- (a) the financial assurance is held by the administering authority immediately before the commencement of the section; and
 - (b) the activity carried out under the environmental authority is a small scale mining activity; and
 - (c) the chief executive cancels the environmental authority under section 277A; and
 - (d) a prescribed condition requires the holder of a mining tenure for carrying out the small scale mining activity to give the administering authority financial assurance for the tenure.
- (2) If the amount of the EA financial assurance is equal to the amount required under the prescribed condition (the *required amount*), the amount of the EA financial assurance is taken to be the financial assurance for the mining tenure.

- (3) If the amount of the EA financial assurance is more than the required amount—
 - (a) the amount of the EA financial assurance that is equal to the required amount is taken to be the financial assurance for the mining tenure; and
 - (b) the administering authority must return to the holder the amount that is more than the required amount.
- (4) If the amount of the EA financial assurance is less than the required amount—
 - (a) the amount of the EA financial assurance is taken to be part of the financial assurance for the mining tenure; and
 - (b) the holder must, to comply with the prescribed condition, give the administering authority the amount that is the difference between the required amount and the EA financial assurance.

Schedule 1 Exclusions relating to environmental nuisance or environmental harm

sections 17A, 440 and 440Q

Part 1 Environmental nuisance excluded from sections 440 and 440Q

1 Safety and transport noise

Environmental nuisance caused by any of the following types of noise—

- (a) noise from an audible traffic signal, at pedestrian lights under the Queensland Road Rules, that complies with AS 1742.10—1990 ‘Pedestrian control and protection’;

Editor’s note—

A copy of AS 1742.10 may be inspected, free of charge, at the department’s office at level 3, 400 George Street, Brisbane.

- (b) noise from a warning signal for a railway crossing;
- (c) safety signal noise from a reversing vehicle;
- (d) noise from operating a ship, including noise from—
 - (i) machinery and equipment; or
 - (ii) shore and ship based port operations for loading onto a ship, or unloading from a ship, items other than bulk goods; or
 - (iii) ship to shore communications relating to safe berthing and cargo handling; or
 - (iv) a ship’s horn;
- (e) noise from aircraft movement;

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- (f) noise from the ordinary use of a public road or State-controlled road;
 - (g) noise from the ordinary use of a busway, light rail or rail transport infrastructure.

2 Government activities and public infrastructure

Environmental nuisance caused in the course of any of the following activities—

- (a) maintaining a public road, State-controlled road, railway or other infrastructure for public transport;
- (b) maintaining a public infrastructure facility, including—
 - (i) infrastructure for a water or sewerage service; and
 - (ii) a facility for a telecommunication or electricity system;
- (c) performing a function under the *Disaster Management Act 2003*;
- (d) in the case of the State or a local government—preventing or removing, or reducing the risk to public health from, a public health risk under the *Public Health Act 2005*.

3 Nuisance regulated by other laws

Environmental nuisance caused by any of the following—

- (a) an act or omission that is a contravention of a local law;
- (b) an act done, or omission made, under an authority given under a local law;
- (c) noise to which the *Police Powers and Responsibilities Act 2000*, chapter 19, part 3 applies;
- (d) an emission of a contaminant at a workplace, within the meaning given by the *Work Health and Safety Act 2011*, section 8, that does not extend beyond the workplace;
- (e) a public health risk within the meaning given by the *Public Health Act 2005*, section 11;

- (f) development carried out under an approval under the *Sustainable Planning Act 2009* that authorises the environmental nuisance;
- (g) the use, for a fireworks display, of explosives within the meaning given by the *Explosives Act 1999*;
- (h) smoking within the meaning given by the *Tobacco and Other Smoking Products Act 1998*;
- (i) noise from a special event prescribed under a regulation for the *Major Sports Facilities Act 2001*, section 30A that complies with any conditions prescribed under the regulation, for the use of the facility where the event takes place, about noise levels for the event;
- (j) an act done or omission made under an approved compliance management plan under the *Transport Infrastructure Act 1994*, section 477G.

Part 2 Exclusions from environmental harm and environmental nuisance

4 Non-domestic animal noise

Animal noise from a non-domestic animal.

5 Particular cooking odours

A cooking odour from cooking carried out on land on which a class 1, 2 or 3 building under the Building Code of Australia is constructed.

Schedule 2 Original decisions

sections 519(1), 522 and 523

Part 1 Original decisions for Land Court appeals

Division 1 Decisions under chapter 3

Section	Description of decision
43(3)(c)	decision about giving TOR notice
51(2)(a)(iii)	decision about giving EIS notice
51(2)(b)(ii)	decision about way of publishing EIS notice
68(1) and (2)	decision not to allow EIS to proceed
68(3)(a)	fixing of new notice period
68(3)(b)	fixing of new comment or submission period

Division 2 Decisions under chapter 4A

Section	Description of decision
89	decision to give ERMP direction
99	decision to refuse to accredit ERMP

Division 3 Decisions under chapter 5

Section	Description of decision
128(2)	decision to give notice stating that an application for an environmental authority for a resource activity is not a properly made application
147(3)	decision to refuse extension to the information response period for an application or amendment application for an environmental authority for a resource activity
152(3)	decision to require another way of giving or publishing application notice
155(a)	fixing submission period for an application or amendment application for an environmental authority for a resource activity, other than a mining activity
159(2) and (3)	decision not to allow application or amendment application for an environmental authority to proceed
159(5)(b)	fixing substituted way to give or publish application notice and fixing new submission period
171(2)	imposition of a condition on an environmental authority for a resource activity, other than a mining activity relating to a mining lease, if the condition is not the same, or to the same effect as, a condition agreed to by the applicant
172(2)(a)	decision to approve site-specific application for an environmental authority for a resource activity that is a petroleum activity
172(2)(a)	imposition of a condition on an environmental authority for a resource activity, other than a mining activity relating to a mining lease, if the condition is not the same, or to the same effect as, a condition agreed to by the applicant

Section	Description of decision
172(2)(b)	decision to refuse site-specific application or amendment application for an environmental authority for a resource activity, other than a mining activity relating to a mining lease, if the decision is not made under section 173(1)
219(1)	amendment decision for environmental authority for a resource activity
228(1)	assessment level decision for amendment application for an environmental authority for a resource activity, if the decision is that the proposed amendment is a major amendment
230(2)	decision that chapter 5, part 4 applies to amendment application for an environmental authority for a resource activity, other than a mining activity
233(2)(b)(ii)	decision to require another way of publishing application notice
234(2)	fixing submission period for amendment application for an environmental authority for a resource activity
240(1)	refusal of amendment application for an environmental authority for a resource activity
240(1) and (3)	decision to approve amendment application for an environmental authority for a resource activity subject to other amendments to the conditions of the authority
247(1)(b)	refusal of amalgamation application for environmental authorities for resource activities
258(2)	decision to give surrender notice
258(3)(a)	fixing of period for making surrender application
266(1)(b)	refusal of surrender application for an environmental authority for a resource activity
271(2)	requirement to make residual risk payment

Section	Description of decision
274(2)	decision to give rehabilitation direction
282(1)	proposed action decision for an environmental authority for a resource activity
284C	refusal of suspension application for an environmental authority for a resource activity
295(1)	decision about amount and form of financial assurance for an environmental authority for a resource activity
301(1)	decision to make claim on or realise financial assurance for a small scale mining tenure or an environmental authority for a resource activity
305(1)	refusal of application to amend the amount or form of financial assurance or discharge financial assurance, for a small scale mining tenure or an environmental authority for a resource activity
306(1)	decision to require the holder of a small scale mining tenure or an environmental authority for a resource activity to change the amount of financial assurance
311	decision not to change anniversary day for an environmental authority for a resource activity
314(2)	decision to require holder of an environmental authority for a resource activity to make a site-specific application for a new environmental authority or an amendment application

Division 4 Decisions under chapter 5A

Section	Description of decision
318ZH	refusal of progressive certification
318ZL(1)	requirement to make residual risk payment

Division 5 **Decisions under chapter 7**

Section	Description of decision
322(1)	decision to give audit notice for a resource activity
324(1)(d)	fixing of period for conducting or commissioning environmental audit and giving environmental report for a resource activity
326(1)	decision to conduct or commission environmental audit or prepare environmental report for a resource activity
326B(2)	decision to give investigation notice for a resource activity
326C(1)(c)	fixing of period for conducting or commissioning environmental investigation and giving environmental report for a resource activity
326G(4)(b)	decision to refuse to accept environmental report about an environmental investigation for a resource activity
326I(2)	decision to require another environmental investigation and report for a resource activity
326I(4)(b)	fixing of period for conducting or commissioning environmental investigation and giving environmental report for a resource activity
357E	refusal of application for temporary emissions licence relating to an environmental authority for a resource activity
357E	granting of temporary emissions licence relating to an environmental authority for a resource activity on terms different from application
357J	amending, cancelling or suspending temporary emissions licence relating to an environmental authority for a resource activity

Division 6 **Decisions under chapter 13, part 18**

Section	Description of decision
697(1)(b)	decision to refuse conversion application for an environmental authority for a resource activity

Part 2 **Original decisions for court appeals**

Division 2 **Decisions under chapter 5**

Section	Description of decision
128(2)	decision to give notice stating that an application for an environmental authority for a prescribed ERA is not a properly made application
147(3)	decision to refuse extension to the information response period for an application or amendment application for an environmental authority for a prescribed ERA
171(2)	imposition of a condition on an environmental authority for a prescribed ERA if the condition is not the same, or to the same effect, as a condition agreed to by the applicant
172(2)(a)	imposition of a condition on an environmental authority for a prescribed ERA if the condition is not the same, or to the same effect, as a condition agreed to by the applicant

Section	Description of decision
172(2)(b)	decision to refuse site-specific application or amendment application for an environmental authority for a prescribed ERA, if the decision is not made under section 173(1)
214(2)	amendment of environmental authority
219(1)	amendment decision for an environmental authority for a prescribed ERA
228(1)	assessment level decision for an amendment application for an environmental authority for a prescribed ERA, if the decision is that the proposed amendment is a major amendment
240(1)	refusal of amendment application for an environmental authority for a prescribed ERA
240(1) and (3)	decision to approve amendment application for an environmental authority for a prescribed ERA subject to other amendments to the conditions of the authority
247(1)(b)	refusal of amalgamation application for environmental authorities for prescribed ERAs
266(1)(b)	refusal of surrender application for an environmental authority for a prescribed ERA
282(1)	proposed action decision for an environmental authority for a prescribed ERA
284C	refusal of suspension application for an environmental authority for a prescribed ERA
295(1)	decision about amount and form of financial assurance for an environmental authority for a prescribed ERA
301(1)	decision to make a claim on or realise financial assurance for an environmental authority for a prescribed ERA

Section	Description of decision
305(1)	refusal of application to amend the amount or form of financial assurance or discharge financial assurance, for an environmental authority for a prescribed ERA
306(1)	decision to require holder of an environmental authority for a prescribed ERA to change the amount of financial assurance
311	decision not to change anniversary day for an environmental authority for a prescribed ERA
314(2)	decision to require holder of an environmental authority for a prescribed ERA to make a site-specific application for a new environmental authority or an amendment application

Division 3 Decisions under chapter 5A

Section	Description of decision
318G	refusal of application for registration as a suitable operator
318N(1)	decision to cancel or suspend registration

Division 4 Decisions under chapter 7

Section	Description of decision
322(1)	decision to give audit notice for a prescribed ERA
323(2)	decision to give audit notice
324(1)(d)	fixing of period for conducting or commissioning environmental audit and giving environmental report for a prescribed ERA

Section	Description of decision
326B(2)	decision to give investigation notice for prescribed ERA
326C(1)(c)	fixing of period for conducting or commissioning environmental investigation and giving environmental report for a prescribed ERA
326G(4)(b)	decision to refuse to accept an environmental report about an environmental investigation for a prescribed ERA
326G(7)	extension of time for decision about environmental report
326I(2)	decision to require another environmental investigation and report for a prescribed ERA
326I(4)(b)	fixing of period for conducting or commissioning environmental investigation and giving environmental report for a prescribed ERA
332(1) or (2)	requirement for draft transitional environmental program
337(2)	extension of time for decision about draft transitional environmental program
339(1) or 344	decision on whether to approve, or to approve an amendment of an approval of, a draft transitional environmental program
339(2)	imposition of conditions on a transitional environmental program approval
344C(1)	decision to make claim on, or realise, financial assurance
353(3)(a)	removal of immunity from prosecution for a person under a refusal to approve a draft transitional environmental program
357E	refusal of application for temporary emissions licence relating to an environmental authority for a prescribed ERA

Section	Description of decision
357E	granting of temporary emissions licence relating to an environmental authority for a prescribed ERA on terms different from application
357J	amending, cancelling or suspending temporary emissions licence relating to an environmental authority for a prescribed ERA
358	issue of environmental protection order
363B	decision to issue direction notice
363H	decision to issue clean-up notice
363N	decision to issue cost recovery notice
363N(2)	decision about amount of costs or expenses claimed
374(1)	decision whether land has been, or is being, used for a notifiable activity or is contaminated land
376(2)	requirement for site investigation
378(3)	refusal of application for waiver of requirement to conduct or commission site investigation and report
384(1)	decision whether land is contaminated land
384(2)	decision about particulars of land in contaminated land register
385(2)	requirement for further information about site investigation and report
388(1)	extension of time to make decision about site investigation report
391(1)	requirement to conduct or commission work to remediate contaminated land
392(3)	refusal of application for waiver of requirement to conduct or commission work to remediate contaminated land

Section	Description of decision
396(1)	decision whether land is still contaminated land
398(2)	requirement for additional information about validation report
399(1)	extension of time for consideration of validation report
405(2)(a)	decision to prepare site management plan
405(2)(b) or 411(1)	requirement to prepare or commission site management plan
407(3)	refusal of application for waiver of requirement to prepare or commission site management plan
411(2)(a)	requirement for additional information about site management plan
412	decision whether to approve draft site management plan
415(1)	extension of time for decision about approval of draft site management plan
419(2)(a)	decision to prepare an amendment of a site management plan
419(2)(b)	requirement for preparation and submission of draft amendment of site management plan
419A(2)	requirement to make residual risk payment
423(1)	erection of sign on contaminated land for which particulars are not recorded on the environmental management register or contaminated land register
424(3)	refusal of disposal permit application
424(3) and (4)	imposition of conditions on disposal permit

Division 5A Decisions under chapter 8

Section	Description of decision
440ZU	request for information or documents about an application for an exemption
440ZV	imposition of conditions on an exemption
440ZV	refusal of application for an exemption

Division 6 Decision under chapter 9

Section	Description of decision
451(1)	requirement for information relevant to the administration or enforcement of this Act

Division 7 Decisions under chapter 12

Section	Description of decision
571(1)(b)	decision to approve application for approval as auditor subject to conditions
571(1)(c)	decision to refuse application for approval as auditor
574G(1)	decision to cancel or suspend approval as an auditor
574I(2)(b)	decision not to take action on complaint

Division 8 **Decisions under chapter 13**

Section	Description of decision
596(2)	decision to give reminder notice
596(2)	fixing of period for compliance with reminder notice
607(4)	decision about consolidating transitional authorities for same mining project
608(2)	decision to make environmental document requirement for transitional authority
616ZC(4) or 621(4)	decision to give registration certificate and development approval
623(2)	decision to give a notice that the risk of environmental harm from carrying out a chapter 4 activity under an environmental authority is no longer insignificant
697(1)(b)	decision to refuse conversion application for an environmental authority for a prescribed ERA

Part 3 **Original decisions for internal review only**

Section	Description of decision
140 and 143(2)	requirement that the applicant provide an EIS for an application

Schedule 3 Notifiable activities

schedule 4, dictionary, definition *notifiable activity*

- 1 Abrasive blasting—carrying out abrasive blast cleaning (other than cleaning carried out in fully enclosed booths) or disposing of abrasive blasting material.
- 2 Aerial spraying—operating premises used for—
 - (a) filling and washing out tanks used for aerial spraying; or
 - (b) washing aircraft used for aerial spraying.
- 3 Asbestos manufacture or disposal—
 - (a) manufacturing asbestos products; or
 - (b) disposing of unbonded asbestos; or
 - (c) disposing of more than 5t of bonded asbestos.
- 4 Asphalt or bitumen manufacture—manufacturing asphalt or bitumen, other than at a single-use site used by a mobile asphalt plant.
- 5 Battery manufacture or recycling—assembling, disassembling, manufacturing or recycling batteries (other than storing batteries for retail sale).
- 6 Chemical manufacture or formulation—manufacturing, blending, mixing or formulating chemicals if—
 - (a) the chemicals are designated dangerous goods under the dangerous goods code; and
 - (b) the facility used to manufacture, blend, mix or formulate the chemicals has a design production capacity of more than 1t per week.
- 7 Chemical storage (other than petroleum products or oil under item 29)—storing more than 10t of chemicals (other than compressed or liquefied gases) that are dangerous goods under the dangerous goods code.

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- 8 Coal fired power station—operating a coal fired power station.
 - 9 Coal gas works—operating a coal gas works.
 - 11 Drum reconditioning or recycling—reconditioning or recycling of metal or plastic drums including storage drums.
 - 12 Dry cleaning—operating a dry cleaning business where—
 - (a) solvents are stored in underground tanks; or
 - (b) more than 500L of halogenated hydrocarbon are stored.
 - 13 Electrical transformers—manufacturing, repairing or disposing of electrical transformers.
 - 14 Engine reconditioning works—carrying out engine reconditioning work at a place where more than 500L of any of the following are stored—
 - (a) halogenated and non-halogenated hydrocarbon solvents;
 - (b) dangerous goods in class 6.1 under the dangerous goods code;
 - (c) industrial degreasing solutions.
 - 15 Explosives production or storage—operating an explosives factory under the *Explosives Act 1999*.
 - 16 Fertiliser manufacture—manufacturing agriculture fertiliser (other than the blending, formulation or mixing of fertiliser).
 - 17 Foundry operations—commercial production of metal products by injecting or pouring molten metal into moulds and associated activities in works having a design capacity of more than 10t per year.
 - 18 Gun, pistol or rifle range—operating a gun, pistol or rifle range.
 - 19 Herbicide or pesticide manufacture—commercially manufacturing, blending, mixing or formulating herbicides or pesticides.
 - 20 Landfill—disposing of waste (excluding inert construction and demolition waste).

Schedule 3

- 21 Lime burner—manufacturing cement or lime from limestone material using a kiln and storing wastes from the manufacturing process.
- 22 Livestock dip or spray race operations—operating a livestock dip or spray race facility.
- 23 Metal treatment or coating—treating or coating metal including, for example, anodising, galvanising, pickling, electroplating, heat treatment using cyanide compounds and spray painting using more than 5L of paint per week (other than spray painting within a fully enclosed booth).
- 24 Mine wastes—
 - (a) storing hazardous mine or exploration wastes, including, for example, tailings dams, overburden or waste rock dumps containing hazardous contaminants; or
 - (b) exploring for, or mining or processing, minerals in a way that exposes faces, or releases groundwater, containing hazardous contaminants.
- 25 Mineral processing—chemically or physically extracting or processing metalliferous ores.
- 26 Paint manufacture or formulation—manufacturing or formulating paint where the design capacity of the plant used to manufacture or formulate the paint is more than 10t per year.
- 27 Pest control—commercially operating premises, other than premises operated for farming crops or stock, where—
 - (a) more than 200L of pesticide are stored; and
 - (b) filling or washing of tanks used in pest control operations occurs.
- 28 Petroleum or petrochemical industries including—
 - (a) operating a petrol depot, terminal or refinery; or
 - (b) operating a facility for the recovery, reprocessing or recycling of petroleum-based materials.
- 29 Petroleum product or oil storage—storing petroleum products or oil—

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- (a) in underground tanks with more than 200L capacity; or
 - (b) in above ground tanks with—
 - (i) for petroleum products or oil in class 3 in packaging groups 1 and 2 of the dangerous goods code—more than 2500L capacity; or
 - (ii) for petroleum products or oil in class 3 in packaging groups 3 of the dangerous goods code—more than 5000L capacity; or
 - (iii) for petroleum products that are combustible liquids in class C1 or C2 in Australian Standard AS 1940, 'The storage and handling of flammable and combustible liquids' published by Standards Australia—more than 25000L capacity.
- 30 Pharmaceutical manufacture—commercially manufacturing, blending, mixing or formulating pharmaceuticals.
- 31 Printing—commercial printing using—
- (a) type metal alloys; or
 - (b) printing inks or pigments or etching solutions containing metal; or
 - (c) cast lead drum plates; or
 - (d) a linotype machine with a gas-fired lead melting pot attached; or
 - (e) more than 500L of halogenated and non-halogenated hydrocarbon solvents.
- 32 Railway yards—operating a railway yard including goods-handling yards, workshops and maintenance areas.
- 33 Scrap yards—operating a scrap yard including automotive dismantling or wrecking yard or scrap metal yard.
- 34 Service stations—operating a commercial service station.
- 35 Smelting or refining—fusing or melting metalliferous metal or refining the metal.

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- 36 Tannery, fellmongery or hide curing—operating a tannery or fellmongery or hide curing works or commercially finishing leather.
- 37 Waste storage, treatment or disposal—storing, treating, reprocessing or disposing of waste prescribed under a regulation to be regulated waste for this item (other than at the place it is generated), including operating a nightsoil disposal site or sewage treatment plant where the site or plant has a design capacity that is more than the equivalent of 50000 persons having sludge drying beds or on-site disposal facilities.
- 38 Wood treatment and preservation—treating timber for its preservation using chemicals, including, for example, arsenic, borax, chromium, copper or creosote.

Schedule 4 Dictionary

section 7

accredited, for an ERMP, see section 77.

administering authority means—

- (a) for a matter, the administration and enforcement of which has been devolved to a local government under section 514—the local government; or
- (b) for another matter—the chief executive.

administering executive means—

- (a) for a matter, the administration and enforcement of which has been devolved to a local government under section 514—the local government’s chief executive officer; or
- (b) for another matter—the chief executive.

advice agency, for a development application, has the meaning given by the Planning Act.

affected building, for chapter 8, part 3B, see section 440K.

affected person, for a project, see section 38.

agricultural chemicals see section 77.

agricultural ERA means—

- (a) generally—an agricultural ERA as defined under section 75; and
- (b) for chapter 4A, part 3—see also section 87A.

agricultural ERA record see section 83(1)(a).

agricultural property see section 77.

aircraft movement means a landing, departure or ground movement of aircraft, whether on or from land, water, a building or a vehicle.

amalgamated corporate authority, for chapter 5, part 8, see section 243.

amalgamated environmental authority, for chapter 5, part 8, see section 245.

amalgamated local government authority, for chapter 5, part 8, see section 243.

amalgamated project authority, for chapter 5, part 8, see section 243.

amalgamation application, for chapter 5, part 8, see section 243.

amendment application, for an environmental authority, see section 224.

amendment decision, for chapter 5, part 6, see section 219(2).

anniversary day, for an environmental authority—

- 1 Generally, the *anniversary day* for an environmental authority means—
 - (a) for an environmental authority for a resource activity—each anniversary of the day the relevant tenure is granted; or
 - (b) for an environmental authority for a prescribed ERA—each anniversary of the day the environmental authority takes effect.

Note—

See, however, sections 602, 677, 680, 682 and 690.

- 2 Also, if the anniversary day for an environmental authority is changed under chapter 5, part 12, division 3, subdivision 2, the *anniversary day* for the authority is the day as changed.
- 3 The anniversary day for an environmental authority does not change merely because the authority is amended, amalgamated or transferred.

annual notice see section 308(2).

applicable event, for chapter 7, part 4A, see section 357A.

applicant, for chapter 5, parts 2 to 5, means the applicant for an environmental authority.

application, for chapter 5, parts 2 to 5, means an application for an environmental authority.

application documents, for an application for an environmental authority, means—

- (a) the properly made application; and
- (b) any EIS submitted under chapter 3, part 1 for the relevant activity; and
- (c) if the application relates to a coordinated project—any EIS prepared for the project under the State Development Act, part 4.

application notice, for chapter 5, part 4, see section 152(1).

application stage, for chapter 5, see section 112.

appropriately qualified—

- 1 *Appropriately qualified*, for an entity to whom a power under this Act may be delegated or subdelegated, includes having the qualifications, experience or standing appropriate to exercise the power.

Example of standing—

a person's classification level in the public service

- 2 If the power may be delegated or subdelegated by a local government, the following are *appropriately qualified* entities for the delegation or subdelegation—
 - (a) the local government's mayor;
 - (b) a standing committee or a chairperson of a standing committee of the local government;
 - (c) the local government's chief executive officer;
 - (d) an employee of the local government, having the qualifications, experience or standing appropriate to exercise the power.

Example of standing for paragraph (d)—

the employee's classification level in the local government

approved form means a form approved by the administering executive.

assessment level decision, for chapter 5, part 7, see section 228(2).

assessment manager see the Planning Act, section 246(1).

assessment process means, for assessing and deciding an application for an environmental authority under chapter 5, the process under chapter 5, parts 2 to 5.

at, for chapter 8, part 3B, see section 440K.

audible noise, for chapter 8, part 3B, see section 440L.

audit notice see sections 322(1) and 323(2).

auditor see section 567.

authorised person means a person holding office as an authorised person under an appointment under this Act by the chief executive or chief executive officer of a local government.

background level, for chapter 8, part 3B, see section 440K.

Balance the Earth Trust means the trust by that name established under a trust deed entered into by the State on 9 October 2009.

best practice environmental management, for an activity, see section 21.

bilateral agreement means a bilateral agreement as defined under the Commonwealth Environment Act to which the State is a party.

boat means a boat, ship or other vessel of any size or kind, and includes a hovercraft.

building includes—

- (a) any kind of structure; and
- (b) part of a building.

building work, for chapter 8, part 3B, see section 440K.

business days does not include a business day that occurs during the period starting on 20 December in a year and ending on 5 January in the following year.

busway see the *Transport Infrastructure Act 1994*, schedule 6.

carries out, an agricultural ERA, see section 76.

cattle, for chapter 4A, see section 77.

certified rehabilitated area, for a relevant tenure, see section 318Z(3).

clean-up notice see section 363H(1).

coal seam gas means petroleum, in any state, occurring naturally in association with coal or oil shale, or in strata associated with coal or oil shale mining.

coastal waters, for chapter 8, part 3D, see section 440ZH.

code of practice means a code of practice made by the Minister under section 318E(1).

commencement—

(a) for chapter 13, part 17, see section 666; or

(b) for chapter 13, part 18, see section 676.

comment period, for chapter 3, part 1, see section 39.

Commonwealth Environment Act means the *Environment Protection and Biodiversity Conservation Act 1999* (Cwlth).

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

concurrence agency, for a development application, has the meaning given by the Planning Act.

conditions, for an environmental authority, includes a condition of an environmental authority that has ended or ceased to have effect if the condition imposed an obligation that continues to apply after the authority has ended or ceased to have effect.

consultation period—

(a) for chapter 5A, part 1—see section 317(1)(b)(ii); and

(b) for chapter 5A, part 2—see section 318C(1)(b)(ii).

contaminant see section 11.

contaminated land means land contaminated by a hazardous contaminant.

contaminated land register means the register kept by the administering authority under section 540A(1)(d)(ii).

contamination see section 10.

contamination incident see section 363F.

continuation, for an original offence under a program notice, includes the happening again of the offence because of a relevant event of the same type stated in the notice.

contravention, of a prescribed provision, for chapter 7, part 5A, includes, in the context of a direction notice relating to the contravention issued by an authorised person, a reference to a contravention that the authorised person believes is happening or has happened.

conversion application—

(a) for chapter 13, part 18, division 5—see section 695; or

(b) for chapter 13, part 18, division 5A—see section 698B.

conviction includes a plea of guilty or a finding of guilt by a court even though a conviction is not recorded.

coordinated project means a project declared under the State Development Act, section 26, to be a coordinated project.

Coordinator-General's conditions, for chapter 5, see section 205(2).

Coordinator-General's report, for a coordinated project, means the Coordinator-General's report under the State Development Act, section 35, evaluating the EIS for the project.

corresponding law means under a law of the Commonwealth or another State that provides for the same or similar matters as this Act.

cost recovery notice see section 363N(1).

Court means the Planning and Environment Court.

CSG activity means a petroleum activity involving exploring for or producing coal seam gas.

CSG evaporation dam means an impoundment, enclosure or structure designed to be used to hold CSG water for evaporation.

CSG water means underground water brought to the surface of the earth or moved underground in connection with exploring for or producing coal seam gas.

dangerous goods code means the ‘Australian Code for the Transport of Dangerous Goods by Road and Rail’ prepared by the Office of Federal Road Safety and published by the Commonwealth.

decision stage, for chapter 5, see section 112.

deposit, for chapter 8, part 3C, see section 440ZE.

development see the Planning Act, section 7.

development application means an application for a development approval.

development approval means development approval as defined under the Planning Act.

development condition—

- 1 *Development condition*, of a development approval, means a condition of the approval imposed by, or imposed because of a requirement of, the administering authority as assessment manager or concurrence agency for the application for the approval.
- 2 The term includes a reference to a condition referred to in the State Development Act, section 39(1).
- 3 To remove any doubt, it is declared that if a condition mentioned in clause 1 was imposed on a development approval because the approval related to an environmentally relevant activity, the condition does not stop being a development condition only because the activity stops being an environmentally relevant activity.

development permit means a development permit as defined under the Planning Act.

direction notice see section 363B(2).

disposal permit means a permit under section 424 to remove and treat or dispose of contaminated soil from land for which particulars are recorded in the environmental management register or contaminated land register.

disqualifying event means—

- (a) a conviction for an environmental offence; or
- (b) the cancellation or suspension of—
 - (i) an environmental authority; or
 - (ii) a registration of a suitable operator under chapter 5A, part 4; or
 - (iii) an authority, instrument, licence or permit, however called, similar to an environmental authority or a registration of a suitable operator under a corresponding law; or
- (c) an event prescribed under a regulation to be a disqualifying event.

dissatisfied person see section 520.

draft environmental authority, for an application for an environmental authority, means the draft environmental authority prepared by the administering authority under section 181(2)(b)(i).

draft terms of reference, for an EIS, see section 39.

earth, for chapter 8, part 3C, see section 440ZD.

ecologically sustainable development see section 3.

educational institution, for chapter 8, part 3B, see section 440K.

EIS means an environmental impact statement.

EIS amendment notice see section 66(3).

EIS assessment report see section 57(2).

EIS notice see section 51(2)(a).

EIS process, for an EIS, means—

- (a) the process under chapter 3, part 1; and
- (b) the seeking and giving, under chapter 3, part 1, division 7, subdivision 1, of advice, comment or information in relation to the EIS.

EIS requirement, for an application, means that an EIS has been required under this Act for the application.

eligible ERA, for chapter 5, see section 112.

eligibility criteria, for an environmentally relevant activity, see section 112.

emergency see section 466B.

emergency direction see section 467(1)(a).

emergency powers see section 467(6).

engaging in conduct includes failing to engage in conduct.

enter, a place, includes re-enter the place.

entry order, for chapter 12, part 4, see section 575(2).

environment see section 8.

environmental audit, for chapter 7, part 2, see sections 322(1)(a) and 323(2)(a).

environmental authority means—

- (a) generally—
 - (i) an environmental authority issued under section 195 that approves an environmentally relevant activity applied for in an application; or
 - (ii) if a replacement environmental authority is issued for an environmental authority—the replacement environmental authority; or
- (b) for chapter 5, part 12, division 2, subdivision 3, see section 297.

environmental evaluation means an environmental audit or investigation.

environmental harm see section 14.

environmental investigation see section 326B(2)(a).

environmentally relevant activity see section 18.

environmental management plan, for chapter 3, part 1, see section 39.

environmental management register means the register kept by the administering authority under section 540A(1)(d)(i).

environmental nuisance see section 15.

environmental offence means—

(a) an offence against any of the following provisions—

- section 260
- section 291(3)
- chapter 7, part 2
- section 357(5)
- section 361
- chapter 8; or

(b) an offence against a corresponding law, if the act or omission that constitutes the offence would, if it happens in the State, be an offence against a provision mentioned in paragraph (a).

environmental offset, for chapter 5, part 5, division 6, means works or activities carried out to counterbalance the impacts of a relevant activity under an environmental authority on the natural environment.

environmental offset condition, for chapter 5, part 5, division 6, see section 207(1)(c).

environmental offset trust means the Balance the Earth Trust or another trust established to accept and manage amounts to fund the undertaking of works or activities to counterbalance

the impacts of environmentally relevant activities or other activities on the natural environment.

environmental protection order see section 358.

environmental protection policy means an environmental protection policy approved under chapter 2.

environmental report means a report on an environmental evaluation.

environmental requirement means—

- (a) an environmental authority; or
- (b) a transitional environmental program; or
- (c) a clean-up notice; or
- (d) a site management plan; or
- (e) a condition of an environmental authority that has ended or ceased to have effect, if the condition—
 - (i) continues to apply after the authority has ended or ceased to have effect; and
 - (ii) has not been complied with.

Editor's note—

See section 207(3) (Conditions that may be imposed) and definition *conditions*.

environmental standard means—

- (a) an environmental standard (however called) set out, or otherwise provided for, in a regulation under this Act; or
- (b) an outcome or objective that is directed at protecting or enhancing environmental values set out in an environmental protection policy.

environmental value see section 9.

EPA Minister means the Minister for the time being administering this Act.

ERA project see section 112.

ERMP see section 77.

ERMP content requirements see section 92(a).

ERMP direction see section 88(b).

executive officer, of a corporation, means—

- (a) if the corporation is the Commonwealth or a State—a chief executive of a department of government or a person who is concerned with, or takes part in, the management of a department of government, whatever the person's position is called; or
- (b) if the corporation is a local government—
 - (i) the chief executive officer of the local government; or
 - (ii) a person who is concerned with, or takes part in, the local government's management, whatever the person's position is called; or
- (c) if paragraphs (a) and (b) do not apply—a person who is—
 - (i) a member of the governing body of the corporation; or
 - (ii) concerned with, or takes part in, the corporation's management;

whatever the person's position is called and whether or not the person is a director of the corporation.

existing environmental authority, for chapter 5, part 8, see section 243.

existing holder, of an environmental authority, for chapter 5, part 9, see section 252.

exploration permit means—

- (a) an exploration permit under the Mineral Resources Act; or
- (b) a former exploration permit under the Mineral Resources Act continued in effect under section 148 of that Act.

fee includes tax.

final rehabilitation report means a final rehabilitation report prepared under chapter 5, part 10, division 3.

final terms of reference, for chapter 3, part 1, see section 39.

financial assurance, for an environmental authority, means financial assurance given for the authority under chapter 5, part 12, division 2.

general environmental duty see section 319.

Geothermal Act means the *Geothermal Energy Act 2010*.

geothermal activity see section 108.

geothermal tenure means any of the following under the Geothermal Act—

- (a) a geothermal permit;
- (b) a geothermal lease;
- (c) another approval under the Geothermal Act which grants rights over land.

GHG means greenhouse gas.

GHG permit means a GHG permit under the GHG storage Act.

GHG storage Act means the *Greenhouse Gas Storage Act 2009*.

GHG storage activity see section 109.

GHG storage tenure means any of the following under the GHG storage Act—

- (a) a GHG exploration permit (also called a GHG permit);
- (b) a GHG injection and storage lease (also called a GHG lease);
- (c) a GHG injection and storage data acquisition authority (also called a GHG data acquisition authority);
- (d) another approval under the GHG storage Act which grants rights over land.

GHG well means a well that is, or has been, a GHG well under the GHG storage Act.

harmful substance, for chapter 8, part 3D, see section 440ZH.

hazardous contaminant means a contaminant, other than an item of explosive ordnance, that, if improperly treated, stored, disposed of or otherwise managed, is likely to cause serious or material environmental harm because of—

- (a) its quantity, concentration, acute or chronic toxic effects, carcinogenicity, teratogenicity, mutagenicity, corrosiveness, explosiveness, radioactivity or flammability; or
- (b) its physical, chemical or infectious characteristics.

holder—

- 1 The *holder* of an approval of a transitional environmental program is—
 - (a) the person or public authority that submitted the draft transitional environmental program to the administering authority for approval; or
 - (b) if the transitional environmental program relates to an environmental authority—the holder of the environmental authority.
- 2 The *holder* of an environmental authority for a prescribed ERA is—
 - (a) the person who made an application for the authority; or
 - (b) if a transfer application for the authority has been approved under chapter 5, part 9—the person to whom the transferred environmental authority has been issued.
- 3 The *holder* of an environmental authority for a resource activity is the holder of the relevant tenure.
- 4 The *holder* of a resource tenure is the holder of the tenure under resource legislation.
- 5 The *holder* of a temporary emissions licence is the holder of the environmental authority to which the temporary emissions licence relates.

6 However, if a holder of an environmental authority under paragraph 1 or 2 dies, that person's personal representative becomes the holder.

hovercraft means a vehicle designed to be supported on cushion of air.

identity card, of an authorised person, means the identity card issued to the authorised person under section 448.

indoor venue, for chapter 8, part 3B, see section 440K.

ineligible ERA, for chapter 5, see section 112.

information notice, about a decision, means a written notice stating—

- (a) the decision; and
- (b) if the decision is a decision other than to impose a condition on an environmental authority, the reasons for the decision; and
- (c) the review or appeal details.

information request, for chapter 5, see section 140(1).

information request period, for chapter 5, see section 144.

information response period, for chapter 5, see section 141(1).

information stage, for chapter 5, see section 112.

integrated environmental management system, for an environmentally relevant activity or activities, means a system for the management of the environmental impacts of the carrying out of the activity or activities.

interested person, for chapter 3, part 1, see section 39.

Intergovernmental Agreement on the Environment means the agreement made on 1 May 1992 between the Commonwealth, the States, the Australian Capital Territory, the Northern Territory and the Australian Local Government Association.

Note—

A copy of the Intergovernmental Agreement on the Environment is in the *National Environment Protection Council (Queensland) Act 1994*, schedule.

investigation notice see section 326B(2).

joint applicants, for chapter 5, see section 125(1)(f).

L_{A90}, T, for chapter 8, part 3B, see section 440K.

land includes—

- (a) the airspace above land; and
- (b) land that is, or is at any time, covered by waters; and
- (c) waters.

licensed premises, for chapter 8, part 3B, see section 440K.

light rail see the *Transport Infrastructure Act 1994*, schedule 6.

major amendment, for an environmental authority, see section 223.

MARPOL see the *Transport Operations (Marine Pollution) Act 1995*, section 6.

material environmental harm see section 16.

mineral development licence means—

- (a) a mineral development licence under the Mineral Resources Act; or
- (b) a former mineral development licence under the Mineral Resources Act continued in effect under section 215 of that Act.

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

mining activity see section 110.

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

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

mining tenure means—

- (a) a prospecting permit; or
- (b) a mining claim; or
- (c) an exploration permit; or
- (d) a mineral development licence; or
- (e) a mining lease; or
- (f) another approval under the Mineral Resources Act which grants rights over land.

minor amendment, for an environmental authority, see section 223.

minor change, for an application for an environmental authority, see section 131.

mobile and temporary environmentally relevant activity means a prescribed ERA, other than an activity that is dredging material, extracting rock or other material, or the incinerating of waste—

- (a) carried out at various locations using transportable plant or equipment, including a vehicle; and
- (b) that does not result in the building of any permanent structures or any physical change of the landform at the locations (other than minor alterations solely necessary for access and setup including, for example, access ways, footings and temporary storage areas); and
- (c) carried out at any one of the locations—
 - (i) for less than 28 days in a calendar year; or
 - (ii) for 28 or more days in a calendar year only if the activity is necessarily associated with, and is exclusively used in, the construction or demolition phase of a project.

MRA department means the department in which the Mineral Resources Act is administered.

MRA Minister means the Minister for the time being administering the Mineral Resources Act.

national environmental protection measure means a national environmental protection measure made under the national scheme laws.

national scheme laws means—

- (a) the *National Environment Protection Council Act 1994* (Cwlth); and
- (b) the *National Environment Protection Council (Queensland) Act 1994*.

natural disaster does not include an event that can be prevented by human action.

natural environment—

- (a) means living and non-living things that occur naturally at 1 or more places on Earth; and
- (b) does not include amenity or aesthetic, cultural, economic or social conditions.

NNTT means the National Native Title Tribunal established under the Commonwealth Native Title Act, part 6.

noise see section 12.

noise standard, for chapter 8, part 3B, see section 440K.

nominated section, for chapter 8, part 3B, division 2, see section 440O(2)(b).

nominated waterway see the *Wild Rivers Act 2005*, schedule.

non-coastal waters, for chapter 8, part 3D, see section 440ZH.

notifiable activity means an activity in schedule 3.

notification stage, for chapter 5, see section 112.

noxious liquid substance, for chapter 8, part 3D, see section 440ZH.

objection notice, for chapter 5, part 5, see section 182(2).

objections decision, for chapter 5, part 5, division 3, see section 185(1).

objections decision hearing, for chapter 5, part 5, division 3, see section 188(1).

objector, for an application for an environmental authority, means an entity—

- (a) that gave an objection notice under section 182(2); and
- (b) whose objection notice is still current.

Note—

For when an objection notice ceases to have effect, see section 182(4).

obstruct includes hinder, delay, resist and attempt to obstruct.

occupier, of a place, includes the person apparently in charge of the place.

oil, for chapter 8, part 3D, see section 440ZH.

on-site mitigation measure, for a relevant activity for an environmental authority, means a measure, carried out on land to which the activity relates, to avoid or minimise negative impacts of the activity on the natural environment.

open-air event, for chapter 8, part 3B, see section 440K.

operational land, for chapter 3, part 1, see section 39.

optimum amount, for the application of nitrogen and phosphorus to soil on an agricultural property, see section 77.

original decision see section 519.

original offence, for a program notice, see section 351.

over-fertilisation, of an agricultural property, see section 77.

owner—

- 1 The *owner* of land is—
 - (a) for freehold land—the person recorded in the freehold land register as the person entitled to the fee simple interest in the land; or
 - (b) for land held under a lease, licence or permit under an Act—the person who holds the lease, licence or permit; or

- (c) for trust land under the *Land Act 1994*—the trustees of the land; or
 - (d) for Aboriginal land under the *Aboriginal Land Act 1991*—the persons to whom the land has been transferred or granted; or
 - (e) for Torres Strait Islander land under the *Torres Strait Islander Land Act 1991*—the persons to whom the land has been transferred or granted; or
 - (f) for land for which there is a native title holder under the *Native Title Act 1993* (Cwlth)—each registered native title party in relation to the land.
- 2 Also, a mortgagee of land is the *owner* of the land if—
- (a) the mortgagee is acting as a mortgagee in possession of the land and has the exclusive management and control of the land; or
 - (b) the mortgagee, or a person appointed by the mortgagee, is in possession of the land and has the exclusive management and control of the land.

owner-builder permit means an owner-builder permit under the *Queensland Building and Construction Commission Act 1991*.

ozone depleting substance means—

- (a) any chlorofluorocarbon or halon; or
- (b) another substance prescribed by regulation to be an ozone depleting substance.

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

parent corporation, of another corporation, means a corporation of which the other corporation is a subsidiary under the Corporations Act.

particles includes dust and ash.

peak particle velocity, for chapter 8, part 3B, see section 440K.

person—

- (a) for chapter 3, part 1—see section 39; or
- (b) for an application for an environmental authority under chapter 5—includes a body of persons, whether incorporated or unincorporated; or
- (c) for an application to be registered as a suitable operator under chapter 5A, part 4—includes a body of persons, whether incorporated or unincorporated.

person in control, of a vehicle, includes—

- (a) the driver of the vehicle; and
- (b) the person in command of the vehicle; and
- (c) the person who appears to be in control or command of the vehicle.

petroleum activity see section 111.**petroleum lease** means a petroleum lease under the P&G Act.**petroleum tenure** means—

- (a) a 1923 Act petroleum tenure granted under the *Petroleum Act 1923*; or
- (b) a petroleum authority granted under the P&G Act; or
- (c) a licence, permit, pipeline licence, primary licence, secondary licence or special prospecting authority granted under the *Petroleum (Submerged Lands) Act 1982*; or
- (d) another approval under the *Petroleum Act 1923*, the P&G Act or the *Petroleum (Submerged Lands) Act 1982* which grants rights over land.

place, for chapter 7, parts 5B and 5C, see section 363F.**Planning Act** means the *Sustainable Planning Act 2009*.**plan of operations**, for chapter 5, part 12, division 1, see section 285.**power boat**, for chapter 8, part 3B, see section 440K.

preliminary investigation, for land, means an investigation to find out whether the land is contaminated land.

premises includes a building and the land on which a building is situated.

prescribed condition see section 21A.

prescribed ERA see section 106.

prescribed ERA project see section 112.

prescribed person, for a contamination incident—

- (a) for chapter 7, part 5B, see section 363G; or
- (b) for chapter 7, part 5C, see section 363M; or
- (c) for sections 487 and 488, has the meaning given by section 363G.

prescribed provision, for chapter 7, part 5A, see section 363A.

prescribed standard see section 579C.

prescribed water contaminant, for chapter 8, part 3C, see section 440ZD.

priority catchment see section 75(1)(b).

production requirement see section 85(1).

program notice see section 350.

progressive certification see section 318Z(2).

progressive certification application, for chapter 5A, part 6, see section 318ZC.

progressive rehabilitation report means a report complying with section 318ZF.

properly made application, for chapter 5, see section 127.

properly made submission—

- (a) for chapter 3—see section 55(2); or
- (b) for chapter 5—see section 161(2).

Note—

See also sections 115(4) (Development application taken to be application for environmental authority in particular circumstances) and 150(3) (Notification stage does not apply if EIS process complete).

proponent, for chapter 3, part 1, see section 39.

proposed action—

- (a) for chapter 5, part 11—see section 280(1)(a); or
- (b) for chapter 5A, part 4, division 2—see section 318L(1)(a); or
- (c) for chapter 12, part 3A, division 4—see section 574E(2)(a).

proposed action decision—

- (a) for chapter 5, part 11—see section 282(2); or
- (b) for chapter 5A, part 4, division 2—see section 318N(2).

proposed amendment, for an environmental authority, for chapter 5, part 6, see section 217(1)(a).

proposed amendment notice, for chapter 5, part 6, see section 217(1).

prospecting permit means—

- (a) a prospecting permit under the Mineral Resources Act; or
- (b) a former prospecting permit under the Mineral Resources Act continued in effect under section 30 of that Act.

protocol see section 579B.

public authority includes the following—

- (a) an entity established under an Act;
- (b) a government owned corporation;
- (c) Queensland Rail Limited ACN 132 181 090.

public notice requirements, for chapter 5, see section 158(1).

public passenger vehicle see the *Transport Operations (Passenger Transport) Act 1994*, schedule 3.

public place means any place the public is entitled to use or is open to, or used by, the public (whether or not on payment of an admission fee).

public road means a road that is open to the public, whether or not on payment of money.

rail transport infrastructure see the *Transport Infrastructure Act 1994*, schedule 6.

railway means a private or public railway or railway facility.

Examples of a railway facility—

railway bridge, railway communications system, railway marshalling station and yard, railway track, works built for a railway

receiving environment, in relation to an activity that causes or may cause environmental harm, means the part of the environment to which the harm is, or may be, caused.

recipient means—

- (a) for an environmental evaluation—the person on whom the requirement for the evaluation is made; or
- (b) for an environmental protection order—the person to whom the order is issued; or
- (c) for an ERMP direction, direction notice, clean-up notice or cost recovery notice—the person to whom the direction or notice is issued; or
- (d) for a notice to conduct or commission a site investigation—the person to whom the notice is given; or
- (e) for a remediation notice—the person to whom the notice is given; or
- (f) for a notice to prepare or commission a site investigation report—the person to whom the notice is given.

recognised entity means any of the following—

- (a) the administering authority;
- (b) the department in which the *Fisheries Act 1994* or *Water Act 2000* is administered;

-
- (c) a local government;
 - (d) a public authority;
 - (e) an agency, however called, established under a corresponding law with similar functions to the functions of the chief executive;
 - (f) a ministerial council established by the Council of Australian Governments;
 - (g) the Commonwealth Scientific and Industrial Research Organisation;
 - (h) a cooperative research centre completely or partly funded by the Commonwealth;
 - (i) an Australian university.

reef see section 77.

referral agency means an advice agency or concurrence agency.

register means a register kept under section 540 or 540A.

registered suitable operator means a person whose name and address is entered in the register of suitable operators under section 318I(1)(b).

registrar means the registrar of titles or another person responsible for keeping a register in relation to dealings in land.

registration Act see the *State Penalties Enforcement Act 1999*, schedule 2.

regulatory function, for chapter 12, part 3, see section 564.

regulatory requirement means a requirement under an environmental protection policy or a regulation for—

- (a) the administering authority to—
 - (i) approve or refuse, or follow stated procedures for evaluating, any of the following applications—
 - (A) an application for an environmental authority;

- (B) an amendment application or surrender application for an environmental authority;
 - (C) a progressive certification application under chapter 5A, part 6;
 - (D) an application for approval of a transitional environmental program; or
- (ii) impose or amend a condition of an environmental authority or an approval of a transitional environmental program; or
- (b) the Land Court to make an objections decision under section 191.

rehabilitation direction, for chapter 5, part 10, see section 274(2).

release, of a contaminant into the environment, includes—

- (a) to deposit, discharge, emit or disturb the contaminant; and
- (b) to cause or allow the contaminant to be deposited, discharged, emitted or disturbed; and
- (c) to fail to prevent the contaminant from being deposited, discharged emitted or disturbed; and
- (d) to allow the contaminant to escape; and
- (e) to fail to prevent the contaminant from escaping.

relevant activity, for—

- (a) an environmental authority—means the environmentally relevant activity the subject of the authority; or
- (b) an application for an environmental authority—means the environmentally relevant activity the subject of the application.

relevant agricultural property see section 77.

relevant area—

- (a) for chapter 5, part 10, division 6—see section 271(2); or

- (b) for chapter 7, part 8, division 5, subdivision 5—see section 419A(2).

relevant entity for chapter 11, part 4, see section 541(1).

relevant event, for a program notice, see section 350(1).

relevant existing authority, for chapter 5A, part 2, see section 318A.

relevant lease, for chapter 5, part 12, division 1, see section 285.

relevant local government, for land, means the local government for the local government area where the land is situated.

relevant matters, for an environmental evaluation, means the matters to be addressed by the evaluation.

relevant mining activity, for—

- (a) an environmental authority for a mining activity—means the mining activity the subject of the authority; or
- (b) an application for an environmental authority for a mining activity—means the mining activity the subject of the application.

relevant mining lease, for an environmental authority or an application for an environmental authority for a mining activity, means a mining lease, or proposed mining lease, to which a relevant mining activity relates.

relevant mining tenure, for an environmental authority or an application for an environmental authority for a mining activity, means a mining tenure, or proposed mining tenure, to which a relevant mining activity relates.

relevant primary documents, for an agricultural ERA record, see section 84(2).

relevant resource activity, for—

- (a) an environmental authority for a resource activity—means a resource activity the subject of the authority; or

- (b) an application for an environmental authority for a resource activity—means a resource activity the subject of the application.

relevant tenure, for an environmental authority or an application for a resource activity, means—

- (a) a resource tenure to which a relevant resource activity relates; or
- (b) a proposed resource tenure to which a relevant resource activity relates.

remediate, contaminated land, means—

- (a) rehabilitate the land; or
- (b) restore the land; or
- (c) take other action to prevent or minimise serious environmental harm being caused by the hazardous contaminant contaminating the land.

remediation notice see section 391(5)(a).

replacement environmental authority, for an environmental authority, means—

- (a) if a new environmental authority is issued for the environmentally relevant activity the subject of the authority—the new environmental authority; or
- (b) if the authority is amended—the amended environmental authority issued under section 242(1)(b); or
- (c) if a transfer application for the authority is approved—the transferred environmental authority issued under section 255(1)(b); or
- (d) if an amalgamation application for the authority is approved—the amalgamated environmental authority issued under section 248(b).

residual risks, of an area within a resource tenure or land to which a site management plan relates, means all or any of the following—

-
- (a) the risk that, although the rehabilitation appeared to be satisfactory when the area was assessed for a progressive certification application, surrender application or site management plan—
- (i) it will, in the foreseeable future, fail to perform as predicted in a relevant progressive rehabilitation report, a relevant final rehabilitation report or the site management plan; and
- (ii) the failure will result in the need for repair, replacement or maintenance work for the area;
- (b) the risk that the area will need ongoing management;

Examples of ongoing management—

- maintenance of fences to ensure the safety of steep slopes or to prevent access to contaminated areas
 - providing a pump-back system to manage the discharge of contaminants
 - continuation of a monitoring and verification plan under the GHG storage Act for the relevant area to ensure GHG stream storage under that Act is taking place as predicted
- (c) the risk of contaminants being released from the area by animals, water or wind and potentially causing environmental harm that may require a program to monitor what management action should be taken for the release.

residual risks requirement—

- (a) for chapter 5, part 10, division 6—see section 271(3); or
- (b) for chapter 7, part 8, division 5, subdivision 5—see section 419A(3).

resource activity see section 107.

resource legislation means any of the following Acts—

- (a) the Geothermal Act;
- (b) the GHG storage Act;
- (c) the Mineral Resources Act;
- (d) the *Petroleum Act 1923*;

- (e) the P&G Act;
- (f) the *Petroleum (Submerged Lands) Act 1982*.

resource project see section 112.

resource tenure means—

- (a) a geothermal tenure; or
- (b) a GHG storage tenure; or
- (c) a mining tenure; or
- (d) a petroleum tenure.

review date see section 521(2)(a)(i).

review decision see section 521(5)(c).

review or appeal details, for a notice or order, means a statement in the notice or order as follows—

- (a) that a person as follows may apply for a review of, or appeal against, the decision to which the notice or order relates—
 - (i) the person given the notice or order;
 - (ii) another dissatisfied person for the original decision to which the notice or order relates;
- (b) about whether the person may apply for a review or may appeal against the decision;
- (c) about the period or time allowed for making the application for a review or for starting an appeal;
- (d) if the person may apply for a review—about how to apply for a review;
- (e) if the person may appeal—about how to start an appeal.

riverine area does not include land outside the flood flow channel of a watercourse.

sanitary convenience means a urinal, water closet, earth closet, cesspit, cesspool or other receptacle for human waste.

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

serious environmental harm see section 17.

sewage, for chapter 8, part 3D, see section 440ZH.

show cause notice, for chapter 12, part 3A, division 4, see section 574E(1).

site investigation report means a report submitted to the administering authority about a site investigation of land for which particulars are recorded in the environmental management register.

site management plan means a site management plan approved under chapter 7, part 8.

site-specific application, for chapter 5, see section 124.

small scale mining activity means a mining activity that—

- (a) is carried out under a mining claim, for corundum, gemstones or other precious stones, the area of which is not more than 20ha, and that—
 - (i) does not, or will not, at any time cause more than 5ha of land to be significantly disturbed; and
 - (ii) is not, or will not be, carried out in a wild river high preservation area or wild river special floodplain management area or on strategic cropping land or potential SCL under the *Strategic Cropping Land Act 2011*; and
 - (iii) is not, or will not be, carried out in a watercourse or riverine area; and
 - (iv) is not, or will not be, carried out in or within 1km of an area that, under a regulation, is a category A environmentally sensitive area; and
 - (v) is not, or will not be, carried out in or within 500m of an area that, under a regulation, is a category B environmentally sensitive area; and

- (vi) is not, or will not be, carried out in an area prescribed under a regulation as a designated environmental area for this definition; and
 - (vii) is not, or will not be, carried out as part of a petroleum activity or a prescribed ERA for which there is an aggregate environmental score prescribed under a regulation; and
 - (viii) is not, or will not be, carried out by more than 20 persons at any one time; and
 - (ix) does not, or will not, at any time cause more than 5000m² of land to be disturbed at a camp site; or
- (b) is carried out under an exploration permit, for minerals other than coal, the area of which is not more than 4 sub-blocks and that—
- (i) is not, or will not be, carried out in a wild river high preservation area or wild river special floodplain management area or on strategic cropping land or potential SCL under the *Strategic Cropping Land Act 2011*; and
 - (ii) is not, or will not be, carried out in a watercourse or riverine area; and
 - (iii) is not, or will not be, carried out in or within 1km of an area that, under a regulation, is a category A environmentally sensitive area; and
 - (iv) is not, or will not be, carried out in or within 500m of an area that, under a regulation, is a category B environmentally sensitive area; and
 - (v) is not, or will not be, carried out in an area prescribed under a regulation as a designated environmental area for this definition; and
 - (vi) is not, or will not be, carried out as part of a petroleum activity or a prescribed ERA for which there is an aggregate environmental score prescribed under a regulation; and
 - (vii) does not, or will not, at any time cause more than 1000m² of land to be disturbed; or

(c) is carried out under a prospecting permit.

small scale mining tenure see section 21A(2).

specified works see the *Wild Rivers Act 2005*, section 48(2).

standard application, for chapter 5, see section 122.

standard conditions—

- (a) for an environmental authority—means the standard conditions to which the authority is subject; or
- (b) for an application for an environmental authority—means the standard conditions that are in effect for the relevant activity or authority under section 318D or 707A.

standard criteria means—

- (a) the following principles of environmental policy as set out in the Intergovernmental Agreement on the Environment—
 - (i) the precautionary principle;
 - (ii) intergenerational equity;
 - (iii) conservation of biological diversity and ecological integrity; and
- (b) any Commonwealth or State government plans, standards, agreements or requirements about environmental protection or ecologically sustainable development; and
- (c) any relevant wild river declaration; and
- (d) any relevant environmental impact study, assessment or report; and
- (e) the character, resilience and values of the receiving environment; and
- (f) all submissions made by the applicant and submitters; and
- (g) the best practice environmental management for activities under any relevant instrument, or proposed instrument, as follows—

- (i) an environmental authority;
 - (ii) a transitional environmental program;
 - (iii) an environmental protection order;
 - (iv) a disposal permit;
 - (v) a development approval; and
- (h) the financial implications of the requirements under an instrument, or proposed instrument, mentioned in paragraph (g) as they would relate to the type of activity or industry carried out, or proposed to be carried out, under the instrument; and
- (i) the public interest; and
 - (j) any relevant site management plan; and
 - (k) any relevant integrated environmental management system or proposed integrated environmental management system; and
 - (l) any other matter prescribed under a regulation.

State-controlled road means a road or route, or part of a road or route, declared under the *Transport Infrastructure Act 1994*, section 24 to be a State-controlled road.

State Development Act means the *State Development and Public Works Organisation Act 1971*.

State Development Minister means the Minister for the time being administering the State Development Act.

statement of compliance, for chapter 5, part 5, division 6, see section 207(1)(b).

state of mind, of a person, includes—

- (a) the person's knowledge, intention, opinion, belief or purpose; and
- (b) the person's reasons for the intention, opinion, belief or purpose.

stormwater includes a run-off of rainwater from an urban or rural source.

stormwater drainage, for chapter 8, part 3C, see section 440ZD.

submission period—

- (a) for chapter 3, part 1—see section 39; or
- (b) for chapter 5, part 4—see section 153(1)(g).

submitter, for an application, means an entity who makes a properly made submission about the application.

sugar cane growing see section 77.

suitability report see section 318S(1).

suitability statement, for land, means a statement about the uses and activities for which the land is suitable.

suitably qualified person, for chapter 12, part 3, see section 564.

surrender application, for an environmental authority, see section 257(1).

surrender notice, for an environmental authority, see section 258(2).

suspension application, for an environmental authority, see section 284A.

temporary emissions licence see section 357B(1).

TOR notice see section 42(1).

transfer application, for an environmental authority, see section 252.

transferred environmental authority, for chapter 5, part 9, see section 255(1)(b).

transitional environmental program means a transitional environmental program approved under chapter 7, part 3.

UDA development approval, for chapter 13, part 18, see section 676.

UDA development condition, for chapter 13, part 18, see section 676.

ULDA Act, for chapter 13, part 18, see section 676.

unamended Act—

- (a) for chapter 13, part 17, see section 666; or
- (b) for chapter 13, part 18, see section 676.

unlawful environmental harm means environmental harm that is unlawful under section 493A.

validation report see section 390.

variation application, for chapter 5, see section 123.

vehicle includes a train, boat and an aircraft.

waste see section 13.

watercourse—

- 1 ***Watercourse*** means a river, creek or stream in which water flows permanently or intermittently—
 - (a) in a natural channel, whether artificially improved or not; or
 - (b) in an artificial channel that has changed the course of the watercourse.
- 2 ***Watercourse*** includes the bed and banks and any other element of a river, creek or stream confining or containing water.

waters means Queensland waters.

wild river area see the *Wild Rivers Act 2005*, schedule.

wild river declaration see the *Wild Rivers Act 2005*, schedule.

wild river high preservation area means a high preservation area under the *Wild Rivers Act 2005*.

wild river preservation area means a preservation area under the *Wild Rivers Act 2005*.

wild river special floodplain management area means a special floodplain management area under the *Wild Rivers Act 2005*.

wilfully means—

- (a) intentionally; or

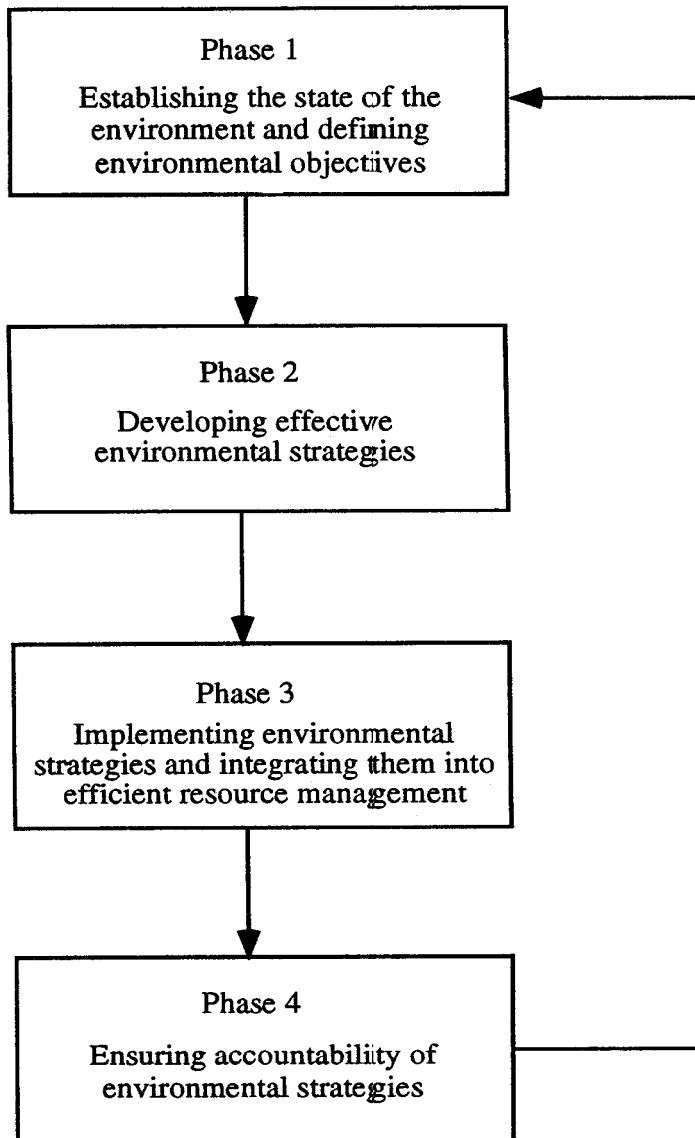
- (b) recklessly; or
- (c) with gross negligence.

Z Peak, for chapter 8, part 3B, see section 440K.

Z Peak Hold, for chapter 8, part 3B, see section 440K.

Figure

section 4(3)



Endnotes

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2 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 version
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 2012
para	= paragraph	SL	= subordinate legislation
prec	= preceding	sub	= substituted
pres	= present	unnum	= unnumbered
prev	= previous		

3 Table of reprints

A new reprint of the legislation is prepared by the Office of the Queensland Parliamentary Counsel each time a change to the legislation takes effect.

The notes column for this reprint gives details of any discretionary editorial powers under the *Reprints Act 1992* used by the Office of the Queensland Parliamentary Counsel in preparing it. Section 5(c) and (d) of the Act are not mentioned as they contain mandatory requirements that all amendments be included and all necessary consequential amendments be incorporated, whether of punctuation, numbering or another kind. Further details of the use of any discretionary editorial power noted in the table can be obtained by contacting the Office of the Queensland Parliamentary Counsel by telephone on 3003 9601 or email legislation.queries@oqpc.qld.gov.au.

From 29 January 2013, all Queensland reprints are dated and authorised by the Parliamentary Counsel. The previous numbering system and distinctions between printed and electronic reprints is not continued with the relevant details for historical reprints included in this table.

Reprint No.	Amendments to	Effective	Reprint date
1	none	1 March 1995	28 April 1995
2	1996 Act No. 10	1 June 1996	6 June 1996
2A	1997 Act No. 7	1 June 1997	28 July 1997
3	1998 Act No. 19	6 July 1998	6 July 1998
3A	1998 Act No. 31	3 September 1998	18 September 1998
Reprint No.	Amendments to	Effective	Reprint date
3B	1999 Act No. 20	1 January 2000	4 January 2000
3C	2000 Act No. 5	1 July 2000	14 July 2000
4 rv	2000 Act No. 64	1 January 2001	1 January 2001
4A rv	2001 Act No. 46	28 June 2001	28 June 2001
4B rv	2001 Act No. 46	25 November 2001	25 November 2001
4C rv	2001 Act No. 86	3 December 2001	3 December 2001
4D rv	2002 Act No. 10	19 April 2002	19 April 2002
Reprint No.	Amendments included	Effective	Notes
4E	2002 Act No. 45	1 January 2003	R4E withdrawn, see R5
5	—	1 January 2003	
5A	2003 Act No. 10	28 March 2003	
5B	2003 Act No. 46	27 August 2003	
5C	2003 Act No. 95	3 December 2003	
5D	2003 Act No. 91	31 March 2004	
5E	2004 Act No. 5	13 May 2004	
5F	2003 Act No. 96	3 October 2004	
5G	2003 Act No. 95	4 October 2004	
5H	2004 Act No. 53	29 November 2004	
5I	2004 Act No. 25	31 December 2004	
	2004 Act No. 26		
5J	2004 Act No. 48	1 January 2005	R5J withdrawn, see R6

Reprint No.	Amendments included	Effective	Notes
6	—	1 January 2005	
6A	2005 Act No. 3	3 March 2005	
6B	2005 Act No. 53	18 November 2005	
6C	2005 Act No. 42	2 December 2005	
6D	2005 Act No. 53	1 January 2006	
6E	—	2 January 2006	prov exp 1 January 2006
7	2006 Act No. 11	30 March 2006	
7A	2006 Act No. 59	7 December 2006	
7B	2007 Act No. 8	28 February 2007	
7C	2007 Act No. 36	29 August 2007	
7D	2007 Act No. 39	21 September 2007	
7E	2007 Act No. 46	25 October 2007	
7F	2007 Act No. 56	9 November 2007	
8	2007 Act No. 44	11 February 2008	
8A	2007 Act No. 56	18 April 2008	
8B	2008 Act No. 37	21 May 2008	
8C	2007 Act No. 56	10 November 2008	
8D	2008 Act No. 52 (amd 2008 Act No. 65)	1 January 2009	
8E	2009 Act No. 3	23 February 2009	R8E withdrawn, see R9
9	—	23 February 2009	
9A	2009 Act No. 13	1 July 2009	
9B	2009 Act No. 42	15 October 2009	
9C	2009 Act No. 36	18 December 2009	
9D	2009 Act No. 42	1 January 2010	
9E	2010 Act No. 12	26 March 2010	
9F	2010 Act No. 20	5 July 2010	
9G	2010 Act No. 53	1 December 2010	
9H	2010 Act No. 52	10 December 2010	
9I	2011 Act No. 6	4 April 2011	
9J	2011 Act No. 12	14 April 2011	
9K	2011 Act No. 3 2011 Act No. 6	5 May 2011	
9L	2010 Act No. 53	10 June 2011	
9M	2010 Act No. 52	29 July 2011	
10	2011 Act No. 26	9 September 2011	
10A	2011 Act No. 31	1 December 2011	
10B	2010 Act No. 52 2011 Act No. 6	2 December 2011	
10C	2011 Act No. 18	1 January 2012	
10D	2011 Act No. 47	30 January 2012	
10E	2011 Act No. 6	3 February 2012	
10F	2010 Act No. 31	2 March 2012	
10G	2011 Act No. 6	5 April 2012	R10G withdrawn, see R11

Endnotes

Reprint No.	Amendments included	Effective	Notes
11	—	5 April 2012	
11A	2012 Act No. 16	14 August 2012	
11B	2012 Act No. 20	7 December 2012	
11C	2012 Act No. 43	11 December 2012	

Current as at	Amendments included	Notes
14 March 2013	2013 Act No. 6	
31 March 2013	2012 Act No. 16 (amd 2012 Act No. 43; 2013 Act No. 6; 2013 Act No. 10)	
	2012 Act No. 20	
	2012 Act No. 43	
	2013 Act No. 10	
3 May 2013	2013 Act No. 19	
1 July 2013 rv	2013 Act No. 27	
23 September 2013	2013 Act No. 39	
7 November 2013	2013 Act No. 55	
1 December 2013	2013 Act No. 38	
20 February 2014	2013 Act No. 2	
28 March 2014	2013 Act No. 55	

4 List of legislation

Environmental Protection Act 1994 No. 62

date of assent 1 December 1994

ss 1–2 commenced on date of assent

ss 42, 43(2), 45(1)(d), (2), 47(2)(d), 48(2) (so far as it relates to interested parties), 49(3)–(6), (8), (9)(b), (10)(b), (11) (so far as it related to interested parties), 64, 65(2) (so far as it relates to interested parties), 66 never proclaimed into force and om 2000 No. 64 s 8

ch 4, pt 4 (ss 147–155), s 222 sch 2 pt B (except so far as it relates to the Litter Act 1971 and the Litter Act Amendment Act 1978) commenced 1 December 1997 (1997 SL No. 343)

s 200(2)(a)–(b) never proclaimed into force and om 2000 No. 64 s 37(5)

s 222 sch 2 pt B (to the extent it relates to the Litter Act 1971 and the Litter Act Amendment Act 1978) commenced 1 July 2000 (2000 SL No. 182)

s 223 sch 3 (so far as it amends the Wet Tropics World Heritage Protection and Management Act 1993) commenced 1 November 1994 (see s 2(2))

s 226(8) never proclaimed into force and exp 1 March 1996 (see ss 224, 228)

s 227(2) never proclaimed into force and exp 1 March 1996 (see ss 224, 228)

s 233(5) never proclaimed into force and exp 1 March 1996 (see ss 224, 234)

s 236(4) never proclaimed into force and exp 1 March 1996 (see s 236(6))

sch 4 (paragraph (a) of definition *interested party*) never proclaimed into force and om 2000 No. 64 s 65(2)

sch 4 (paragraph (f) of definition *standard criteria* (so far as it relates to interested parties for an environmental authority)) never proclaimed into force and om 2000 No. 64 s 56(7)

remaining provisions commenced 1 March 1995 (1995 SL No. 47)

amending legislation—

Environmental Legislation Amendment Act 1995 No. 40 pts 1–2

date of assent 27 October 1995

commenced on date of assent

Environmental Legislation Amendment Act (No. 2) 1995 No. 52 pts 1–2

date of assent 22 November 1995

ss 1–2 commenced on date of assent

ss 24, 27 commenced 22 November 1996 (1996 SL No. 339)

remaining provisions commenced 2 February 1996 (1996 SL No. 16)

Environmental Protection Amendment Act 1996 No. 10

date of assent 23 May 1996

ss 13 and 24 commenced 1 June 1996 (see s 3)

remaining provisions commenced on date of assent

Environmental Protection Amendment Act 1997 No. 7

date of assent 15 May 1997

s 13 commenced 1 June 1997 (see s 2)

remaining provisions commenced on date of assent

Environmental and Other Legislation Amendment Act 1997 No. 80 pts 1–2 (this Act is amended, see amending legislation below)

date of assent 5 December 1997

ss 1–2 commenced on date of assent

ss 3–4, 29(2)–(3), 34, 39(2) (so far as it relates to the def *approved code of practice*) commenced 12 December 1997 (1997 SL No. 432)

ss 5–11, 14–15, 18, 28(1), 37 (so far as it relates to the entry for ss 60A, 60C(2) and 60E(5)(b)), 39(1) and 39(2) (so far as it relates to the def *level 2 approval*) commenced 1 July 1998 (1998 SL No. 52)

ss 12–13, 26, 31, 35 (so far as it relates to the om of s 220(2)(k) and the ins of new s 220(1)(k)) commenced 30 March 1998 (1998 SL No. 52)

s 20 never proclaimed into force and om 2001 No. 86 s 15

s 39(2) (to the extent it ins defs *approval* and *level 1 approval*) never proclaimed into force and om 1998 No. 13 s 67

remaining provisions commenced 6 July 1998 (1998 SL No. 52)

amending legislation—

Building and Integrated Planning Amendment Act 1998 No. 13, ss 1–2(1), pt 5 (amends 1997 No. 80 above)

date of assent 23 March 1998

remaining provisions commenced 1 July 1998 (see s 2(1) and 1998 SL No. 52)

Local Government and Other Legislation Amendment Act (No. 2) 1999 No. 59, ss 1, 2(7), pt 7 (amends 1997 No. 80 above)

date of assent 29 November 1999
commenced on date of assent

Environmental Protection Legislation Amendment Act 2001 No. 30 (amends 1997 No. 80 above)

date of assent 31 May 2001
commenced on date of assent

Environmental Protection Legislation Amendment Act (No. 2) 2001 No. 86 pts 1, 3 (amends 1997 No. 80 above)

date of assent 3 December 2001
commenced on date of assent

Building and Integrated Planning Amendment Act 1998 No. 13 ss 1, 2(3), pt 4

date of assent 23 March 1998
ss 1–2 commenced on date of assent
ss 35, 38–41, 61 commenced 30 March 1998 (1998 SL No. 55)
remaining provisions commenced 1 July 1998 (1998 SL No. 55)

Police and Other Legislation (Miscellaneous Provisions) Act 1998 No. 19 ss 1–2, pt 5

date of assent 26 March 1998
commenced on date of assent

Integrated Planning and Other Legislation Amendment Act 1998 No. 31 ss 1, 2(3)–(4), pt 5

date of assent 3 September 1998
ss 69, 76, 78–79 commenced 1 July 1998 (see s 2(4))
remaining provisions commenced on date of assent (see s 2(3))

Explosives Act 1999 No. 15 ss 1–2, 137 sch 1

date of assent 22 April 1999
ss 1–2 commenced on date of assent
remaining provisions commenced 11 June 1999 (1999 SL No. 108)

Statute Law (Miscellaneous Provisions) Act 1999 No. 19 ss 1–3 sch

date of assent 30 April 1999
commenced on date of assent

Radiation Safety Act 1999 No. 20 ss 1–2, 232

date of assent 30 April 1999
ss 1–2 commenced on date of assent
remaining provision commenced 1 January 2000 (1999 SL No. 329)

Police Powers and Responsibilities Act 2000 No. 5 ss 1–2, 461 (prev s 373) sch 3 (this Act is amended, see amending legislation below)

date of assent 23 March 2000
ss 1–2 commenced on date of assent
remaining provisions commenced 1 July 2000 (see s 2(1), (3) and 2000 SL No. 174)
amending legislation—

**Police Powers and Responsibilities and Other Acts Amendment Act 2000
No. 22 ss 1, 28(4) (amends 2000 No. 5 above)**

date of assent 23 June 2000
commenced on date of assent

**Environmental Protection and Other Legislation Amendment Act 2000 No. 64 ss 1–2,
pt 2, ss 3(2), 174 sch**

date of assent 24 November 2000
ss 1–2, 46 (to the extent it ins the Environmental Protection Act 1994 s 219AA), 47,
56 commenced on date of assent
ss 6 (to the extent it ins ss 34BZ definition *submission period*), 34CB–34CH,
34CI(b)–(c), 34CJ(b)(iv), 34CO(a)(ii), 34CX(d), 34CZ(2), 34DD(2)(b)(iv),
34DH(2), 34DK, 34DL(b), 34DO(1)(d), 34DO(2) the words ‘and any submitter’,
34DP(c), 34EH), s 37(5) (to the extent it ins s 200(2)(a)–(b)), s 46 (to the extent
that it ins the words ‘and any submitters’ in s 219AG(2)), s 53 (to the extent it ins
sch 1, pt 2, div 1, entries for ss 34CF(1)–(2)), (3)(b)(i)) commenced 25
November 2001 (automatic commencement under AIA s 15DA(2))
remaining provisions commenced 1 January 2001 (2000 SL No. 350)

**State Development and Other Legislation Amendment Act 2001 No. 46 ss 1, 2(2)–(4),
pt 4 s 7(2) sch 2**

date of assent 28 June 2001
ss 1–2 commenced on date of assent
remaining provisions commenced 28 June 2001 (2001 SL No. 101)

Environmental Protection Legislation Amendment Act (No. 2) 2001 No. 86 pts 1–2

date of assent 3 December 2001
commenced on date of assent

Environmental Protection and Another Act Amendment Act 2002 No. 10 pts 1–2

date of assent 19 April 2002
commenced on date of assent

**Environmental Protection and Other Legislation Amendment Act 2002 No. 45 ss 1,
2(2), pt 2, s 3(2) sch**

date of assent 24 September 2002
ss 1–2 commenced on date of assent
s 15 commenced 1 January 2003 (2002 SL No. 323) (amdt could not be given effect)
remaining provisions commenced 1 January 2003 (2002 SL No. 323)

Natural Resources and Other Legislation Amendment Act 2003 No. 10 pts 1–2

date of assent 28 March 2003
commenced on date of assent

**Chemical, Biological and Radiological Emergency Powers Amendment Act 2003 No.
46 ss 1, 19 sch**

date of assent 27 August 2003
commenced on date of assent

Disaster Management Act 2003 No. 91 ss 1–2, 175 sch 1

date of assent 18 November 2003

ss 1–2 commenced on date of assent

remaining provisions commenced 31 March 2004 (2004 SL No. 24)

Environmental Protection Legislation Amendment Act 2003 No. 95 pts 1–2, s 3 sch

date of assent 3 December 2003

ss 1–2, 42–44 commenced on date of assent (see s 2(1))

remaining provisions commenced 4 October 2004 (2004 SL No. 207)

Environmental Legislation Amendment Act 2003 No. 96 pt 1, s 28 sch

date of assent 3 December 2003

ss 1–2 commenced on date of assent

s 28 commenced 19 December 2003 (2003 SL No. 363)

remaining provisions commenced 3 October 2004 (2004 SL No. 206)

Aurukun Associates Agreement Repeal Act 2004 No. 5 ss 1, 8 sch

date of assent 13 May 2004

commenced on date of assent

Petroleum and Gas (Production and Safety) Act 2004 No. 25 ss 1, 2(2), ch 16 pt 7

date of assent 12 October 2004

ss 1–2 commenced on date of assent

remaining provisions commenced 31 December 2004 (2004 SL No. 308)

Petroleum and Other Legislation Amendment Act 2004 No. 26 ss 1, 2(2) pt 4

date of assent 12 October 2004

ss 1–2 commenced on date of assent

remaining provisions commenced 31 December 2004 (see s 2(2) and 2004 SL No. 308)

Environmental Protection and Other Legislation Amendment Act 2004 No. 48 pts 1, 3

date of assent 18 November 2004

ss 1–2 commenced on date of assent

remaining provisions commenced 1 January 2005 (2004 SL No. 315)

Statute Law (Miscellaneous Provisions) Act 2004 No. 53

date of assent 29 November 2004

s 2 sch amdts 1, 17, 19 commenced on date of assent (amdts could not be given effect)

commenced on date of assent

Petroleum and Other Legislation Amendment Act 2005 No. 3 ss 1, 105 sch

date of assent 3 March 2005

commenced on date of assent

Wild Rivers Act 2005 No. 42 ss 1–2, 52 sch 1

date of assent 14 October 2005

ss 1–2 commenced on date of assent

remaining provisions commenced 2 December 2005 (2005 SL No. 287)

Environmental Protection and Other Legislation Amendment Act 2005 No. 53 pts 1, 4, s 159 sch

date of assent 18 November 2005

ss 1–2, 159 sch commenced on date of assent

remaining provisions commenced 1 January 2006 (2005 SL No. 318)

Integrated Planning and Other Legislation Amendment Act 2006 No. 11 s 1, pt 6

date of assent 30 March 2006

commenced on date of assent

Wild Rivers and Other Legislation Amendment Act 2006 No. 59 pts 1, 5

date of assent 7 December 2006

commenced on date of assent

Wild Rivers and Other Legislation Amendment Act 2007 No. 8 pts 1, 3

date of assent 28 February 2007

commenced on date of assent

Statute Law (Miscellaneous Provisions) Act 2007 No. 36

date of assent 29 August 2007

commenced on date of assent

Land Court and Other Legislation Amendment Act 2007 No. 39 ss 1–2, 41 sch

date of assent 29 August 2007

ss 1–2 commenced on date of assent

remaining provisions commenced 21 September 2007 (2007 SL No. 236)

Environmental Protection Amendment Act 2007 No. 44

date of assent 25 October 2007

ss 1–2 commenced on date of assent

remaining provisions commenced 11 February 2008 (2008 SL No. 14)

Mining and Other Legislation Amendment Act 2007 No. 46 s 1, pt 3A

date of assent 25 October 2007

commenced on date of assent

Environmental Protection and Other Legislation Amendment Act 2007 No. 56 pts 1, 3, s 6 sch (this Act is amended, see amending legislation below)

date of assent 9 November 2007

s 6 sch amdt 3 (amdt of ss 338, 358, 551) commenced on date of assent (amdt could not be given effect)

s 6 sch amdt 5 (amdt of s 73O) commenced on date of assent (amdt could not be given effect)

s 26(1) commenced 18 April 2008 (2008 SL No. 100)

s 26(2) commenced 10 November 2008 (automatic commencement under AIA s 15DA(2))

remaining provisions commenced on date of assent

amending legislation—

Environmental Protection and Other Legislation Amendment Act (No. 2) 2008 No. 52 pts 1, 4 (amends 2007 No. 56 above)

date of assent 23 October 2008

ss 1–2 commenced on date of assent

remaining provisions commenced 1 January 2009 (2008 SL No. 388)

(amdt could not be given effect)

Environmental Protection and Other Legislation Amendment Act 2008 No. 37 pts 1–2

date of assent 21 May 2008

commenced on date of assent

Environmental Protection and Other Legislation Amendment Act (No. 2) 2008 No. 52 pts 1–2, s 3 sch 1 (this Act is amended, see amending legislation below)

date of assent 23 October 2008

ss 1–2 commenced on date of assent

remaining provisions commenced 1 January 2009 (2008 SL No. 388)

amending legislation—

Summary Offences and Other Acts Amendment Act 2008 No. 65 ss 1, 8–9 (amends 2008 No. 52 above)

date of assent 1 December 2008

commenced on date of assent

Greenhouse Gas Storage Act 2009 No. 3 s 1, ch 9 pt 7

date of assent 23 February 2009

commenced on date of assent

Right to Information Act 2009 No. 13 ss 1–2, 213 sch 5

date of assent 12 June 2009

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 2009 (2009 SL No. 132)

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)

Great Barrier Reef Protection Amendment Act 2009 No. 42 pts 1–2

date of assent 15 October 2009

ss 1–2, 19 commenced on date of assent

remaining provisions commenced 1 January 2010 (2009 SL No. 273)

Natural Resources and Other Legislation Amendment Act 2010 No. 12 ss 1, 251 sch

date of assent 26 March 2010

commenced on date of assent

South-East Queensland Water (Distribution and Retail Restructuring) and Other Legislation Amendment Act 2010 No. 20 ss 1, 2(2)(a), pt 4

date of assent 23 May 2010

ss 1–2 commenced on date of assent

remaining provisions commenced 5 July 2010 (2010 SL No. 163)

Geothermal Energy Act 2010 No. 31 ss 1–2(1), ch 10 pt 3 div 2, s 496 sch 2 pt 4

date of assent 1 September 2010

ss 1–2 commenced on date of assent

remaining provisions commenced 2 March 2012 (automatic commencement under AIA s 15DA(2) (2011 SL No. 156 s 2))

Natural Resources and Other Legislation Amendment Act (No. 2) 2010 No. 52 pts 1, 4

date of assent 1 December 2010

ss 1–2 commenced on date of assent

ss 15, 19–23 commenced 10 December 2010 (2010 SL No. 351)

s 16 commenced 29 July 2011 (2011 SL No. 144)

remaining provisions commenced 2 December 2011 (automatic commencement under AIA s 15DA(2))

Water and Other Legislation Amendment Act 2010 No. 53 ss 1, 2(4)(c), pt 3

date of assent 1 December 2010

ss 1–2 commenced on date of assent

s 51 commenced 10 June 2011 (2011 SL No. 81)

remaining provisions commenced on date of assent

Environmental Protection and Other Acts Amendment Act 2011 No. 3 pts 1–2

date of assent 4 April 2011

ss 1–2 commenced on date of assent

remaining provisions commenced 5 May 2011 (2011 SL No. 49)

Environmental Protection and Other Legislation Amendment Act 2011 No. 6 ss 1, 2(a), (d), pt 4, s 142 sch

date of assent 4 April 2011

ss 1–2 commenced on date of assent

s 59 commenced 2 December 2011 (2011 SL No. 247)

s 64 commenced 5 April 2012 (automatic commencement under AIA s 15DA(2))

s 87 commenced 5 May 2011 (2011 SL No. 50)

s 93 (to the extent it ins new s 667) commenced 3 February 2012 (2012 SL No. 1)

remaining provisions commenced on date of assent

Transport and Other Legislation Amendment Act 2011 No. 12 s 1, pt 7

date of assent 14 April 2011

commenced on date of assent

Work Health and Safety Act 2011 No. 18 ss 1–2, 404 sch 4 pt 1

date of assent 6 June 2011

ss 1–2 commenced on date of assent

remaining provisions commenced 1 January 2012 (2011 SL No. 238)

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)

Waste Reduction and Recycling Act 2011 No. 31 ss 1–2(1), ch 16 pt 2

date of assent 28 October 2011

ss 1–2 commenced on date of assent

remaining provisions commenced 1 December 2011 (see s 2(1))

Strategic Cropping Land Act 2011 No. 47 ch 1 pt 1, ch 10 pt 1

date of assent 6 December 2011

ss 1–2 commenced on date of assent

remaining provisions commenced 30 January 2012 (see s 2(b))

Environmental Protection (Greentape Reduction) and Other Legislation Amendment Act 2012 No. 16 pts 1–2, s 78 sch (this Act is amended, see amending legislation below)

date of assent 14 August 2012

ss 1–2 commenced on date of assent

ss 41–42 commenced on date of assent (see s 2)

remaining provisions commenced 31 March 2013 (2013 SL No. 24)

amending legislation—

Economic Development Act 2012 No. 43 ss 1, 2(a), ch 8 pt 3 (amends 2012 No. 16 above)

date of assent 11 December 2012

commenced on date of assent

Waste Reduction and Recycling and Other Legislation Amendment Act 2013 No. 6 s 1, pt 4, s 50 sch (amends 2012 No. 16 above)

date of assent 14 March 2013

commenced on date of assent

Mining and Other Legislation Amendment Act 2013 No. 10 ss 1, 5–21(1) (amends 2012 No. 16 above)

date of assent 22 March 2013

commenced on date of assent

Mines Legislation (Streamlining) Amendment Act 2012 No. 20 chs 1, 3 pt 1, s 281 sch 2, s 323 sch 3

date of assent 29 August 2012

ss 1–2 commenced on date of assent

chs 1, 3 pt 1, s 281 sch 2 commenced 7 December 2012 (2012 SL No. 225)

remaining provisions commenced 31 March 2013 immediately before the commencement of the provisions of the Environmental Protection (Greentape Reduction) and Other Legislation Amendment Act 2012 No. 16 commencing on that day (see 2013 SL No. 35 and 2013 SL No. 24)

Note—Section 127 is taken to have commenced 31 March 2013 immediately after the commencement of the Environmental Protection (Greentape Reduction) and Other Legislation Amendment Act 2012 No. 16, section 8. See section 579D.

Economic Development Act 2012 No. 43 ss 1–2, ch 8 pt 2, s 221 sch 1, s 325 sch 2

date of assent 11 December 2012

ss 1–2 commenced on date of assent

ch 8 pt 2, s 325 sch 2 commenced on date of assent (see s 2)

remaining provisions commenced 1 February 2013 (2013 SL No. 1)

Note—Insertion of s 221 sch 1 took effect when the provision it amended commenced on 31 March 2013.

Aboriginal and Torres Strait Islander Land Holding Act 2013 No. 2 ss 1–2, pt 12 div 3

date of assent 19 February 2013

ss 1–2 commenced on date of assent

remaining provisions commenced 20 February 2014 (automatic commencement under AIA s 15DA(2))

Waste Reduction and Recycling and Other Legislation Amendment Act 2013 No. 6 s 1, pt 3, s 50 sch

date of assent 14 March 2013

commenced on date of assent

Mining and Other Legislation Amendment Act 2013 No. 10 ss 1–2(a), (e)–(f), pt 2, s 193 sch 1

date of assent 22 March 2013

ss 1–2 commenced on date of assent

remaining provisions commenced 31 March 2013 immediately after the commencement of the provisions of the Environmental Protection (Greentape Reduction) and Other Legislation Amendment Act 2012 No. 16 commencing on that day (see 2013 SL No. 36 and 2013 SL No. 24)

Queensland Rail Transit Authority Act 2013 No. 19 ss 1, 120 sch 1

date of assent 3 May 2013

commenced on date of assent

TAFE Queensland Act 2013 No. 27 ss 1–2, 70 sch 1 pt 2

date of assent 3 June 2013

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 2013 (2013 SL No. 108)

Queensland Building Services Authority Amendment Act 2013 No. 38 ss 1–2, 14 sch 1

date of assent 29 August 2013

ss 1–2 commenced on date of assent

remaining provisions commenced 1 December 2013 (2013 SL No. 240)

Treasury and Trade and Other Legislation Amendment Act 2013 No. 39 ss 1, 109 sch 2

date of assent 23 September 2013

commenced on date of assent

Nature Conservation and Other Legislation Amendment Act (No. 2) 2013 No. 55 pt 1, s 175 sch 1 pts 1–3

date of assent 7 November 2013

ss 1–2, 175 sch 1 pt 1 commenced on date of assent

s 175 sch 1 pt 2 commenced 28 March 2014 (2014 SL No. 34)

remaining provisions not yet proclaimed into force (see s 2)

5 List of annotations

This reprint has been renumbered—see table of renumbered provisions in endnote 6.

CHAPTER 1—PRELIMINARY

PART 1—INTRODUCTORY PROVISIONS

Commencement

s 2 om 2002 No. 45 s 3(2) sch

PART 3—INTERPRETATION

Division 1—Dictionary

div hdg sub 2000 No. 64 s 3(2) sch

Definitions—dictionary

s 7 amd 2008 No. 52 s 3 sch 1

Notes in text

s 7A ins 2004 No. 48 s 29
om 2007 No. 36 s 2 sch

Division 2—Key concepts

div hdg sub 2000 No. 64 s 3(2) sch

Waste

s 13 sub 1995 No. 52 s 4
amd 2001 No. 86 s 3; 2011 No. 31 s 304; 2013 No. 6 s 7

Environmental harm

s 14 amd 1996 No. 10 s 4

Environmental nuisance

s 15 amd 2008 No. 52 s 4

Serious environmental harm

s 17 amd 2008 No. 52 s 5

Exclusions

s 17A ins 2008 No. 52 s 6

Subdivision 4—Environmentally relevant activities

sdiv hdg ins 2000 No. 64 s 4

Meaning of *environmentally relevant activity*

s 18 ins 2000 No. 64 s 4
amd 2008 No. 52 s 7
sub 2009 No. 3 s 454
amd 2009 No. 42 s 4; 2012 No. 16 s 4

Environmentally relevant activity may be prescribed

s 19 ins 2000 No. 64 s 4
amd 2008 No. 52 s 8; 2009 No. 3 s 455; 2009 No. 42 s 5; 2012 No. 16 s 78 sch

Levels for environmentally relevant activities

- s 20** ins 2000 No. 64 s 4
 amd 2004 No. 48 s 30
 om 2008 No. 52 s 9

Subdivision 6—Prescribed conditions

- sdiv 6 (s 21A)** ins 2012 No. 16 s 4AA (amd 2013 No. 10 s 6)

Relationship with other Acts

- s 23** amd 1997 No. 80 s 4; 1999 No. 20 s 323
 sub 2000 No. 64 s 5
 amd 2003 No. 46 s 19 sch; 2003 No. 91 s 175 sch 1; 2003 No. 96 s 28 sch;
 2007 No. 56 s 7

CHAPTER 2—ENVIRONMENTAL PROTECTION POLICIES**Minister may make policies**

- s 26** amd 1996 No. 10 s 5
 sub 2005 No. 53 s 13

Notice of proposal to prepare draft policy

- s 29** amd 2002 No. 45 s 3(2) sch
 om 2005 No. 53 s 14

Preparation of draft policy

- s 30** om 2005 No. 53 s 14

Notice of preparation of draft policy

- s 31** amd 2002 No. 45 s 3(2) sch
 om 2005 No. 53 s 14

Preparation of final policy

- s 32** om 2005 No. 53 s 14

Policies are subordinate legislation

- prov hdg** sub 2005 No. 53 s 15(1)
s 33 amd 2005 No. 53 s 15(2)–(3)

Giving effect to policies

- s 34** prev s 34 om 1999 No. 19 s 3 sch

Amendment and repeal of policies

- s 35** orig s 35 amd 1996 No. 10 s 6
 sub 1997 No. 7 s 4
 amd 1997 No. 80 s 5
 om 2000 No. 64 s 7
 prev s 35 amd 2002 No. 45 s 29(2)
 om 2005 No. 53 s 16

Review of policies

- s 36** om 2005 No. 53 s 16

CHAPTER 3—ENVIRONMENTAL IMPACT STATEMENTS

- ch hdg** ins 2000 No. 64 s 6

PART 1—EIS PROCESS

pt hdg prev pt 1 hdg om 2000 No. 64 s 7
pres pt 1 hdg ins 2000 No. 64 s 6

Division 1—Preliminary

div hdg ins 2000 No. 64 s 6

Subdivision 1—Application

sdiv hdg ins 2000 No. 64 s 6

When EIS process applies

s 37 prev s 37 om 1999 No. 19 sch
pres s 37 ins 2000 No. 64 s 6
amd 2001 No. 46 s 8; 2004 No. 48 s 31; 2009 No. 3 s 456; 2009 No. 36 s 872
sch 2; 2012 No. 16 s 78 sch; 2013 No. 6 s 50 sch

Subdivision 2—Definitions for pt 1

sdiv hdg ins 2000 No. 64 s 6

PART 3—ENVIRONMENTALLY RELEVANT ACTIVITIES

pt hdg om 2000 No. 64 s 8

Who is an *affected person* for a project

s 38 prev s 38 om 2000 No. 64 s 8
pres s 38 ins 2000 No. 64 s 6
amd 2003 No. 95 s 3 sch; 2004 No. 53 s 2 sch (amdt could not be given
effect); 2009 No. 3 s 457; 2011 No. 26 s 189 sch; 2012 No. 16 s 78 sch;
2013 No. 2 s 116; 2013 No. 55 s 175 sch 1 pt 2

Other definitions

s 39 prev s 39 amd 1996 No. 10 s 7
sub 1997 No. 80 s 6
om 2000 No. 64 s 8
pres s 39 ins 2000 No. 64 s 6
amd 2012 No. 16 s 4A (amd 2013 No. 6 s 9)

Subdivision 3—Purposes of EIS and EIS process

sdiv hdg ins 2000 No. 64 s 6
amd 2001 No. 86 s 4

Purposes

s 40 prev s 40 amd 1997 No. 80 s 7
om 2000 No. 64 s 8
pres s 40 ins 2000 No. 64 s 6
amd 2001 No. 86 s 5

**PART 4—ENVIRONMENTAL AUTHORITIES FOR ENVIRONMENTALLY
RELEVANT ACTIVITIES WITHOUT DEVELOPMENT APPROVALS**

pt hdg sub 1998 No. 13 s 37
om 2000 No. 64 s 8

Division 1A—Preliminary

div hdg ins 1998 No. 13 s 37
om 2000 No. 64 s 8

Application of pt 4

s 40A ins 1998 No. 13 s 37
amd 1998 No. 31 s 70
om 2000 No. 64 s 8

Division 2—Terms of reference stage

div hdg ins 2000 No. 64 s 6

Subdivision 1—Draft terms of reference

sdiv hdg ins 2000 No. 64 s 6

Submission

s 41 prev s 41 amd 1997 No. 80 s 8; 1998 No. 13 s 38
om 2000 No. 64 s 8
pres s 41 ins 2000 No. 64 s 6
amd 2001 No. 86 s 6; 2006 No. 59 s 34; 2010 No. 53 s 50

Subdivision 2—Public notification of draft terms of reference

sdiv hdg ins 2000 No. 64 s 6

Preparation of TOR notice

s 42 prev s 42 amd 1995 No. 40 s 3
om 2000 No. 64 s 8
pres s 42 ins 2000 No. 64 s 6

Public notification

s 43 prev s 43 om 2000 No. 64 s 8
pres s 43 ins 2000 No. 64 s 6

Proponent to be given comments

s 44 prev s 44 sub 1996 No. 10 s 8
amd 1997 No. 80 s 9
om 2000 No. 64 s 8
pres s 44 ins 2000 No. 64 s 6

Advice to chief executive

s 45 prev s 45 amd 1997 No. 80 s 10; 1998 No. 13 s 39
om 2000 No. 64 s 8
pres s 45 ins 2000 No. 64 s 6

Subdivision 3—Final terms of reference

sdiv hdg ins 2000 No. 64 s 6

Finalising terms of reference

s 46 prev s 46 amd 1996 No. 10 s 9; 1997 No. 80 s 11
om 2000 No. 64 s 8
pres s 46 ins 2000 No. 64 s 6

Division 3—Submission stage

div hdg ins 2000 No. 64 s 6

When EIS may be submitted

s 47 prev s 47 om 2000 No. 64 s 8
pres s 47 ins 2000 No. 64 s 6
amd 2011 No. 6 s 59

Provisional licensee may apply for new licence

s 47A ins 1996 No. 10 s 10
om 2000 No. 64 s 8

Chief executive may require copies of EIS

s 48 prev s 48 amd 1995 No. 40 s 4
om 2000 No. 64 s 8
pres s 48 ins 2000 No. 64 s 6

Division 2—Amendment of licences

div hdg om 2000 No. 64 s 8

Decision on whether EIS may proceed

s 49 prev s 49 amd 1996 No. 10 s 11, 1998 No. 13 s 40
om 2000 No. 64 s 8
pres s 49 ins 2000 No. 64 s 6
amd 2005 No. 53 s 17

Ministerial review of refusal to allow to proceed

s 50 prev s 50 amd 1997 No. 80 s 12
om 2000 No. 64 s 8
pres s 50 ins 2000 No. 64 s 6
amd 2005 No. 53 s 18

Division 4—Notification stage

div hdg ins 2000 No. 64 s 6

Subdivision 1—Public notice requirements

sdiv hdg ins 2000 No. 64 s 6

Public notification

s 51 prev s 51 amd 1998 No. 13 s 41
om 2000 No. 64 s 8
pres s 51 ins 2000 No. 64 s 6
amd 2005 No. 53 s 19; 2011 No. 6 s 60; 2012 No. 16 s 5

Division 3—Dealings with licences

div hdg om 2000 No. 64 s 8

Required content of EIS notice

s 52 prev s 52 om 2000 No. 64 s 8
pres s 52 ins 2000 No. 64 s 6
amd 2005 No. 53 s 20

Declaration of compliance

s 53 prev s 53 om 2000 No. 64 s 8
pres s 53 ins 2000 No. 64 s 6

Subdivision 2—Submissions**sdiv hdg** ins 2000 No. 64 s 6**Right to make submission****s 54** prev s 54 om 2000 No. 64 s 8
pres s 54 ins 2000 No. 64 s 6**Acceptance of submissions****s 55** prev s 55 om 2000 No. 64 s 8
pres s 55 ins 2000 No. 64 s 6**Response to submissions****s 56** prev s 56 om 2000 No. 64 s 8
pres s 56 ins 2000 No. 64 s 6
amd 2005 No. 53 s 21**Assessment of adequacy of response to submission and submitted EIS****s 56A** ins 2005 No. 53 s 22**Ministerial review of refusal to allow submitted EIS to proceed****s 56B** ins 2005 No. 53 s 22**Division 5—EIS assessment report****div hdg** ins 2000 No. 64 s 6**EIS assessment report****s 57** prev s 57 om 2000 No. 64 s 8
pres s 57 ins 2000 No. 64 s 6
sub 2005 No. 53 s 23
amd 2008 No. 52 s 10**Criteria for preparing report****s 58** prev s 58 amd 1995 No. 40 s 5
om 2000 No. 64 s 8
pres s 58 ins 2000 No. 64 s 6**Division 4—Suspension and cancellation of licences****div hdg** om 2000 No. 64 s 8**Required content of report****s 59** prev s 59 om 2000 No. 64 s 8
pres s 59 ins 2000 No. 64 s 6**Division 6—Completion of process****div hdg** ins 2000 No. 64 s 6**When process is completed****s 60** prev s 60 amd 1997 No. 80 s 13
om 2000 No. 64 s 8
pres s 60 ins 2000 No. 64 s 6
amd 2001 No. 46 s 9; 2002 No. 45 s 3(2) sch; 2013 No. 6 s 50 sch

Division 4A—Amendment, suspension and cancellation of level 1 approvals

div hdg ins 1997 No. 80 s 14
om 2000 No. 64 s 8

Subdivision 1—Amendment of level 1 approvals

sdiv 1 (ss 60A–60C) ins 1997 No. 80 s 14
om 2000 No. 64 s 8

Subdivision 2—Suspension and cancellation of level 1 approvals

sdiv 2 (ss 60D–60E) ins 1997 No. 80 s 14
om 2000 No. 64 s 8

**PART 4A—ENVIRONMENTAL AUTHORITIES FOR LEVEL 1
ENVIRONMENTALLY RELEVANT ACTIVITIES WITH
DEVELOPMENT APPROVALS**

pt hdg ins 1998 No. 13 s 42
om 2000 No. 64 s 8

Division 1—Preliminary

div hdg ins 1998 No. 13 s 42
om 2000 No. 64 s 8

Application of pt 4A

s 60F ins 1998 No. 13 s 42
amd 1998 No. 31 s 71
om 2000 No. 64 s 8

Division 2—Licences

div 2 (ss 60G–60N) ins 1998 No. 13 s 42
om 2000 No. 64 s 8

Division 3—Level 1 approvals

div 3 (60O–60V) ins 1998 No. 13 s 42
om 2000 No. 64 s 8

Division 4—Dealings with environmental authorities

div 4 (ss 60W–60Y) ins 1998 No. 13 s 42
om 2000 No. 64 s 8

**PART 4B—DEVELOPMENT APPROVALS FOR CERTAIN
ENVIRONMENTALLY RELEVANT ACTIVITIES**

pt hdg ins 1998 No. 13 s 42
om 2000 No. 64 s 8

Division 1—Preliminary

div hdg ins 1998 No. 13 s 42
om 2000 No. 64 s 8

Application of pt 4B

s 60Z ins 1998 No. 13 s 42
amd 1998 No. 31 s 72
om 2000 No. 64 s 8

Division 2—Assessing development applications

div hdg ins 1998 No. 13 s 42
om 2000 No. 64 s 8

Assessing application

s 60ZA ins 1998 No. 13 s 42
amd 1998 No. 31 s 73
om 2000 No. 64 s 8

Conditions of development approval

s 60ZB ins 1998 No. 13 s 42
amd 1998 No. 13 s 74
om 2000 No. 64 s 8

Division 3—Effect of issue of certain development permits

div hdg ins 1998 No. 13 s 42
sub 1998 No. 31 s 75
om 2000 No. 64 s 8

Development permits continue to have effect

s 60ZC ins 1998 No. 13 s 42
sub 1998 No. 31 s 75
om 2000 No. 64 s 8

Cancellation of pt 4 environmental authority and issue of pt 4A environmental authority

s 60ZD ins 1998 No. 13 s 42
om 1998 No. 31 s 75

Issue of environmental authority on issue of development approval

s 60ZE ins 1998 No. 13 s 42
om 1998 No. 31 s 75

Division 4—Offences

div hdg ins 1998 No. 13 s 42
om 2000 No. 64 s 8

Offence to contravene development condition

s 60ZF ins 1998 No. 13 s 42
om 2000 No. 64 s 8

PART 4C—GENERAL PROVISIONS ABOUT ENVIRONMENTALLY RELEVANT ACTIVITIES

pt hdg sub 1998 No. 13 s 43
om 2000 No. 64 s 8

Division 7—Miscellaneous provisions

div hdg ins 2000 No. 64 s 6

Subdivision 1—Inquiries by chief executive

sdiv hdg ins 2000 No. 64 s 6

Application of sdiv 1

s 61 prev s 61 amd 1998 No. 13 s 44
om 2000 No. 64 s 8
pres s 61 ins 2000 No. 64 s 6

Special provisions for environmental authorities to carry out new environmentally relevant activities

s 61A ins 1996 No. 10 s 12
om 2000 No. 64 s 8

Chief executive may seek advice, comment or information

s 62 prev s 62 amd 1998 No. 31 s 76 (retro)
om 2000 No. 64 s 8
pres s 62 ins 2000 No. 64 s 6
amd 2005 No. 53 s 24

Disclosure of relevant documents or information

s 63 prev s 63 om 2000 No. 64 s 8
pres s 63 ins 2000 No. 64 s 6

Making of inquiry does not of itself alter EIS process

prov hdg sub 2005 No. 53 s 25(1)
s 64 prev s 64 amd 1998 No. 31 s 77
om 2000 No. 64 s 8
pres s 64 ins 2000 No. 64 s 6
amd 2005 No. 53 s 25(2)

Subdivision 2—Public inspection

sdiv hdg ins 2000 No. 64 s 6

Public access to draft terms of reference or submitted EIS

s 65 prev s 65 amd 1997 No. 7 s 5; 1998 No. 31 s 78 (retro)
om 2000 No. 64 s 8
pres s 65 ins 2000 No. 64 s 6

Subdivision 3—Amending EIS

sdiv hdg ins 2000 No. 64 s 6

Amending EIS

s 66 prev s 66 om 2000 No. 64 s 8
pres s 66 ins 2000 No. 64 s 6
amd 2005 No. 53 s 26

Subdivision 4—Effects of noncompliance with process

sdiv hdg ins 2000 No. 64 s 6

Process is suspended

s 67 prev s 67 amd 1998 No. 31 s 79 (retro)
om 2000 No. 64 s 8
pres s 67 ins 2000 No. 64 s 6
amd 2001 No. 46 s 7(2) sch 2

Substantial compliance with notice requirements may be accepted

- s 68** prev s 68 amd 1996 No. 10 s 13, 1998 No. 13 s 45
om 2000 No. 64 s 8
pres s 68 ins 2000 No. 64 s 6

PART 2—VOLUNTARY PREPARATION OF EIS

- pt hdg** ins 2000 No. 64 s 6

Purpose of pt 2

- s 69** prev s 69 om 2000 No. 64 s 8
pres s 69 ins 2000 No. 64 s 6
amd 2001 No. 46 s 7(2) sch 2

Projects that may be approved for EIS

- s 70** prev s 70 sub 1997 No. 7 s 6
amd 1997 No. 80 s 15; 2001 No. 46 s 7(2) sch 2
om 2000 No. 64 s 8
pres s 70 ins 2000 No. 64 s 6

Material change of use for Integrated Planning Act

- s 70A** ins 1998 No. 13 s 46
om 2000 No. 64 s 8

Requirements for application

- s 71** ins 2000 No. 64 s 6

Deciding application

- s 72** ins 2000 No. 64 s 6

CHAPTER 4—DEVELOPMENT APPROVALS AND REGISTRATION (OTHER THAN FOR MINING OR CHAPTER 5A ACTIVITIES)

- ch hdg** ins 2000 No. 64 s 6
sub 2003 No. 95 s 4
amd 2009 No. 3 s 458
om 2012 No. 16 s 6

PART 1—ASSESSING DEVELOPMENT APPLICATIONS

- pt hdg** ins 2000 No. 64 s 6
sub 2003 No. 95 s 4
om 2012 No. 16 s 6

Application of pt 1

- s 73** ins 2000 No. 64 s 6
sub 2003 No. 95 s 4
om 2012 No. 16 s 6

Assessing development applications

- s 73A** ins 2003 SL No. 95 s 4
amd 2007 No. 56 s 6 sch; 2009 No. 36 s 872 sch 2
om 2012 No. 16 s 6

Development applications in relation to wild river areas

- s 73AA** ins 2005 No. 42 s 52 sch 1

Endnotes

amd 2006 No. 59 s 35; 2007 No. 8 s 19; 2008 No. 52 s 11
sub 2009 No. 36 s 872 sch 2
om 2012 No. 16 s 6

Conditions of development approval that may and must be imposed

s 73B ins 2003 SL No. 95 s 4
amd 2007 No. 56 s 6 sch; 2009 No. 36 s 872 sch 2
om 2012 No. 16 s 6

Adding, changing or cancelling a development condition

s 73C ins 2003 SL No. 95 s 4
amd 2007 No. 56 s 8; 2009 No. 36 s 872 sch 2; 2012 No. 43 s 229
om 2012 No. 16 s 6

PART 2—REGISTRATION

pt hdg ins 2000 No. 64 s 6
sub 2003 SL No. 95 s 4
om 2012 No. 16 s 6

Division 1—Assessable development use for Integrated Planning Act

div hdg ins 2000 No. 64 s 6
om 2003 No. 95 s 4

Division 2—Assessing development applications

div hdg ins 2000 No. 64 s 6
om 2003 No. 95 s 4

Division 3—Effect of issue of certain development approvals

div hdg ins 2000 No. 64 s 6
om 2003 No. 95 s 4

Application for registration to carry out chapter 4 activity

s 73D ins 2003 No. 95 s 4
amd 2011 No. 6 s 61
om 2012 No. 16 s 6

Grounds for refusing application for registration

s 73E ins 2003 No. 95 s 4
om 2012 No. 16 s 6

Registration certificates

s 73F ins 2003 No. 95 s 4
amd 2008 No. 52 s 12; 2011 No. 6 s 62
om 2012 No. 16 s 6

Issue of 2 or more registration certificates in place of single certificate

s 73FA ins 2008 No. 52 s 13
om 2012 No. 16 s 6

When registration certificate takes effect

s 73G ins 2003 No. 95 s 4
amd 2005 No. 53 s 27; 2011 No. 6 s 63; 2011 No. 3 s 4
om 2012 No. 16 s 6

Registration certificate expires if new operator registered

s 73GA ins 2007 No. 56 s 9
om 2012 No. 16 s 6

PART 3—AMENDING REGISTRATION

pt hdg ins 2000 No. 64 s 6
sub 2003 No. 95 s 4; 2007 No. 56 s 10
om 2012 No. 16 s 6

Division 1—Grounds for amending registration certificates

div hdg prev div 1 hdg ins 2000 No. 64 s 6
om 2003 No. 95 s 4
pres div 1 hdg ins 2007 No. 56 s 10
om 2012 No. 16 s 6

Amendment to correct error

s 73H ins 2003 No. 95 s 4
sub 2007 No. 56 s 10
om 2012 No. 16 s 6

Amendment by agreement

s 73HA ins 2007 No. 56 s 10
om 2012 No. 16 s 6

Amendment to ensure consistency with code of environmental compliance

s 73HB ins 2007 No. 56 s 10
om 2012 No. 16 s 6

Amendment for registration of new activity

s 73HC ins 2007 No. 56 s 10
om 2012 No. 16 s 6

Amendment for removing registration of continuing chapter 4 activity

s 73HD ins 2007 No. 56 s 10
om 2012 No. 16 s 6

Division 2—Amendment of registration certificates

div hdg prev div 2 hdg ins 2000 No. 64 s 6
om 2003 No. 95 s 4
pres div 2 hdg ins 2007 No. 56 s 10
om 2012 No. 16 s 6

How a registration certificate is to be amended

s 73HE ins 2007 No. 56 s 10
om 2012 No. 16 s 6

PART 4—CANCELLING OR SUSPENDING REGISTRATION

pt hdg orig pt 4 hdg om 2000 No. 5 s 461 sch 3
prev pt 4 hdg ins 2000 No. 64 s 6
om 2003 No. 95 s 7
pres pt 4 hdg ins 2003 No. 95 s 4
om 2012 No. 16 s 6

Endnotes

Division 1—Conversion applications

div hdg ins 2000 No. 64 s 6
om 2003 No. 95 s 7

Division 2—Processing conversion applications

div hdg ins 2000 No. 64 s 6
om 2003 No. 95 s 7

Cancelling or suspending a registration certificate

s 73I ins 2003 No. 95 s 4
om 2012 No. 16 s 6

Notice of proposed action

s 73J ins 2003 No. 95 s 4
om 2012 No. 16 s 6

Considering representations

s 73K ins 2003 No. 95 s 4
om 2012 No. 16 s 6

Decision on proposed action

s 73L ins 2003 No. 95 s 4
om 2012 No. 16 s 6

Notice of proposed action decision

s 73M ins 2003 No. 95 s 4
om 2012 No. 16 s 6

Steps for cancelling or suspending a registration certificate

s 73N ins 2003 No. 95 s 4
om 2012 No. 16 s 6

PART 5—SURRENDERING REGISTRATION

pt hdg ins 2003 No. 95 s 4
om 2012 No. 16 s 6

Surrendering a registration certificate

s 73O ins 2003 No. 95 s 4
amd 2007 No. 56 ss 11, 6 sch amdt 1 (amdt 5 could not be given effect); 2008
No. 52 s 14
om 2012 No. 16 s 6

Steps for surrendering a registration certificate

s 73P ins 2003 No. 95 s 4
om 2012 No. 16 s 6

PART 5A—WORK DIARY REQUIREMENTS FOR PARTICULAR REGISTERED OPERATORS

pt 5A (ss 73PA–73PC) ins 2011 No. 6 s 64
om 2012 No. 16 s 6

PART 6—MISCELLANEOUS

pt hdg ins 2003 No. 95 s 4
om 2012 No. 16 s 6

Notice of disposal by registered operator

s 73Q ins 2003 No. 95 s 4
om 2012 No. 16 s 6

Additional consequences of not giving notice

s 73R ins 2003 No. 95 s 4
om 2012 No. 16 s 6

Effect of self-assessable development becoming assessable development

s 73S ins 2003 No. 95 s 4
om 2012 No. 16 s 6

Offences under s 427 do not apply in certain circumstances

s 73T ins 2003 No. 95 s 4
amd 2008 No. 52 s 15; 2009 No. 36 s 872 sch 2
om 2012 No. 16 s 6

CHAPTER 4A—GREAT BARRIER REEF PROTECTION MEASURES

ch hdg prev ch 4A hdg ins 2003 No. 95 s 4
sub 2004 No. 48 s 32
om 2009 No. 3 s 459
pres ch 4A hdg ins 2009 No. 42 s 6

PART 1—PRELIMINARY

pt hdg prev pt 1 hdg ins 2003 No. 95 s 4
sub 2004 No. 48 s 32
om 2009 No. 3 s 459
pres pt 1 hdg ins 2009 No. 42 s 6

Application of ch 4A

s 73U ins 2003 No. 95 s 4
om 2004 No. 48 s 32

Purpose of ch 4A

s 74 prev s 74 ins 2000 No. 64 s 6
amd 2002 No. 45 s 3(2) sch
sub 2003 No. 95 s 4; 2004 No. 48 s 32
om 2009 No. 3 s 459
pres s 74 ins 2009 No. 42 s 6

Subdivision 1—General provisions for obtaining licence

sdiv hdg (orig located in ch 4, pt 3, div 2) ins 2000 No. 64 s 6
om 2004 No. 48 s 32

What is an *agricultural ERA*

s 75 orig s 75 ins 2000 No. 64 s 6
amd 2002 No. 10 s 3
om 2003 No. 95 s 4
prev s 75 ins 2004 No. 48 s 32
om 2009 No. 3 s 459
pres s 75 ins 2009 No. 42 s 6

Who carries out an agricultural ERA

s 76 orig s 76 ins 2000 No. 64 s 6
amd 2002 No. 10 s 4
om 2003 No. 95 s 4
prev s 76 ins 2004 No. 48 s 32
om 2009 No. 3 s 459
pres s 76 ins 2009 No. 42 s 6

Other definitions for ch 4A

s 77 orig s 77 ins 2000 No. 64 s 6
om 2003 No. 95 s 4
prev s 77 ins 2004 No. 48 s 32
amd 2005 No. 53 s 28; 2008 No. 52 s 16
om 2009 No. 3 s 459
pres s 77 ins 2009 No. 42 s 6

PART 2—REQUIREMENTS FOR CARRYING OUT AGRICULTURAL ERAs

pt hdg prev pt 2 hdg ins 2003 No. 95 s 4
sub 2004 No. 48 s 32
om 2009 No. 3 s 459
pres pt 2 hdg ins 2009 No. 42 s 6

Division 1—Fertiliser application requirements

div hdg prev div 1 hdg ins 2003 No. 95 s 4
sub 2004 No. 48 s 32
om 2009 No. 3 s 459
pres div 1 hdg ins 2009 No. 42 s 6

Subdivision 1—Offence

sdiv hdg ins 2009 No. 42 s 6

Offence about fertiliser application

s 78 orig s 78 ins 2000 No. 64 s 6
om 2003 No. 95 s 4
prev s 78 ins 2004 No. 48 s 32
amd 2005 No. 3 s 105 sch
om 2009 No. 3 s 459
pres s 78 ins 2009 No. 42 s 6

Subdivision 2—Conditions to prevent over-fertilisation

sdiv hdg ins 2009 No. 42 s 6

Application of sdiv 2

s 79 orig s 79 ins 2000 No. 64 s 6
om 2003 No. 95 s 4
prev s 79 ins 2004 No. 48 s 32
om 2009 No. 3 s 459
pres s 79 ins 2009 No. 42 s 6

Working out optimum amount

s 80 orig s 80 ins 2000 No. 64 s 6
om 2003 No. 95 s 4

prev s 80 ins 2004 No. 48 s 32
 om 2009 No. 3 s 459
 pres s 80 ins 2009 No. 42 s 6

Soil testing

s 81 orig s 81 ins 2000 No. 64 s 6
 om 2003 No. 95 s 4
 prev s 81 ins 2004 No. 48 s 32
 om 2009 No. 3 s 459
 pres s 81 ins 2009 No. 42 s 6

Restriction on application of fertiliser

s 82 orig s 82 ins 2000 No. 64 s 6
 amd 2002 No. 45 s 3(2) sch
 om 2003 No. 95 s 4
 prev s 82 ins 2004 No. 48 s 32
 om 2009 No. 3 s 459
 pres s 82 ins 2009 No. 42 s 6

Division 2—Document requirements

div hdg prev div 2 hdg (prev ch 4, pt 3, div 3 hdg) ins 2000 No. 64 s 6
 renum 2003 No. 95 s 3 sch
 sub 2004 No. 48 s 32
 om 2009 No. 3 s 459
 pres div 2 hdg ins 2009 No. 42 s 6

Subdivision 1—Documents that must be kept

sdiv hdg prev sdiv 1 hdg ins 2004 No. 48 s 32
 om 2009 No. 3 s 459
 pres sdiv 1 hdg ins 2009 No. 42 s 6

Required record

s 83 orig s 83 ins 2000 No. 64 s 6
 amd 2002 No. 45 s 3(2) sch
 om 2003 No. 95 s 4
 prev s 83 ins 2004 No. 48 s 32
 om 2009 No. 3 s 459
 pres s 83 ins 2009 No. 42 s 6

Obligation to keep relevant primary documents

s 84 orig s 84 ins 2000 No. 64 s 6
 om 2003 No. 95 s 4
 prev s 84 ins 2004 No. 48 s 32
 om 2009 No. 3 s 459
 pres s 84 ins 2009 No. 42 s 6

Subdivision 2—Production of documents

sdiv hdg prev sdiv 2 hdg ins 2004 No. 48 s 32
 om 2009 No. 3 s 459
 pres sdiv 2 hdg ins 2009 No. 42 s 6

Power to require production of documents

s 85 orig s 85 ins 2000 No. 64 s 6
om 2003 No. 95 s 4
prev s 85 ins 2004 No. 48 s 32
om 2009 No. 3 s 459
pres s 85 ins 2009 No. 42 s 6

Offence not to comply with production requirement

s 86 orig s 86 om 2000 No. 64 s 13
prev s 86 ins 2000 No. 64 s 6
amd 2002 No. 45 s 3(2) sch
om 2003 No. 95 s 4
ins 2004 No. 48 s 32
amd 2005 No. 53 s 29
om 2009 No. 3 s 459
pres s 86 ins 2009 No. 42 s 6

Derivative use immunity for production

s 87 prev s 87 ins 2000 No. 64 s 6
amd 2003 No. 95 s 5
sub 2004 No. 48 s 32
om 2009 No. 3 s 459
pres s 87 ins 2009 No. 42 s 6

Subdivision 3—Joint applications

sdiv hdg ins 2004 No. 48 s 32
om 2009 No. 3 s 459

PART 3—ENVIRONMENTAL RISK MANAGEMENT PLANS

pt hdg prev pt 3 hdg (prev ch 4, pt 5 hdg) ins 2000 No. 64 s 6
sub 2002 No. 45 s 7
renum 2003 No. 95 s 3 sch
sub 2004 No. 48 s 32
om 2009 No. 3 s 459
pres pt 3 hdg ins 2009 No. 42 s 6

Division 1AA—Preliminary

div 1AA (s 87A) ins 2009 No. 42 s 6

Division 1—General matters

div hdg prev div 1 hdg ins 2002 No. 45 s 7
sub 2004 No. 48 s 32
om 2009 No. 3 s 459
pres div 1 hdg ins 2009 No. 42 s 6

When an accredited ERMP is required

s 88 prev s 88 ins 2000 No. 64 s 6
om 2009 No. 3 s 459
def *submission period* amd 2000 No. 64 s 3(2) sch
sub 2004 No. 48 s 32
pres s 88 ins 2009 No. 42 s 6

Division 3—Level 2 petroleum activities

div hdg (prev ch 4, pt 3, div 4 hdg) ins 2000 No. 64 s 6
renum 2003 No. 95 s 3 sch
sub 2004 No. 48 s 32
om 2009 No. 3 s 459

Subdivision 1—Code compliant authorities

sdiv hdg ins 2004 No. 48 s 32
om 2009 No. 3 s 459

When ERMP direction may be given

s 89 prev s 89 ins 2000 No. 64 s 6
amd 2002 No. 45 s 3(2) sch
sub 2004 No. 48 s 32
om 2009 No. 3 s 459
pres s 89 ins 2009 No. 42 s 6

Public access to application

89D (prev s 34CB) ins 2000 No. 64 s 6
amd 2002 No. 45 s 3(2) sch
renum 2002 No. 45 s 3(2) sch
om 2004 No. 48 s 32

Public notice of application

s 89E (prev s 34CC) ins 2000 No. 64 s 6
amd 2002 No. 45 s 3(2) sch
renum 2002 No. 45 s 3(2) sch
om 2004 No. 48 s 32

Required content of application notice

s 89F (prev s 34CD) ins 2000 No. 64 s 6
amd 2002 No. 45 s 3(2) sch
renum 2002 No. 45 s 3(2) sch
om 2004 No. 48 s 32

Declaration of compliance

s 89G (prev s 34CE) ins 2000 No. 64 s 6
amd 2002 No. 45 s 3(2) sch
renum 2002 No. 45 s 3(2) sch
om 2004 No. 48 s 32

Substantial compliance may be accepted

s 89H (prev s 34CF) ins 2000 No. 64 s 6
amd 2002 No. 45 s 3(2) sch
renum 2002 No. 45 s 3(2) sch
om 2004 No. 48 s 32

Right to make submission

s 89I (prev s 34CG) ins 2000 No. 64 s 6
om 2004 No. 48 s 32

Acceptance of submissions

s 89J (prev s 34CH) ins 2000 No. 64 s 6
om 2004 No. 48 s 32

Form of ERMP direction and what it may require

s 90 prev s 90 ins 2000 No. 64 s 6
amd 2002 No. 45 s 3(2) sch
sub 2004 No. 48 s 32
amd 2005 No. 53 s 159 sch
om 2009 No. 3 s 459
pres s 90 ins 2009 No. 42 s 6

Public notice of ERMP directions with multiple recipients

s 91 prev s 91 ins 2000 No. 64 s 6
amd 2002 No. 45 s 3(2) sch
sub 2004 No. 48 s 32
om 2009 No. 3 s 459
pres s 91 ins 2009 No. 42 s 6

Obligations if accredited ERMP required

s 92 prev s 92 ins 2000 No. 64 s 6
sub 2004 No. 48 s 32
amd 2005 No. 53 s 30
om 2009 No. 3 s 459
pres s 92 ins 2009 No. 42 s 6

Unaccredited ERMP has no effect

s 93 prev s 93 ins 2000 No. 64 s 6
amd 2002 No. 45 s 3(2) sch
sub 2004 No. 48 s 32
amd 2005 No. 42 s 52 sch 1
om 2009 No. 3 s 459
pres s 93 ins 2009 No. 42 s 6

Subdivision 2—Non-code compliant authorities

sdiv hdg ins 2000 No. 64 s 6
sub 2004 No. 48 s 32
om 2009 No. 3 s 459

Division 2—ERMP content requirements

div hdg prev div 2 hdg ins 2002 No. 45 s 7
sub 2004 No. 48 s 32
om 2009 No. 3 s 459
pres div 2 hdg ins 2009 No. 42 s 6

General content requirements

s 94 prev s 94 ins 2000 No. 64 s 6
sub 2004 No. 48 s 32
om 2009 No. 3 s 459
pres s 94 ins 2009 No. 42 s 6

Exceptions for management plan requirement

s 95 prev s 95 ins 2000 No. 64 s 6
amd 2002 No. 45 s 3(2) sch
sub 2004 No. 48 s 32
om 2009 No. 3 s 459
pres s 95 ins 2009 No. 42 s 6

Conditions may be requested

s 95A ins 2005 No. 53 s 31
om 2009 No. 3 s 459

Documents that may make up ERMP

prov hdg amd 2005 No. 53 s 159 sch
s 96 orig s 96 om 2000 No. 64 s 15
prev s 96 ins 2000 No. 64 s 6
sub 2004 No. 48 s 32; 2005 No. 3 s 105 sch
om 2009 No. 3 s 459
pres s 96 ins 2009 No. 42 s 6

Division 3—Accreditation of ERMPs

div hdg prev div 3 hdg ins 2002 No. 45 s 7
sub 2004 No. 48 s 32
om 2009 No. 3 s 459
pres div 3 hdg ins 2009 No. 42 s 6

Application of div 3

s 97 prev s 97 ins 2000 No. 64 s 6
amd 2002 No. 45 s 3(2) sch
sub 2004 No. 48 s 32
amd 2005 No. 42 s 52 sch 1; 2005 No. 53 s 32; 2007 No. 56 s 6 sch
om 2009 No. 3 s 459
pres s 97 ins 2009 No. 42 s 6

Request for further information

s 98 prev s 98 ins 2000 No. 64 s 6
amd 2002 No. 45 s 3(2) sch
sub 2004 No. 48 s 32
amd 2005 No. 42 s 52 sch 1; 2005 No. 53 s 33; 2007 No. 56 s 6 sch
om 2009 No. 3 s 459
pres s 98 ins 2009 No. 42 s 6

Deciding whether to accredit

prov hdg amd 2003 No. 95 s 3 sch
s 99 prev s 99 ins 2000 No. 64 s 6
sub 2004 No. 48 s 32
amd 2005 No. 53 s 34
om 2009 No. 3 s 459
pres s 99 ins 2009 No. 42 s 6

Notice of decision

s 100 prev s 100 ins 2000 No. 64 s 6
amd 2002 No. 45 s 3(2) sch
sub 2004 No. 48 s 32
om 2009 No. 3 s 459
pres s 100 ins 2009 No. 42 s 6

Amended ERMP required if accreditation refused

s 101 prev s 101 ins 2000 No. 64 s 6
amd 2002 No. 45 s 3(2) sch
sub 2004 No. 48 s 32
om 2009 No. 3 s 459
pres s 101 ins 2009 No. 42 s 6

Division 4—Amendment of accredited ERMPs

div hdg prev div 4 hdg ins 2004 No. 48 s 32
om 2009 No. 3 s 459
pres div 4 hdg ins 2009 No. 42 s 6

Application of div 4

s 102 prev s 102 ins 2000 No. 64 s 6
sub 2004 No. 48 s 32
om 2009 No. 3 s 459
pres s 102 ins 2009 No. 42 s 6

Voluntary amendment

s 103 prev s 103 ins 2000 No. 64 s 6
amd 2001 No. 46 s 7(2) sch 2
sub 2004 No. 48 s 32
amd 2005 No. 53 s 35
om 2009 No. 3 s 459
pres s 103 ins 2009 No. 42 s 6

Direction to amend

s 104 prev s 104 ins 2000 No. 64 s 6
amd 2002 No. 45 s 3(2) sch
sub 2004 No. 48 s 32
om 2009 No. 3 s 459
pres s 104 ins 2009 No. 42 s 6

Division 5—Annual reporting

div hdg prev div 5 hdg ins 2004 No. 48 s 32
om 2009 No. 3 s 459
pres div 5 hdg ins 2009 No. 42 s 6

Annual reporting requirement

prov hdg amd 2003 No. 95 s 3 sch
s 105 prev s 105 ins 2000 No. 64 s 6
sub 2004 No. 48 s 32
om 2009 No. 3 s 459
pres s 105 ins 2009 No. 42 s 6

CHAPTER 5—ENVIRONMENTAL AUTHORITIES AND ENVIRONMENTALLY RELEVANT ACTIVITIES

ch hdg prev ch hdg ins 2000 No. 64 s 6
om 2012 No. 16 s 7
pres ch hdg ins 2012 No. 16 s 8 (amd 2013 No. 10 s 7(1))

PART 1—PRELIMINARY

pt hdg ins 2000 No. 64 s 6
sub 2012 No. 16 ss 7–8

Division 1—Key definitions for chapter 5

div hdg ins 2000 No. 64 s 6
sub 2012 No. 16 ss 7–8

What is a *prescribed ERA*

s 106 prev s 106 ins 2000 No. 64 s 6
amd 2002 No. 45 s 3(2) sch
sub 2003 No. 95 s 6; 2004 No. 48 s 32
om 2009 No. 3 s 459
pres s 106 ins 2012 No. 16 s 8

What is a *resource activity*

s 107 pres s 107 ins 2000 No. 64 s 6
amd 2002 No. 45 s 3(2) sch
sub 2004 No. 48 s 32
om 2009 No. 3 s 459
pres s 107 ins 2012 No. 16 s 8

What is a *geothermal activity*

s 108 orig s 108 ins 2000 No. 64 s 6
amd 2001 No. 46 s 7(2) sch 2
om 2003 No. 95 s 7
prev s 108 ins 2004 No. 48 s 32
om 2009 No. 3 s 459
pres s 108 ins 2012 No. 16 s 8

What is a *GHG storage activity*

s 109 orig s 109 ins 2000 No. 64 s 6
amd 2002 No. 45 s 4
om 2003 No. 95 s 7
prev s 109 ins 2004 No. 48 s 32
om 2009 No. 3 s 459
pres s 109 ins 2012 No. 16 s 8

What is a *mining activity*

s 110 orig s 110 ins 2000 No. 64 s 6
amd 2002 No. 45 s 3(2) sch
om 2003 No. 95 s 7
prev s 110 ins 2004 No. 48 s 32
om 2009 No. 3 s 459
pres s 110 ins 2012 No. 16 s 8 (amd 2013 No. 6 s 10(1))

What is a *petroleum activity*

s 111 orig s 111 ins 2000 No. 64 s 6
amd 2001 No. 46 s 7(2) sch 2; amd 2002 No. 45 s 5
om 2003 No. 95 s 7
prev s 111 ins 2004 No. 48 s 32
om 2009 No. 3 s 459
pres s 111 ins 2012 No. 16 s 8

Other key definitions for ch 5

s 112 orig s 112 ins 2000 No. 64 s 6
om 2003 No. 95 s 7
prev s 112 ins 2004 No. 48 s 32
om 2009 No. 3 s 459
pres s 112 ins 2012 No. 16 s 8 (amd 2013 No. 6 ss 10(2)–(3), 50 sch)

Division 2—Single integrated operations

div hdg ins 2000 No. 64 s 6
sub 2012 No. 16 ss 7–8

Single integrated operations

s 113 orig s 113 ins 2000 No. 64 s 6
amd 2002 No. 45 s 3(2) sch
om 2003 No. 95 s 7
prev s 113 ins 2004 No. 48 s 32
amd 2005 No. 42 s 52 sch 1; 2007 No. 56 s 6 sch
om 2009 No. 3 s 459
pres s 113 ins 2012 No. 16 s 8

Division 3—Stages of assessment process

div hdg prev div 3 hdg ins 2000 No. 64 s 6
om 2004 No. 48 s 35
pres div 3 hdg ins 2012 No. 16 s 8

Stages of assessment process

s 114 orig s 114 ins 2000 No. 64 s 6
om 2003 No. 95 s 7
prev s 114 ins 2004 No. 48 s 32
amd 2005 No. 42 s 52 sch 1; 2007 No. 56 s 6 sch
om 2009 No. 3 s 459
pres s 114 ins 2012 No. 16 s 8

Division 4—Relationship with the Planning Act

div hdg ins 2012 No. 16 s 8

Development application taken to be application for environmental authority in particular circumstances

s 115 orig s 115 ins 2000 No. 64 s 6
amd 2002 No. 45 ss 6, 3(2) sch
om 2003 No. 95 s 7
prev s 115 ins 2004 No. 48 s 32
amd 2005 No. 53 s 36

om 2009 No. 3 s 459
pres s 115 ins 2012 No. 16 s 8

PART 2—APPLICATION STAGE

pt hdg ins 2000 No. 64 s 6
sub 2012 No. 16 ss 7–8

Division 1—Preliminary

div hdg prev div 1 hdg ins 2000 No. 64 s 6
om 2004 No. 48 s 36
pres div 1 hdg (prev div 2 hdg) ins 2000 No. 64 s 6
renum 2004 No. 48 s 37
sub 2012 No. 16 ss 7–8

Who may apply for an environmental authority

s 116 prev s 116 ins 2000 No. 64 s 6
sub 2002 No. 45 s 7; 2004 No. 48 s 32
om 2009 No. 3 s 459
pres s 116 ins 2012 No. 16 s 8 (amd 2013 No. 6 ss 10(4), 50 sch)

Restriction for applications for resource activities

prov hdg amd 2003 No. 95 s 3 sch
s 117 prev s 117 ins 2000 No. 64 s 6
sub 2002 No. 45 s 7; 2004 No. 48 s 32
om 2009 No. 3 s 459
pres s 117 ins 2012 No. 16 s 8 (amd 2013 No. 6 s 50 sch)

Public notice may be required for licence amendment

s 34DK ins 2000 No. 64 s 6
om 2002 No. 45 s 7

Single application required for ERA projects

s 118 prev s 118 ins 2002 No. 45 s 7
sub 2004 No. 48 s 32
om 2009 No. 3 s 459
pres s 118 ins 2012 No. 16 s 8 (amd 2013 No. 6 s 50 sch)

Meaning of *owner* for pt 9B

s 118D ins 1997 No. 80 s 21
om 2000 No. 64 s 22

Single environmental authority required for ERA projects

s 119 prev s 119 ins 2000 No. 64 s 6
sub 2002 No. 45 s 7
amd 2003 No. 95 s 8
sub 2004 No. 48 s 32
om 2009 No. 3 s 459
pres s 119 ins 2012 No. 16 s 8

Application for environmental authority can not be made in particular circumstances

s 120 prev s 120 ins 2000 No. 64 s 6
sub 2002 No. 45 s 7
amd 2003 No. 95 s 9
sub 2004 No. 48 s 32
om 2009 No. 3 s 459
pres s 120 ins 2012 No. 16 s 8

Subdivision 1—General provisions about applications

sdiv hdg orig ch 5 pt 2 div 1 sdiv 1 hdg ins 2000 No. 64 s 6
om 2012 No. 16 s 7

Subdivision 2—Applications for mining projects

sdiv hdg orig ch 5 pt 2 div 1 sdiv 2 hdg ins 2000 No. 64 s 6
om 2012 No. 16 s 7

Subdivision 3—Joint applications

sdiv hdg orig ch 5 pt 2 div 1 sdiv 3 hdg ins 2000 No. 64 s 6

Division 2—Types of applications

div hdg (prev div 3 hdg) ins 2000 No. 64 s 6
sub 2004 No. 48 s 40; 2012 No. 16 ss 7–8

Types of applications

s 121 prev s 121 ins 2000 No. 64 s 6
sub 2002 No. 45 s 7; 2004 No. 48 s 32
om 2009 No. 3 s 459
pres s 121 ins 2012 No. 16 s 8

What is a *standard application*

prov hdg sub 2005 No. 53 s 37(1)
s 122 prev s 122 ins 2000 No. 64 s 6
sub 2002 No. 45 s 7
amd 2003 No. 95 s 3 sch
sub 2004 No. 48 s 32
amd 2005 No. 53 s 37(2)–(5)
om 2009 No. 3 s 459
pres s 122 ins 2012 No. 16 s 8

What is a *variation application*

s 123 prev s 123 ins 2000 No. 64 s 6
sub 2002 No. 45 s 7; 2004 No. 48 s 32
om 2009 No. 3 s 459
pres s 123 ins 2012 No. 16 s 8

What is a *site-specific application*

s 124 prev s 124 ins 2000 No. 64 s 6
sub 2002 No. 45 s 7; 2004 No. 48 s 32
om 2009 No. 3 s 459
pres s 124 ins 2012 No. 16 s 8

Division 3—Applying for environmental authorities

div hdg ins 2005 No. 42 s 52 sch 1
sub 2012 No. 16 ss 7–8

Requirements for applications generally

s 125 prev s 125 ins 2000 No. 64 s 6
sub 2002 No. 45 s 7; 2004 No. 48 s 32
om 2009 No. 3 s 459
pres s 125 ins 2012 No. 16 s 8 (amd 2013 No. 6 s 50 sch)

Requirements for site-specific applications—CSG activities

s 126 prev s 126 ins 2000 No. 64 s 6
sub 2002 No. 45 s 7; 2004 No. 48 s 32
om 2009 No. 3 s 459
pres s 126 ins 2012 No. 16 s 8

When application is a *properly made application*

s 127 prev s 127 ins 2000 No. 64 s 6
sub 2002 No. 45 s 7; 2004 No. 48 s 32
om 2009 No. 3 s 459
pres s 127 ins 2012 No. 16 s 8

Division 4—Notices about not properly made applications

div hdg ins 2012 No. 16 s 8

Notice about application that is not a properly made application

s 128 prev s 128 ins 2000 No. 64 s 6
sub 2002 No. 45 s 7; 2004 No. 48 s 32
om 2009 No. 3 s 459
pres s 128 ins 2012 No. 16 s 8

Transfer only by approval

s 128A ins 2002 No. 45 s 7
om 2004 No. 48 s 32

Requirements for transfer application

s 128B ins 2002 No. 45 s 7
om 2004 No. 48 s 32

Amendment application may accompany transfer application

s 128C ins 2002 No. 45 s 7
amd 2003 No. 95 s 3 sch
om 2004 No. 48 s 32

Audit statement may be required

s 128D ins 2002 No. 45 s 7
om 2004 No. 48 s 32

Deciding application

s 128E ins 2002 No. 45 s 7
om 2004 No. 48 s 32

Endnotes

Additional ground for refusal

s 128F ins 2002 No. 45 s 7
om 2004 No. 48 s 32

Steps after making decision

s 128G ins 2002 No. 45 s 7
om 2004 No. 48 s 32

Surrender only by approval

s 128H ins 2002 No. 45 s 7
om 2004 No. 48 s 32

Surrender application must be for whole authority

s 128I ins 2002 No. 45 s 7
om 2004 No. 48 s 32

When surrender application required

s 128J ins 2002 No. 45 s 7
amd 2003 No. 95 s 10
om 2004 No. 48 s 32

Notice by administering authority to make surrender application

s 128K ins 2002 No. 45 s 7
om 2004 No. 48 s 32

Failure to comply with surrender notice

s 128L ins 2002 No. 45 s 7
om 2004 No. 48 s 32

Subdivision 2—Making surrender application

sdiv 2 (s 128M) ins 2002 No. 45 s 7
om 2004 No. 48 s 32

Subdivision 3—Processing surrender applications

sdiv 3 (ss 128N–128P) ins 2002 No. 45 s 7
om 2004 No. 48 s 32

PART 4—TRANSFERS

pt hdg (prev ch 4, pt 6 hdg) ins 2000 No. 64 s 6
sub 2002 No. 45 s 7
renum 2003 No. 95 s 3 sch
sub 2004 No. 48 s 32
om 2009 No. 3 s 459

Division 1—Required notice to proposed transferee

div hdg ins 2000 No. 64 s 6
sub 2002 No. 45 s 7
om 2004 No. 48 s 32

Division 2—Transfers

div hdg ins 2000 No. 64 s 6
sub 2002 No. 45 s 7
om 2004 No. 48 s 32

Division 3—Surrenders

div hdg ins 2000 No. 64 s 6
sub 2002 No. 45 s 7
om 2004 No. 48 s 32

Subdivision 1—General provisions for surrender

sdiv hdg ins 2002 No. 45 s 7
om 2004 No. 48 s 32

When application lapses

s 129 prev s 129 ins 2000 No. 64 s 6
sub 2004 No. 48 s 32; 2005 No. 53 s 38
amd 2008 No. 52 s 3 sch 1
om 2009 No. 3 s 459
pres s 129 ins 2012 No. 16 s 8

Division 5—Joint applicants

div hdg ins 2012 No. 16 s 8

Nomination of principal applicant

s 130 prev s 130 ins 2000 No. 64 s 6
amd 2002 No. 45 ss 8, 3(2) sch; 2003 No. 95 s 11
sub 2004 No. 48 s 32
om 2009 No. 3 s 459
pres s 130 ins 2012 No. 16 s 8 (amd 2013 No. 6 s 50 sch)

Division 6—Changing applications

div hdg ins 2012 No. 16 s 8

Subdivision 1—Preliminary

sdiv hdg ins 2012 No. 16 s 8

Meaning of *minor change*

s 131 prev s 131 ins 2000 No. 64 s 6
amd 2002 No. 45 s 9; 2003 No. 95 s 12
sub 2004 No. 48 s 32
amd 2005 No. 53 s 159 sch
om 2009 No. 3 s 459
pres s 131 ins 2012 No. 16 s 8

Subdivision 2—Procedure for changing applications

sdiv hdg ins 2012 No. 16 s 8

Changing application

s 132 prev s 132 ins 2000 No. 64 s 6
sub 2004 No. 48 s 32
om 2009 No. 3 s 459
pres s 132 ins 2012 No. 16 s 8 (amd 2013 No. 6 s 50 sch)

Subdivision 3—Changed applications—effect on assessment process

sdiv hdg ins 2012 No. 16 s 8

Effect on assessment process—minor changes and agreed changes

s 133 prev s 133 ins 2000 No. 64 s 6
amd 2002 No. 45 s 3(2) sch
sub 2004 No. 48 s 32
amd 2005 No. 53 s 39
om 2009 No. 3 s 459
pres s 133 ins 2012 No. 16 s 8

Effect on assessment process—other changes

s 134 prev s 134 ins 2000 No. 64 s 6
sub 2004 No. 48 s 32
amd 2005 No. 53 s 40
om 2009 No. 3 s 459
pres s 134 ins 2012 No. 16 s 8

Division 7—Withdrawing applications

div hdg ins 2012 No. 16 s 8

Withdrawing an application

s 135 pres s 135 ins 2000 No. 64 s 6
amd 2003 No. 95 s 13
sub 2004 No. 48 s 32
om 2009 No. 3 s 459
pres s 135 ins 2012 No. 16 s 8

Division 8—End of application stage

div hdg ins 2012 No. 16 s 8

When does application stage end

s 136 prev s 136 ins 2000 No. 64 s 6
amd 2002 No. 45 s 3(2) sch
sub 2004 No. 48 s 32
amd 2005 No. 53 s 41; 2008 No. 52 s 3 sch 1
om 2009 No. 3 s 459
pres s 136 ins 2012 No. 16 s 8

PART 5—SURRENDERS

pt hdg (prev ch 4, pt 7 hdg) ins 2000 No. 64 s 6
renum 2003 No. 95 s 3 sch
sub 2004 No. 48 s 32
om 2009 No. 3 s 459

Division 1—General provisions for surrenders

div hdg ins 2000 No. 64 s 6
sub 2004 No. 48 s 32
om 2009 No. 3 s 459

Subdivision 1—Amendments

sdiv hdg ins 2000 No. 64 s 6
om 2004 No. 48 s 32

Subdivision 2—Cancellation or suspension

sdiv hdg ins 2000 No. 64 s 6
om 2004 No. 48 s 32

Division 2—Procedure for amendment without agreement, cancellation or suspension

div hdg ins 2000 No. 64 s 6
om 2004 No. 48 s 32

PART 3—INFORMATION STAGE

pt hdg ins 2000 No. 64 s 6
sub 2004 No. 48 s 41; 2012 No. 16 ss 7–8

Division 1—Preliminary

div hdg prev div 1 hdg ins 2004 No. 48 s 41
om 2012 No. 16 s 7
pres div 1 hdg ins 2012 No. 16 s 8

Purpose of information stage

s 137 prev s 137 ins 2000 No. 64 s 6
amd 2002 No. 45 s 3(2) sch
sub 2004 No. 48 s 32
om 2009 No. 3 s 459
pres s 137 ins 2012 No. 16 s 8

When information stage applies

s 138 prev s 138 ins 2000 No. 64 s 6
amd 2002 No. 45 s 3(2) sch
sub 2004 No. 48 s 32
om 2009 No. 3 s 459
pres s 138 ins 2012 No. 16 s 8

Information stage does not apply if EIS process complete

s 139 prev s 139 ins 2000 No. 64 s 6
amd 2002 No. 45 s 3(2) sch
sub 2004 No. 48 s 32
amd 2005 No. 53 s 42
om 2009 No. 3 s 459
pres s 139 ins 2012 No. 16 s 8

Subdivision 1—No relevant mining claim or mining lease

sdiv hdg orig ch 5 pt 3 div 1 sdiv 1 hdg ins 2004 No. 48 s 41
om 2012 No. 16 s 7

Subdivision 2—Process if there is a relevant mining claim or mining lease

sdiv hdg orig ch 5 pt 3 div 1 sdiv 1 hdg ins 2004 No. 48 s 41
om 2012 No. 16 s 7

Division 2—Information requests

div hdg ins 2004 No. 48 s 41
sub 2012 No. 16 ss 7–8

Information request to applicant

s 140 prev s 140 ins 2000 No. 64 s 6
amd 2003 No. 96 s 28 sch; 2003 No. 95 s 3 sch
sub 2004 No. 48 s 32
amd 2005 No. 53 s 159 sch
om 2009 No. 3 s 459
pres s 140 ins 2012 No. 16 s 8

Administering authority may call conference

s 140A (prev s 34EH) ins 2000 No. 64 s 6
renum 2002 No. 45 s 3(2) sch
om 2004 No. 48 s 32

Content of information request

s 141 prev s 141 ins 2000 No. 64 s 6
sub 2004 No. 48 s 32
om 2009 No. 3 s 459
pres s 141 ins 2012 No. 16 s 8

Division 2—Making surrender application

div hdg sub 2004 No. 48 s 32
om 2009 No. 3 s 459

EIS must be required for particular applications

s 142 prev s 142 ins 2000 No. 64 s 6
sub 2004 No. 48 s 32
om 2009 No. 3 s 459
pres s 142 ins 2012 No. 16 s 8 (amd 2013 No. 6 s 50 sch)

Division 3—Final rehabilitation reports

div hdg ins 2000 No. 64 s 6
sub 2004 No. 48 s 32
om 2009 No. 3 s 459

EIS may be required

s 143 orig s 143 ins 2000 No. 64 s 6
om 2002 No. 45 s 10
prev s 143 ins 2004 No. 48 s 32
om 2009 No. 3 s 459
pres s 143 ins 2012 No. 16 s 8 (amd 2013 No. 6 s 50 sch)

When information request must be made

s 144 orig s 144 ins 2000 No. 64 s 6
om 2002 No. 45 s 10
prev s 144 ins 2004 No. 48 s 32
om 2009 No. 3 s 459
pres s 144 ins 2012 No. 16 s 8

Extending information request period

s 145 orig s 145 ins 2000 No. 64 s 6
amd 2002 No. 45 ss 11, 3(2) sch
om 2003 No. 95 s 3 sch

prev s 145 ins 2004 No. 48 s 32
om 2009 No. 3 s 459
pres s 145 ins 2012 No. 16 s 8

Division 4—Processing surrender applications

div hdg ins 2004 No. 48 s 32
om 2009 No. 3 s 459

Deciding application

s 145A ins 2004 No. 48 s 32
om 2009 No. 3 s 459

Criteria for decision

s 145B ins 2004 No. 48 s 32
amd 2007 No. 56 s 6 sch
om 2009 No. 3 s 459

Steps after making decision

s 145C ins 2004 No. 48 s 32
om 2009 No. 3 s 459

**PART 6—AMENDMENT, CANCELLATION OR SUSPENSION BY
ADMINISTERING AUTHORITY**

pt hdg (prev ch 4, pt 8 hdg) ins 2000 No. 64 s 6
renum 2003 No. 95 s 3 sch
sub 2004 No. 48 s 32
om 2009 No. 3 s 459

Division 1—Conditions for amendment, cancellation or suspension

div hdg ins 2004 No. 48 s 32
om 2009 No. 3 s 459

Subdivision 1—Amendments

sdiv hdg ins 2004 No. 48 s 32
om 2009 No. 3 s 459

Corrections

s 145D ins 2004 No. 48 s 32
om 2009 No. 3 s 459

Other amendments

s 145E ins 2004 No. 48 s 32
om 2009 No. 3 s 459

Subdivision 2—Cancellation or suspension

sdiv hdg ins 2004 No. 48 s 32
om 2009 No. 3 s 459

Conditions for cancellation or suspension

s 145F ins 2004 No. 48 s 32
amd 2005 No. 53 s 43
om 2009 No. 3 s 459

Division 2—Procedure for amendment without agreement or for cancellation or suspension

div hdg ins 2004 No. 48 s 32
om 2009 No. 3 s 459

Application of div 2

s 145G ins 2004 No. 48 s 32
om 2009 No. 3 s 459

Notice of proposed action

s 145H ins 2004 No. 48 s 32
om 2009 No. 3 s 459

Considering representations

s 145I ins 2004 No. 48 s 32
om 2009 No. 3 s 459

Decision on proposed action

s 145J ins 2004 No. 48 s 32
om 2009 No. 3 s 459

Notice of proposed action decision

s 145K ins 2004 No. 48 s 32
om 2009 No. 3 s 459

Division 3—Steps after making decision

div hdg ins 2004 No. 48 s 32
om 2009 No. 3 s 459

Steps for corrections

s 145L ins 2004 No. 48 s 32
om 2009 No. 3 s 459

Steps for amendment by agreement

s 145M ins 2004 No. 48 s 32
om 2009 No. 3 s 459

Steps for amendment without agreement or for cancellation or suspension

s 145N ins 2004 No. 48 s 32
om 2009 No. 3 s 459

PART 7—FINANCIAL ASSURANCE

pt hdg ins 2004 No. 48 s 32
om 2009 No. 3 s 459

Financial assurance may be required before authority is issued or transferred

s 145O ins 2004 No. 48 s 32
om 2009 No. 3 s 459

Power to require financial assurance if not previously required or to require a change to financial assurance

s 145P ins 2004 No. 48 s 32
sub 2005 No. 53 s 44
om 2009 No. 3 s 459

Replenishment of financial assurance

s 145Q ins 2004 No. 48 s 32
om 2009 No. 3 s 459

PART 8—PRINCIPAL HOLDERS

pt 8 (ss 145R–145T) ins 2004 No. 48 s 32
om 2009 No. 3 s 459

PART 9—MISCELLANEOUS PROVISIONS

pt 9 (ss 145U–145V) ins 2004 No. 48 s 32
om 2009 No. 3 s 459

Division 3—Responding to information request

div hdg ins 2012 No. 16 s 8

Applicant responds to any information request

s 146 ins 2000 No. 64 s 6
amd 2011 No. 47 s 294
sub 2012 No. 16 ss 7–8

Lapsing of applications if no response to information request

s 147 prev s 147 om 2000 No. 5 s 461 sch 3
pres s 147 ins 2000 No. 64 s 6
sub 2012 No. 16 ss 7–8

Division 4—End of information stage

div hdg ins 2012 No. 16 s 8

When does information stage end

prov hdg prev s 148 prov hdg amd 1997 No. 80 s 26
s 148 prev s 148 om 2000 No. 5 s 461 sch 3
pres s 148 ins 2000 No. 64 s 6
amd 2004 No. 48 s 33; 2005 No. 53 s 45
sub 2012 No. 16 ss 7–8

PART 4—NOTIFICATION STAGE

pt hdg ins 2000 No. 64 s 6
sub 2004 No. 48 s 42; 2012 No. 16 ss 7–8

Division 1—Preliminary

div hdg ins 2000 No. 64 s 6
sub 2012 No. 16 ss 7–8

When notification stage applies

s 149 prev s 149 om 2000 No. 5 s 461 sch 3
pres s 149 ins 2000 No. 64 s 6
sub 2012 No. 16 ss 7–8

Notification stage does not apply if EIS process complete

- s 150** prev s 150 om 2000 No. 5 s 461 sch 3
pres s 150 ins 2000 No. 64 s 6
amd 2001 No. 46 s 7(2) sch 2; 2004 No. 48 s 34; 2005 No. 42 s 52 sch 1; 2013
No. 6 s 50 sch
sub 2012 No. 16 ss 7–8

When notification stage can start

- s 151** prev s 151 om 2000 No. 5 s 461 sch 3
pres s 151 ins 2000 No. 64 s 6
sub 2004 No. 48 s 35
amd 2005 No. 42 s 52 sch 1; 2006 No. 59 s 36; 2007 No. 56 s 12; 2010 No. 53
s 51; 2013 No. 6 s 50 sch
sub 2012 No. 16 ss 7–8

Division 2—Public notice

- div hdg** ins 2000 No. 64 s 6
sub 2012 No. 16 ss 7–8

Public notice of application

- s 152** orig s 152 om 2000 No. 5 s 461 sch 3
prev s 152 ins 2000 No. 64 s 6
om 2004 No. 48 s 36
pres s 152 ins 2012 No. 16 s 8

Required content of application notice

- s 153** prev s 153 om 2000 No. 5 s 461 sch 3
pres s 153 ins 2000 No. 64 s 6
sub 2012 No. 16 ss 7–8

Submission period for application—mining activities

- s 154** prev s 154 om 2000 No. 5 s 461 sch 3
pres s 154 ins 2000 No. 64 s 6
amd 2002 No. 45 s 3(2) sch; 2004 No. 48 s 38; 2005 No. 53 s 46; 2007 No. 56
s 13; 2011 No. 3 s 5
sub 2012 No. 16 ss 7–8

Submission period for application—other resource activities

- s 155** prev s 155 om 2000 No. 5 s 461 sch 3
pres s 155 ins 2000 No. 64 s 6
amd 2004 No. 48 s 39
sub 2012 No. 16 ss 7–8

Publication of application notice and documents on website

- s 156** ins 2000 No. 64 s 6
sub 2012 No. 16 ss 7–8
om 2012 No. 16 s 7

Public access to application

- s 157** ins 2000 No. 64 s 6
sub 2012 No. 16 ss 7–8

Declaration of compliance

s 158 ins 2000 No. 64 s 6
sub 2012 No. 16 ss 7–8

Substantial compliance may be accepted

s 159 ins 2000 No. 64 s 6
sub 2012 No. 16 ss 7–8

Division 3—Submissions about applications

div hdg ins 2000 No. 64 s 6
sub 2012 No. 16 ss 7–8

Right to make submission

s 160 ins 2000 No. 64 s 6
sub 2012 No. 16 ss 7–8

Acceptance of submission

s 161 ins 2000 No. 64 s 6
sub 2004 No. 48 s 40
amd 2013 No. 6 s 50 sch
sub 2012 No. 16 ss 7–8

Amendment of submission

s 162 ins 2000 No. 64 s 6
amd 2001 No. 46 s 10
sub 2004 No. 48 s 40
amd 2005 No. 42 s 52 sch 1; 2005 No. 53 s 47; 2006 No. 59 s 37; 2010 No. 53
s 52; 2013 No. 6 s 50 sch
sub 2012 No. 16 ss 7–8

Particular submissions apply for later applications

s 163 ins 2000 No. 64 s 6
amd 2001 No. 46 s 7(2) sch 2
sub 2004 No. 48 s 40
amd 2005 No. 42 s 52 sch 1; 2005 No. 53 s 48; 2006 No. 59 s 38; 2010 No. 53
s 53; 2013 No. 6 s 50 sch
sub 2012 No. 16 ss 7–8

Application of div 3

s 163A ins 2005 No. 42 s 52 sch 1
amd 2008 No. 52 s 17; 2013 No. 6 s 50 sch
om 2012 No. 16 s 7

Decision about EM plan requirement

s 163B ins 2005 No. 42 s 52 sch 1
om 2012 No. 16 s 7

Division 4—End of notification stage

div hdg ins 2000 No. 64 s 6
sub 2012 No. 16 ss 7–8

When does notification stage end

s 164 ins 2000 No. 64 s 6
amd 2001 No. 46 s 11; 2002 No. 45 s 3(2) sch
sub 2004 No. 48 s 41; 2012 No. 16 ss 7–8

PART 5—DECISION STAGE

pt hdg ins 2000 No. 64 s 6
sub 2004 No. 48 s 45; 2012 No. 16 ss 7–8

Division 1—Preliminary

div hdg prev div 1 hdg ins 2000 No. 64 s 6
om 2004 No. 48 s 46
pres div 1 hdg ins 2012 No. 16 s 8

When does decision stage start—general

s 165 ins 2000 No. 64 s 6
amd 2001 No. 46 s 12; 2002 No. 45 s 3(2) sch
sub 2004 No. 48 s 41; 2012 No. 16 ss 7–8

When does decision stage start—application relating to development applications

s 166 ins 2000 No. 64 s 6
sub 2004 No. 48 s 41; 2012 No. 16 ss 7–8

When does decision stage start—site-specific application relating to coordinated project

s 167 orig s 167 om 2000 No. 5 s 461 sch 3
prev s 167 ins 2000 No. 64 s 6
sub 2004 No. 48 s 41
amd 2005 No. 53 s 49
om 2012 No. 16 s 7
pres s 167 ins 2012 No. 16 s 8 (amd 2013 No. 6 ss 10(4A), 50 sch)

Division 2—Deciding application

div hdg prev div 2 hdg ins 2000 No. 64 s 6
om 2004 No. 48 s 48
pres div 2 hdg ins 2012 No. 16 s 8

Subdivision 1—Decision period

sdiv hdg ins 2012 No. 16 s 8

When decision must be made—generally

s 168 prev s 168 om 2000 No. 5 s 461 sch 3
pres s 168 ins 2000 No. 64 s 6
sub 2004 No. 48 s 41; 2005 No. 53 s 50; 2012 No. 16 ss 7–8

Conditions of code compliant authority

s 168A ins 2005 No. 53 s 50
om 2012 No. 16 s 7

Provisions for grant of application if Minister's decision is to grant on different conditions

s 168B ins 2005 No. 53 s 50
om 2012 No. 16 s 7

Subdivision 1—Process if no relevant mining claim or mining lease

sdiv hdg ins 2004 No. 48 s 41
om 2012 No. 16 s 7

When decision must be made—particular applications

s 169 ins 2000 No. 64 s 6
sub 2004 No. 48 s 41; 2012 No. 16 ss 7–8

EM plan required

s 169A ins 2005 No. 42 s 52 sch 1
om 2012 No. 16 s 7

Subdivision 2—Decision

sdiv hdg ins 2012 No. 16 s 8

Deciding standard application

s 170 ins 2000 No. 64 s 6
sub 2004 No. 48 s 41
amd 2005 No. 42 s 52 sch 1; 2007 No. 56 s 6 sch
sub 2012 No. 16 ss 7–8

Deciding variation application

s 171 ins 2000 No. 64 s 6
sub 2004 No. 48 s 41
amd 2005 No. 42 s 52 sch 1; 2008 No. 52 s 18
sub 2012 No. 16 ss 7–8

Consequence of failure to decide

s 171A ins 2004 No. 48 s 41
om 2012 No. 16 s 7

Grant of application

s 171B ins 2004 No. 48 s 41
om 2012 No. 16 s 7

Notice about refusal or condition decision

s 171C ins 2004 No. 48 s 41
amd 2005 No. 53 s 51
om 2012 No. 16 s 7

Subdivision 2—Process if there is a relevant mining claim or mining lease

sdiv hdg ins 2004 No. 48 s 41
om 2012 No. 16 s 7

Modified application of pt 6, divs 4 to 8

prov hdg sub 2005 No. 53 s 52(1)
s 171D ins 2004 No. 48 s 41
amd 2005 No. 42 s 52 sch 1; 2005 No. 53 s 52(2)
om 2012 No. 16 s 7

Inclusion of additional conditions in draft environmental authority

s 171DA ins 2005 No. 53 s 53
om 2012 No. 16 s 7

Deciding site-specific application

s 172 ins 2000 No. 64 s 6
amd 2004 No. 48 s 43
sub 2012 No. 16 ss 7–8

When particular applications must be refused

s 173 ins 2000 No. 64 s 6
amd 2005 No. 42 s 52 sch 1; 2008 No. 52 s 19
sub 2012 No. 16 ss 7–8

Applications relating to wild river areas

s 174 ins 2000 No. 64 s 6
sub 2012 No. 16 ss 7–8

Criteria for decision—standard application

s 175 ins 2000 No. 64 s 6
amd 2005 No. 42 s 52 sch 1
sub 2012 No. 16 ss 7–8

Criteria for decision—variation or site-specific application

s 176 prev s 176 ins 2000 No. 64 s 6
om 2004 No. 48 s 44
pres s 176 ins 2005 No. 42 s 52 sch 1
amd 2007 No. 56 s 6 sch
sub 2012 No. 16 ss 7–8

Automatic decision for standard application in particular circumstances

s 177 ins 2000 No. 64 s 6
sub 2012 No. 16 ss 7–8

Automatic decision for variation application in particular circumstances

s 178 ins 2000 No. 64 s 6
amd 2004 No. 48 s 47
sub 2012 No. 16 ss 7–8

Automatic decision for site-specific application in particular circumstances

s 179 prev s 179 ins 2000 No. 64 s 6
om 2004 No. 48 s 48
pres s 179 ins 2012 No. 16 s 8

Division 3—Applications for mining activities relating to a mining lease

div hdg prev div 3 hdg ins 2000 No. 64 s 6
om 2004 No. 48 s 49
pres div 3 hdg ins 2012 No. 16 s 8

Subdivision 1—Preliminary

sdiv hdg pres sdiv 1 hdg ins 2000 No. 64 s 6
om 2004 No. 48 s 50
pres sdiv 1 hdg ins 2012 No. 16 s 8

Application of div 3

s 180 prev s 180 ins 2000 No. 64 s 6
om 2004 No. 48 s 48
pres s 180 ins 2012 No. 16 s 8

Subdivision 2—Notice of decision

sdiv hdg prev sdiv hdg 2 ins 2000 No. 64 s 6
om 2004 No. 48 s 51
pres sdiv hdg 2 ins 2012 No. 16 s 8

Notice of decision

s 181 prev s 181 ins 2000 No. 64 s 6
amd 2002 No. 45 s 3(2) sch
om 2004 No. 48 s 48
pres s 181 ins 2012 No. 16 s 8

Submitter may give objection notice

s 182 prev s 182 ins 2000 No. 64 s 6
om 2004 No. 48 s 48
pres s 182 ins 2012 No. 16 s 8

Applicant may request referral to Land Court

s 183 prev s 183 ins 2000 No. 64 s 6
om 2004 No. 48 s 48
pres s 183 ins 2012 No. 16 s 8

Subdivision 3—Referrals to Land Court

sdiv hdg pres sdiv hdg 3 ins 2000 No. 64 s 6
om 2004 No. 48 s 52
pres sdiv hdg 3 ins 2012 No. 16 s 8

Application of sdiv 3

s 184 prev s 184 ins 2000 No. 64 s 6
om 2004 No. 48 s 48
pres s 184 ins 2012 No. 16 s 8

Referral to Land Court

s 185 prev s 185 ins 2000 No. 64 s 6
om 2005 No. 53 s 54
pres s 185 ins 2012 No. 16 s 8

Parties to Land Court proceedings

s 186 ins 2000 No. 64 s 6
amd 2007 No. 56 s 6 sch
sub 2012 No. 16 ss 7–8

Notice of referral

s 187 ins 2000 No. 64 s 6
amd 2004 No. 48 s 53
sub 2012 No. 16 ss 7–8

Objections decision hearing

prov hdg amd 2004 No. 48 s 54(1)
s 188 ins 2000 No. 64 s 6
amd 2004 No. 48 s 54(2)
sub 2012 No. 16 ss 7–8

Land Court mediation of objections

prov hdg sub 2004 No. 48 s 55(1)
s 189 ins 2000 No. 64 s 6
amd 2004 No. 53 s 2 sch; 2004 No. 48 s 55(2)–(5); 2005 No. 42 s 52 sch 1
sub 2012 No. 16 ss 7–8

Nature of objections decision

prov hdg sub 2004 No. 48 s 56(1)
s 190 ins 2000 No. 64 s 6
amd 2004 No. 48 s 56
om 2012 No. 16 s 7
ins 2012 No. 16 s 8 (amd 2013 No. 6 s 50 sch)

Matters to be considered for objections decision

s 191 ins 2000 No. 64 s 6
amd 2004 No. 48 s 57
sub 2012 No. 16 ss 7–8

Notice of objections decision

s 192 ins 2000 No. 64 s 6
amd 2004 No. 48 s 58; 2007 No. 56 s 6 sch
om 2012 No. 16 s 7
ins 2012 No. 16 s 8 (amd 2013 No. 6 s 50 sch)

Advice from MRA and State Development Ministers about objections decision

s 193 ins 2000 No. 64 s 6
amd 2005 No. 42 s 52 sch 1; 2007 No. 56 s 6 sch
sub 2012 No. 16 ss 7–8

Subdivision 4—Final decision on application

sdiv hdg pres sdiv hdg 4 ins 2000 No. 64 s 6
om 2004 No. 48 s 59
pres sdiv hdg 4 ins 2012 No. 16 s 8

Final decision on application

- s 194** prev s 194 ins 2000 No. 64 s 6
amd 2004 No. 53 s 2 sch
om 2012 No. 16 s 7
pres s 194 ins 2012 No. 16 s 8 (amd 2013 No. 6 s 50 sch)

Division 4—Steps after deciding application

- div hdg** ins 2012 No. 16 s 8

Issuing environmental authority

- s 195** ins 2000 No. 64 s 6
sub 2012 No. 16 ss 7–8

Copy of environmental authority to be given to assessment manager in particular circumstances

- s 196** ins 2000 No. 64 s 6
amd 2004 No. 48 s 61
sub 2012 No. 16 ss 7–8

Inserting environmental authority in register

- s 197** ins 2000 No. 64 s 6
sub 2004 No. 48 s 62
amd 2007 No. 39 s 41 sch; 2011 No. 6 s 65
sub 2012 No. 16 ss 7–8

Information notice about particular decisions

- s 198** ins 2000 No. 64 s 6
amd 2004 No. 48 s 64
sub 2012 No. 16 ss 7–8

Division 5—Environmental authorities

- div hdg** ins 2012 No. 16 s 8

Requirements for environmental authority

- s 199** ins 2000 No. 64 s 6
amd 2004 No. 48 s 65
sub 2012 No. 16 ss 7–8

When environmental authority takes effect

- s 200** prev s 200 ins 2000 No. 64 s 6
om 2004 No. 48 s 67
pres s 200 ins 2012 No. 16 s 8

Term of environmental authority

- s 201** ins 2000 No. 64 s 6
sub 2004 No. 48 s 68
sub 2012 No. 16 ss 7–8

Environmental authority includes conditions

- prov hdg** amd 2004 No. 48 s 69(1)
s 202 ins 2000 No. 64 s 6
amd 2004 No. 48 s 69(2)
sub 2012 No. 16 ss 7–8

Endnotes

Division 6—Conditions

div hdg ins 2012 No. 16 s 8

Conditions generally

prov hdg sub 2004 No. 48 s 70(1)

s 203 ins 2000 No. 64 s 6

amd 2001 No. 46 s 13, ss 7, 29 sch 2; 2004 No. 53 s 2 sch; 2004 No. 48 s 70(2)–(5); 2005 No. 42 s 52 sch 1; 2005 No. 53 s 55; 2013 No. 6 s 50 sch
sub 2012 No. 16 ss 7–8

Conditions that must be imposed for standard or variation applications

prov hdg sub 2004 No. 48 s 71(1)

s 204 ins 2000 No. 64 s 6; 2004 No. 48 s 71(2)–(5)

sub 2012 No. 16 ss 7–8

Conditions that must be imposed for site-specific applications

prov hdg amd 2004 No. 48 s 72(1)

s 205 prev s 205 ins 2000 No. 64 s 6

amd 2001 No. 46 s 14; 2002 No. 45 s 3(2) sch; 2004 No. 48 s 72(2)–(4); 2013 No. 6 s 50 sch
om 2012 No. 16 s 7
pres s 205 ins 2012 No. 16 s 8 (amd 2013 No. 6 s 50 sch)

Environmental authority for particular resource activities includes condition prohibiting use of restricted stimulation fluids

prov hdg amd 2004 No. 48 s 73(1)

s 206 prev s 206 ins 2000 No. 64 s 6

amd 2001 No. 46 s 15; 2004 No. 48 s 73(2)–(3); 2007 No. 56 s 6 sch; 2013 No. 6 s 50 sch
om 2012 No. 16 s 7
pres s 206 ins 2012 No. 16 s 8 (amd 2013 No. 6 s 10(5))

Conditions that may be imposed

s 207 ins 2000 No. 64 s 6

amd 2004 No. 48 s 74; 2005 No. 42 s 52 sch 1; 2008 No. 52 s 20
sub 2012 No. 16 ss 7–8

Condition requiring statement of compliance

s 208 prev s 208 ins 2000 No. 64 s 6

amd 2004 No. 48 s 75

om 2012 No. 16 s 7

pres s 208 ins 2012 No. 16 s 8 (amd 2013 No. 6 s 50 sch)

Environmental offset conditions

s 209 prev s 209 ins 2000 No. 64 s 6

amd 2001 No. 46 s 16

om 2004 No. 48 s 76

pres s 209 ins 2012 No. 16 s 8

Inconsistencies between particular conditions

- prov hdg** sub 2004 No. 48 s 77(1)
s 210 ins 2000 No. 64 s 6
 amd 2001 No. 46 s 17; 2002 No. 45 s 3(2) sch; 2004 No. 48 s 77; 2005 No. 42 s 52 sch 1; 2005 No. 53 s 56; 2007 No. 56 s 6 sch; 2011 No. 3 s 6; 2013 No. 6 s 50 sch
 sub 2012 No. 16 ss 7–8

PART 6—AMENDING ENVIRONMENTAL AUTHORITIES BY ADMINISTERING AUTHORITY

- pt hdg** ins 2000 No. 64 s 6
 sub 2004 No. 48 s 60; 2012 No. 16 ss 7–8

Division 1—Amendments

- div hdg** ins 2000 No. 64 s 6
 sub 2012 No. 16 ss 7–8

Corrections

- s 211** ins 2000 No. 64 s 6
 sub 2012 No. 16 ss 7–8

Amendment of particular environmental authorities to reflect NNTT conditions

- s 212** ins 2000 No. 64 s 6
 sub 2012 No. 16 ss 7–8

Amendment of environmental authorities to reflect new standard conditions

- s 213** ins 2000 No. 64 s 6
 amd 2004 No. 48 s 79
 sub 2012 No. 16 ss 7–8

Amendment of particular environmental authorities relating to development applications

- s 214** ins 2000 No. 64 s 6
 amd 2008 No. 52 s 21
 sub 2012 No. 16 ss 7–8

Other amendments

- s 215** prev s 215 ins 2000 No. 64 s 6
 amd 2008 No. 52 s 22
 om 2012 No. 16 s 7
 pres s 215 ins 2012 No. 16 s 8 (amd 2012 No. 43 s 243)

Division 2—Procedure for particular amendments

- div hdg** ins 2000 No. 64 s 6
 sub 2004 No. 48 s 63; 2012 No. 16 ss 7–8

Application of div 2

- s 216** ins 2000 No. 64 s 6
 amd 2001 No. 46 s 18; 2002 No. 45 s 3(2) sch; 2004 No. 48 s 80
 sub 2012 No. 16 ss 7–8

Notice of proposed amendment

s 217 ins 2000 No. 64 s 6
amd 2001 No. 46 s 7(2) sch 2
sub 2012 No. 16 ss 7–8

Considering representations

s 218 ins 2000 No. 64 s 6
amd 2007 No. 39 s 41 sch
sub 2012 No. 16 ss 7–8

Decision on proposed amendment

s 219 ins 2000 No. 64 s 6
amd 2004 No. 53 s 2 sch; 2007 No. 39 s 41 sch
sub 2012 No. 16 ss 7–8

Notice of amendment decision

s 220 ins 2000 No. 64 s 6
amd 2007 No. 39 s 41 sch
sub 2012 No. 16 ss 7–8

Division 3—Steps for amendments

div hdg ins 2000 No. 64 s 6
sub 2004 No. 48 s 66; 2012 No. 16 ss 7–8

Steps for amendment

prov hdg amd 2007 No. 39 s 41 sch
s 221 ins 2000 No. 64 s 6
amd 2007 No. 39 s 41 sch
sub 2012 No. 16 ss 7–8

Division 4—Decision to refuse or to allow to proceed

div hdg orig ch 5 pt 6 div 4 hdg ins 2000 No. 64 s 6
om 2012 No. 16 s 7

Division 5—Draft environmental authority stage

div hdg orig ch 5 pt 6 div 5 hdg ins 2000 No. 64 s 6
om 2012 No. 16 s 7

Division 6—Public notice and objections stage

div hdg orig ch 5 pt 6 div 6 hdg ins 2000 No. 64 s 6
amd 2004 No. 48 s 78
om 2012 No. 16 s 7

Division 7—Decision stage

div hdg orig ch 5 pt 6 div 7 hdg ins 2000 No. 64 s 6
om 2012 No. 16 s 7

Subdivision 1—Referral to Land Court if current objection

sdiv hdg orig ch 5 pt 6 div 7 sdiv 1 hdg ins 2000 No. 64 s 6
amd 2007 No. 39 s 41 sch
om 2012 No. 16 s 7

Subdivision 2—Grant if no current objection at end of objection period or before objections decision

sdiv hdg orig ch 5 pt 6 div 7 sdiv 2 hdg ins 2000 No. 64 s 6
om 2012 No. 16 s 7

Division 8—Miscellaneous provisions

div hdg orig ch 5 pt 6 div 8 hdg ins 2000 No. 64 s 6
om 2012 No. 16 s 7

PART 7—AMENDMENT OF ENVIRONMENTAL AUTHORITIES BY APPLICATION

pt hdg ins 2000 No. 64 s 6
sub 2012 No. 16 ss 7–8

Division 1—Preliminary

div hdg ins 2012 No. 16 s 8

Exclusions from amendment under pt 7

s 222 orig s 222 om 2000 No. 64 s 49
prev s 222 ins 2000 No. 64 s 6
amd 2001 No. 46 s 19; 2002 No. 45 s 3(2) sch; 2004 No. 48 s 81; 2007 No. 39
s 41 sch; 2011 No. 6 s 66; 2013 No. 6 s 50 sch
om 2012 No. 16 s 7
pres s 208 ins 2012 No. 16 s 8 (amd 2013 No. 6 s 50 sch)

Definitions for pt 7

s 223 prev s 223 om R1 (see RA s 40)
pres s 223 ins 2000 No. 64 s 6
amd 2004 No. 48 s 82; 2005 No. 42 s 52 sch 1; 2007 No. 39 s 41 sch; 2007
No. 56 s 6 sch
sub 2012 No. 16 ss 7–8

Division 2—Making amendment application

div hdg ins 2012 No. 16 s 8

Who may apply

s 224 prev s 224 amd 1996 No. 10 s 22
exp 1 March 1997 (see ss 224, 225)
pres s 224 ins 2000 No. 64 s 6
sub 2001 No. 46 s 20
amd 2011 No. 6 s 67
sub 2012 No. 16 ss 7–8

Amendment application can not be made in particular circumstances

s 225 prev s 225 exp 1 March 1997 (see ss 224, 225)
pres s 225 ins 2000 No. 64 s 6
amd 2001 No. 46 s 21; 2004 No. 48 s 83; 2005 No. 42 s 52 sch 1; 2011 No. 6
s 68
sub 2012 No. 16 ss 7–8

Requirements for amendment application generally

- s 226 prev s 226 exp 1 March 1996 (see ss 224, 228)
pres s 226 ins 2000 No. 64 s 6
amd 2004 No. 53 s 2 sch; 2005 No. 53 s 57
sub 2012 No. 16 ss 7–8

Submitted EM plan may be amended if conditions of environmental authority are different to draft

- s 226A ins 2005 No. 53 s 58
om 2012 No. 16 s 7

Requirements for amendment applications—CSG activities

- s 227 prev s 227 exp 1 March 1996 (see ss 224, 228)
pres s 227 ins 2000 No. 64 s 6
amd 2004 No. 53 s 2 sch
sub 2012 No. 16 ss 7–8

Division 3—Assessment level decisions

- div hdg ins 2012 No. 16 s 8

Assessment level decision for amendment application

- s 228 prev s 228 exp 1 March 1996 (see ss 224, 228)
pres s 228 ins 2000 No. 64 s 6
amd 2004 No. 53 s 2 sch; 2008 No. 52 s 23
sub 2012 No. 16 ss 7–8

Notice of assessment level decision

- s 229 prev s 229 exp 1 March 1995 (see ss 224, 230)
pres s 229 ins 2000 No. 64 s 6
sub 2012 No. 16 ss 7–8

Administering authority may require public notification for particular amendment applications

- s 230 prev s 230 exp 1 March 1995 (see ss 224, 230)
pres s 230 ins 2000 No. 64 s 6
sub 2012 No. 16 ss 7–8

Division 4—Process if proposed amendment is a major amendment

- div hdg ins 2012 No. 16 s 8

Application of div 4

- s 231 prev s 231 exp 1 March 1996 (see ss 224, 232)
pres s 231 ins 2000 No. 64 s 6
amd 2007 No. 39 s 41 sch
sub 2012 No. 16 ss 7–8

Relevant application process applies

- s 232 prev s 232 exp 1 March 1996 (see ss 224, 232)
pres s 232 ins 2000 No. 64 s 6
sub 2012 No. 16 ss 7–8

Public notice of amendment application

- s 233** prev s 233 exp 1 March 1996 (see ss 224, 234)
 pres s 233 ins 2000 No. 64 s 6
 sub 2012 No. 16 ss 7–8

Division 5—Savings and transitional provisions (Health Act 1937)

- div hdg** exp 1 March 1996 (see ss 224, 234)

Orders and approvals under Health Act

- s 233A** ins 1995 No. 52 s 8
 exp 2 February 1996 (see s 233A(3))

Submission period

- s 234** prev s 234 amd 1995 No. 52 s 9
 exp 1 March 1996 (see ss 224, 234)
 pres s 234 ins 2000 No. 64 s 6
 amd 2004 No. 53 s 2 sch; 2004 No. 48 s 84
 sub 2012 No. 16 ss 7–8

Criteria for deciding amendment application

- s 235** orig s 235 exp 1 March 1997 (see ss 224, 241)
 prev s 235 ins 1997 No. 7 s 12
 om 2000 No. 64 s 51
 pres s 235 ins 2000 No. 64 s 6
 sub 2012 No. 16 ss 7–8

Division 6—Miscellaneous transitional provisions

- div hdg** exp 1 March 1997 (see ss 224, 241)

Changing amendment application

- s 236** orig s 236 exp 1 March 1996 (see ss 224, 236(6))
 prev s 236 ins 1996 No. 10 s 23
 exp 1 March 1997 (see ss 224, 241)
 ins 1997 No. 7 s 12
 om 2000 No. 64 s 51
 pres s 236 ins 2000 No. 64 s 6
 sub 2012 No. 16 ss 7–8

Postponement of requirement for environmental authorities to carry out certain existing environmentally relevant activities

- s 236A** ins 1996 No. 10 s 23
 exp 1 March 1997 (see ss 224, 241)

Effect on assessment of amendment application—minor change

- s 237** orig s 237 exp 1 March 1996 (see ss 224, 237(2))
 prev s 237 ins 1996 No. 10 s 23
 exp 1 March 1997 (see s 241)
 pres s 237 ins 2000 No. 64 s 6
 sub 2012 No. 16 ss 7–8

Effect on assessment of amendment application—other changes

- s 238** prev s 238 amd 1996 No. 10 s 25
 exp 1 September 1997 (see s 241(2))
 pres s 238 ins 2000 No. 64 s 6
 amd 2005 No. 53 s 59
 sub 2012 No. 16 ss 7–8

Division 5—Process if proposed amendment is minor amendment

- div hdg** ins 2012 No. 16 s 8

Application of div 5

- s 239** prev s 239 exp 1 March 1997 (see ss 224, 241)
 pres s 239 ins 2000 No. 64 s 6
 sub 2004 No. 48 s 85
 sub 2012 No. 16 ss 7–8

Deciding amendment application

- s 240** orig s 240 exp 1 March 1996 (see ss 224, 240(3))
 prev s 240 ins 1996 No. 10 s 24
 exp 1 March 1997 (see ss 224, 241)
 pres s 240 ins 2000 No. 64 s 6
 amd 2004 No. 48 s 86; 2008 No. 52 s 24
 sub 2012 No. 16 ss 7–8

Criteria for deciding amendment application

- s 241** orig s 241 sub 1996 No. 10 s 26
 exp 1 March 1997 (see ss 224, 241)
 prev s 241 ins 2000 No. 64 s 6
 om 2004 No. 48 s 87
 pres s 241 ins 2012 No. 16 s 8

Division 6—Steps after deciding amendment application

- div hdg** ins 2012 No. 16 s 8

Steps after deciding amendment application

- s 242** orig s 242 ins 1996 No. 10 s 27
 exp 1 March 1997 (see s 252)
 prev s 242 ins 2000 No. 64 s 6
 om 2004 No. 48 s 87
 pres s 242 ins 2012 No. 16 s 8

Division 2—Validations

- div hdg** ins 1996 No. 10 s 27
 exp 1 March 1997 (see s 252)

PART 8—AMALGAMATING ENVIRONMENTAL AUTHORITIES

- pt hdg** ins 2000 No. 64 s 6
 sub 2012 No. 16 ss 7–8

Division 1—Preliminary

- div hdg** ins 2000 No. 64 s 6
 sub 2012 No. 16 ss 7–8

Definitions for pt 8

- s 243** orig s 243 ins 1996 No. 10 s 27
 exp 23 May 1996 (see s 243)
 prev s 243 ins 2000 No. 64 s 6
 om 2004 No. 48 s 87
 pres s 243 ins 2012 No. 16 s 8
 def *amalgamated corporate authority* ins 2012 No. 16 s 8 (amd 2013 No. 6 s 10(6))
 def *amalgamated local government authority* ins 2012 No. 16 s 8 (amd 2013 No. 6 s 10(6))
 def *amalgamated project authority* ins 2012 No. 16 s 8 (amd 2013 No. 6 s 10(6))

Types of amalgamated environmental authorities

- s 244** orig s 244 ins 1996 No. 10 s 27
 exp 1 March 1997 (see s 252)
 prev s 244 ins 2000 No. 64 s 6
 om 2004 No. 48 s 87
 pres s 244 ins 2012 No. 16 s 8

Who may apply

- s 245** orig s 245 ins 1996 No. 10 s 27
 exp 1 March 1997 (see s 252)
 prev s 245 ins 2000 No. 64 s 6
 om 2004 No. 48 s 89
 pres s 245 ins 2012 No. 16 s 8 (amd 2013 No. 6 s 10(7))

Requirements for amalgamation application

- s 246** prev s 246 ins 1996 No. 10 s 27
 exp 1 March 1997 (see s 252)
 pres s 246 ins 2000 No. 64 s 6
 amd 2005 No. 53 s 60; 2008 No. 52 s 25
 sub 2012 No. 16 ss 7–8

Division 2—Deciding amalgamation application

- div hdg** ins 2000 No. 64 s 6
 sub 2012 No. 16 ss 7–8

Deciding amalgamation application

- s 247** prev s 247 ins 1996 No. 10 s 27
 exp 1 March 1997 (see s 252)
 pres s 247 ins 2000 No. 64 s 6
 amd 2005 No. 53 s 61; 2008 No. 52 s 26

Significant increase must be decided in particular cases

- s 247A** ins 2004 No. 48 s 91
 sub 2005 No. 53 s 62
 om 2012 No. 16 s 7

Division 3—Miscellaneous provisions

div hdg prev div 3 hdg ins 1996 No. 10 s 27
exp 1 March 1997 (see s 252)
pres div 3 hdg (prev div 4 hdg) ins 2000 No. 64 s 6
sub 2004 No. 48 s 88; 2012 No. 16 ss 7–8

Steps after deciding amalgamation application

s 248 prev s 248 ins 1996 No. 10 s 27
exp 1 March 1997 (see s 252)
pres s 248 ins 2000 No. 64 s 6
sub 2004 No. 48 s 92
amd 2007 No. 56 s 14
sub 2012 No. 16 ss 7–8

Information notice about particular decisions

s 249 prev s 249 ins 1996 No. 10 s 27
exp 1 March 1997 (see s 252)
pres s 249 ins 2000 No. 64 s 6
sub 2012 No. 16 ss 7–8

Relationship between amendment application and amalgamation application

prov hdg amd 2004 No. 48 s 94
s 250 prev s 250 ins 1996 No. 10 s 27
exp 1 March 1997 (see s 252)
pres s 250 ins 2000 No. 64 s 6
sub 2012 No. 16 ss 7–8

Subdivision 1—Assessment level decision

sdiv hdg orig ch 5 pt 8 div 3 s div 1 hdg ins 2000 No. 64 s 6
om 2004 No. 48 s 89
(prev sdiv 2 hdg) ins 2000 No. 64 s 6
renum 2004 No. 48 s 90
om 2012 No. 16 s 7

Subdivision 2—Process if decision is significant increase in environmental harm likely and EIS not required

sdiv hdg orig ch 5 pt 8 div 3 s div 2 hdg (prev sdiv 3 hdg) ins 2000 No. 64 s 6
renum 2004 No. 48 s 93
om 2012 No. 16 s 7

Subdivision 3—Process if decision is significant environmental harm increase unlikely

sdiv hdg orig ch 5 pt 8 div 3 s div 3 hdg (prev sdiv 4 hdg) ins 2000 No. 64 s 6
renum 2004 No. 48 s 97
om 2012 No. 16 s 7

PART 9—TRANSFERRING ENVIRONMENTAL AUTHORITIES FOR PRESCRIBED ERAs

pt hdg ins 2000 No. 64 s 6
sub 2012 No. 16 ss 7–8

Application of pt 9

- s 251** prev s 251 ins 1996 No. 10 s 27
 exp 1 March 1997 (see s 252)
 pres s 251 ins 2000 No. 64 s 6
 amd 2004 No. 48 s 95; 2005 No. 53 s 63; 2007 No. 39 s 41 sch
 sub 2012 No. 16 ss 7–8

Who may apply for transfer

- s 252** orig s 252 ins 1996 No. 10 s 27
 exp 1 March 1997 (see s 252)
 prev s 252 ins 2000 No. 64 s 6
 om 2012 No. 16 s 7
 pres s 208 ins 2012 No. 16 s 8 (amd 2013 No. 6 s 50 sch)

Requirements for transfer application

- s 253** ins 2000 No. 64 s 6
 sub 2004 No. 48 s 96
 sub 2012 No. 16 ss 7–8

Deciding transfer application

- s 254** ins 2000 No. 64 s 6
 amd 2005 No. 53 s 64
 sub 2012 No. 16 ss 7–8

Steps after deciding transfer application

- s 255** ins 2000 No. 64 s 6
 amd 2005 No. 53 s 65
 sub 2012 No. 16 ss 7–8

Notice to owners of transfer

- prov hdg** amd 2004 No. 48 s 98
s 256 prev s 256 ins 2000 No. 64 s 6
 om 2012 No. 16 s 7
 pres s 256 ins 2012 No. 16 s 8 (amd 2013 No. 6 s 50 sch)

Division 1—Transfer applications

- div hdg** orig ch 5 pt 9 div 1 hdg ins 2000 No. 64 s 6
 om 2012 No. 16 s 7

Division 2—Processing transfer applications

- div hdg** orig ch 5 pt 9 div 2 hdg ins 2000 No. 64 s 6
 om 2012 No. 16 s 7

PART 9A—PROGRESSIVE REHABILITATION

- pt hdg** orig ch 5 pt 9A hdg ins 2005 No. 53 s 70
 om 2012 No. 16 s 7

Division 1—Certification of progressive rehabilitation for level 1 mining projects

- div hdg** orig ch 5 pt 9A div 1 hdg ins 2005 No. 53 s 70
 om 2012 No. 16 s 7

Subdivision 1—Progressive certification and its effects

sdiv hdg orig ch 5 pt 9A div 1 sdiv 4 hdg ins 2005 No. 53 s 70
om 2012 No. 16 s 7

Subdivision 2—Applying for progressive certification

sdiv hdg orig ch 5 pt 9A div 1 sdiv 4 hdg ins 2005 No. 53 s 70
om 2012 No. 16 s 7

Subdivision 3—Progressive rehabilitation report

sdiv hdg orig ch 5 pt 9A div 1 sdiv 4 hdg ins 2005 No. 53 s 70
om 2012 No. 16 s 7

Subdivision 4—Processing application

sdiv hdg orig ch 5 pt 9A div 1 sdiv 4 hdg ins 2005 No. 53 s 70
om 2012 No. 16 s 7

Division 2—Payment for residual risks of rehabilitation

div hdg orig ch 5 pt 9A div 2 hdg ins 2005 No. 53 s 70
om 2012 No. 16 s 7

PART 10—SURRENDER OF ENVIRONMENTAL AUTHORITIES

pt hdg ins 2000 No. 64 s 6
sub 2012 No. 16 ss 7–8

Division 1—Preliminary

div hdg ins 2000 No. 64 s 6
sub 2012 No. 16 ss 7–8

Who may apply for surrender

s 257 ins 2000 No. 64 s 6
amd 2007 No. 56 s 6 sch
sub 2012 No. 16 ss 7–8

Notice by administering authority to make surrender application

s 258 ins 2000 No. 64 s 6
sub 2012 No. 16 ss 7–8

Submitted EM plan may be amended

s 258A ins 2004 No. 48 s 99
om 2012 No. 16 s 7

When surrender notice ceases to have effect

s 259 ins 2000 No. 64 s 6
amd 2004 No. 48 s 100
sub 2005 No. 53 s 66
sub 2012 No. 16 ss 7–8

Failure to comply with surrender notice

prov hdg amd 2004 No. 48 s 101(1)
s 260 prev s 260 ins 2000 No. 64 s 6
amd 2004 No. 48 s 101(2); 2005 No. 53 s 67
om 2012 No. 16 s 7
pres s 260 ins 2012 No. 16 s 8 (amd 2013 No. 6 s 50 sch)

Additional requirement for transfer application for code compliant authority if no amendment application made

s 260A ins 2004 No. 48 s 102
amd 2007 No. 56 s 15
om 2012 No. 16 s 7

Surrender may be partial

s 261 ins 2000 No. 64 s 6
amd 2005 No. 53 s 68
sub 2012 No. 16 ss 7–8

Division 2—Surrender applications

div hdg ins 2000 No. 64 s 6
sub 2012 No. 16 ss 7–8

Requirements for surrender application

s 262 ins 2000 No. 64 s 6
amd 2004 No. 48 s 103
sub 2012 No. 16 ss 7–8

Amending surrender application

s 263 ins 2000 No. 64 s 6
amd 2002 No. 45 s 3(2) sch
sub 2012 No. 16 ss 7–8

Subdivision 1—Requirements for surrender applications

sdiv hdg orig ch 5 pt 10 div 2 sdiv 1 hdg ins 2000 No. 64 s 6
om 2012 No. 16 s 7

Subdivision 2—Final rehabilitation reports

sdiv hdg orig ch 5 pt 10 div 2 sdiv 2 hdg ins 2000 No. 64 s 6
om 2012 No. 16 s 7

Subdivision 3—Processing surrender applications

sdiv hdg orig ch 5 pt 10 div 2 sdiv 3 hdg ins 2000 No. 64 s 6
om 2012 No. 16 s 7

Division 3—Final rehabilitation reports

div hdg ins 2012 No. 16 s 8

Requirements for final rehabilitation report

s 264 ins 2000 No. 64 s 6
amd 2005 No. 53 s 69
sub 2012 No. 16 ss 7–8

Division 4—Requests for information

div hdg ins 2012 No. 16 s 8

Administering authority may request further information

s 265 ins 2000 No. 64 s 6
amd 2004 No. 48 s 104
sub 2012 No. 16 ss 7–8

Division 5—Deciding surrender applications

div hdg ins 2012 No. 16 s 8

Deciding surrender application

s 266 prev s 266 ins 2000 No. 64 s 6
om 2012 No. 16 s 7
pres s 266 ins 2012 No. 16 s 8 (amd 2013 No. 6 s 10(8))

What is progressive certification

s 266A ins 2005 No. 53 s 70
om 2012 No. 16 s 7

Effect of progressive certification

s 266B ins 2005 No. 53 s 70
om 2012 No. 16 s 7

Continuing responsibility of environmental authority holder relating to certified rehabilitated area

s 266C ins 2005 No. 53 s 70
om 2012 No. 16 s 7

Who may apply for progressive certification

s 266D ins 2005 No. 53 s 70
om 2012 No. 16 s 7

Requirements for application

s 266E ins 2005 No. 53 s 70
om 2012 No. 16 s 7

Amending application

s 266F ins 2005 No. 53 s 70
om 2012 No. 16 s 7

Requirements for progressive rehabilitation report

s 266G ins 2005 No. 53 s 70
om 2012 No. 16 s 7

Amending report

s 266H ins 2005 No. 53 s 70
om 2012 No. 16 s 7

Assessment report may be given

s 266I ins 2005 No. 53 s 70
om 2012 No. 16 s 7

Deciding application

s 266J ins 2005 No. 53 s 70
om 2012 No. 16 s 7

Criteria for decision

s 266K ins 2005 No. 53 s 70
amd 2007 No. 56 s 6 sch
om 2012 No. 16 s 7

Steps after making decision

s 266L ins 2005 No. 53 s 70
om 2012 No. 16 s 7

Application of div 2

s 266M ins 2005 No. 53 s 70
om 2012 No. 16 s 7

Payment may be required for residual risks

s 266N ins 2005 No. 53 s 70
om 2012 No. 16 s 7

Criteria for decision to make requirement

s 266O ins 2005 No. 53 s 70
amd 2007 No. 36 s 2
om 2012 No. 16 s 7

Amount and form of payment

s 266P ins 2005 No. 53 s 70
om 2012 No. 16 s 7

Advice from MRA chief executive about surrender application

s 267 ins 2000 No. 64 s 6
sub 2012 No. 16 ss 7–8

Criteria for decision

s 268 ins 2000 No. 64 s 6
amd 2005 No. 53 s 71
sub 2012 No. 16 ss 7–8

Restrictions on giving approval

s 269 ins 2000 No. 64 s 6
sub 2005 No. 53 s 72
sub 2012 No. 16 ss 7–8

Conditional surrender of environmental authority (mining activities)

s 269A ins 2005 No. 53 s 72
amd 2008 No. 52 s 3 sch 1
om 2012 No. 16 s 7

When application may be refused

s 270 ins 2000 No. 64 s 6
amd 2004 No. 53 s 2 sch; 2012 No. 20 s 323 sch 3
sub 2012 No. 16 ss 7–8

Division 6—Residual risk requirements

div hdg ins 2012 No. 16 s 8

Payment may be required for residual risks of rehabilitation

s 271 prev s 271 exp 2 January 2001 (see s 271(2))
pres s 271 ins 2000 No. 64 s 6
amd 2004 No. 53 s 2 sch
sub 2012 No. 16 ss 7–8

Criteria for decision to make residual risks requirement

s 272 ins 2000 No. 64 s 6
sub 2012 No. 16 ss 7–8

Amount and form of payment

s 273 ins 2000 No. 64 s 6
sub 2012 No. 16 ss 7–8

Division 7—Directions about rehabilitation

div hdg ins 2012 No. 16 s 8

Directions to carry out rehabilitation may be given if surrender refused

s 274 ins 2000 No. 64 s 6
amd 2004 No. 48 s 105; 2005 No. 53 s 73
sub 2012 No. 16 ss 7–8

Division 8—Miscellaneous provisions

div hdg ins 2012 No. 16 s 8

Steps after deciding surrender application

s 275 ins 2000 No. 64 s 6
sub 2012 No. 16 ss 7–8

Restriction on surrender taking effect if payment required for residual risks

s 276 ins 2000 No. 64 s 6
sub 2012 No. 16 ss 7–8

**PART 11—CANCELLATION OR SUSPENSION OF ENVIRONMENTAL
AUTHORITIES BY ADMINISTERING AUTHORITY**

pt hdg prev pt 11 hdg ins 2000 No. 64 s 6
om 2012 No. 16 s 7
pres pt 11 hdg ins 2012 No. 16 s 8 (amd 2013 No. 6 s 10(9))

Division 1—Preliminary

div hdg ins 2000 No. 64 s 6
sub 2012 No. 16 ss 7–8

Automatic cancellation if replacement environmental authority given

s 277 ins 2000 No. 64 s 6
sub 2012 No. 16 ss 7–8

Cancellation of particular environmental authority on holder's request

s 277A ins 2012 No. 16 s 8 (amd 2013 No. 10 s 7(2))

Cancellation or suspension by administering authority

prov hdg sub 2005 No. 53 s 74(1)
s 278 prev s 278 ins 2000 No. 64 s 6
amd 2005 No. 53 s 74(2)–(4); 2007 No. 56 s 6 sch
om 2012 No. 16 s 7
pres s 278 ins 2012 No. 16 s 8 (amd 2013 No. 6 s 10(9A))

Directions to carry out rehabilitation may be given if surrender refused

s 278A ins 2005 No. 53 s 75
om 2012 No. 16 s 7

Payment may be required for residual risks of rehabilitation

s 278B ins 2005 No. 53 s 75
om 2012 No. 16 s 7

Division 2—Procedure for cancellation or suspension by administering authority

div hdg ins 2000 No. 64 s 6
sub 2012 No. 16 ss 7–8

Application of div 2

s 279 ins 2000 No. 64 s 6
amd 2002 No. 45 s 3(2) sch; 2005 No. 53 s 76
sub 2012 No. 16 ss 7–8

Restriction on surrender taking effect if payment required for residual risks

s 279A ins 2005 No. 53 s 77
amd 2007 No. 36 s 2 sch
om 2012 No. 16 s 7

Notice of proposed action

s 280 ins 2000 No. 64 s 6
amd 2004 No. 48 s 106
sub 2012 No. 16 ss 7–8

Considering representations

s 281 ins 2000 No. 64 s 6
sub 2012 No. 16 ss 7–8

Decision on proposed action

s 282 ins 2000 No. 64 s 6
sub 2012 No. 16 ss 7–8

Notice of proposed action decision

s 283 ins 2000 No. 64 s 6
sub 2012 No. 16 ss 7–8

Division 3—Steps after making decision

div hdg ins 2000 No. 64 s 6
sub 2012 No. 16 ss 7–8

Steps for cancellation or suspension

s 284 ins 2000 No. 64 s 6
sub 2012 No. 16 ss 7–8

Division 4—Miscellaneous provisions

div hdg orig ch 5 pt 11 div 4 hdg ins 2000 No. 64 s 6
om 2012 No. 16 s 7

PART 11A—SUSPENSION OF ENVIRONMENTAL AUTHORITIES BY APPLICATION

pt hdg ins 2012 No. 16 s 8 (amd 2013 No. 6 s 10(10))

Division 1—Preliminary

div 1 (s 284A) ins 2012 No. 16 s 8 (amd 2013 No. 6 s 10(10))

Division 2—Suspension applications

div 2 (s 284B) ins 2012 No. 16 s 8 (amd 2013 No. 6 s 10(10))

Division 3—Deciding suspension applications

div 3 (ss 284C–284F) ins 2012 No. 16 s 8 (amd 2013 No. 6 s 10(10))

Division 4—Termination of suspension

div 4 (s 284G) ins 2012 No. 16 s 8 (amd 2013 No. 6 s 10(10))

PART 12—GENERAL PROVISIONS

pt hdg ins 2000 No. 64 s 6
sub 2012 No. 16 ss 7–8

**Division 1—Plan of operations for environmental authority relating to mining lease
or petroleum lease**

div hdg ins 2000 No. 64 s 6
sub 2012 No. 16 ss 7–8

Definitions for div 1

s 285 ins 2000 No. 64 s 6
sub 2012 No. 16 ss 7–8

Application of div 1

s 286 ins 2000 No. 64 s 6
sub 2012 No. 16 ss 7–8

Plan of operations required before acting under relevant lease

s 287 ins 2000 No. 64 s 6
sub 2012 No. 16 ss 7–8

Requirements for plan of operations

s 288 ins 2000 No. 64 s 6
sub 2012 No. 16 ss 7–8

Amending or replacing plan

s 289 ins 2000 No. 64 s 6
amd 2005 No. 53 s 78
sub 2012 No. 16 ss 7–8

Failure to comply with plan of operations

s 290 ins 2000 No. 64 s 6
sub 2012 No. 16 ss 7–8

Amendments to reflect NNTT conditions

s 290A ins 2003 No. 10 s 3
om 2012 No. 16 s 7

Environmental authority overrides plan

s 291 ins 2000 No. 64 s 6
sub 2012 No. 16 ss 7–8

Subdivision 1—Amendments

sdiv hdg orig ch 5 pt 12 div 1 sdiv 1 hdg ins 2000 No. 64 s 6
om 2012 No. 16 s 7

Subdivision 2—Cancellation or suspension

sdiv hdg orig ch 5 pt 12 div 1 sdiv 2 hdg ins 2000 No. 64 s 6
om 2012 No. 16 s 7

Division 2—Financial assurance

div hdg ins 2000 No. 64 s 6
sub 2012 No. 16 ss 7–8

Subdivision 1—Requiring financial assurance

sdiv hdg ins 2012 No. 16 s 8

Requirement to give financial assurance for environmental authority

prov hdg sub 2004 No. 48 s 108(1)
s 292 prev s 292 ins 2000 No. 64 s 6
amd 2002 No. 45 s 3(2) sch; 2004 No. 53 s 2 sch; 2004 No. 48 s 108(2)–(5);
2012 No. 43 s 230
om 2012 No. 16 s 7
pres s 292 ins 2012 No. 16 s 8 (amd 2013 No. 10 s 7(3))

New holder must give financial assurance before acting under environmental authority or small scale mining tenure

prov hdg sub 2004 No. 48 s 109(1)
s 293 prev s 293 ins 2000 No. 64 s 6
amd 2004 No. 53 s 2 sch; 2004 No. 48 s 109(2)
om 2012 No. 16 s 7
pres s 293 ins 2012 No. 16 s 8 (amd 2013 No. 10 s 7(4)–(10))

Subdivision 2—Amount and form of financial assurance for environmental authorities

sdiv hdg ins 2012 No. 16 s 8 (amd 2013 No. 10 s 7(11))

Application for decision about amount and form of financial assurance

s 294 ins 2000 No. 64 s 6
amd 2003 No. 10 s 4
sub 2012 No. 16 ss 7–8

Deciding amount and form of financial assurance

s 295 ins 2000 No. 64 s 6
sub 2012 No. 16 ss 7–8

Notice of decision

s 296 ins 2000 No. 64 s 6
sub 2012 No. 16 ss 7–8

Subdivision 3—Claiming or realising financial assurance

sdiv hdg ins 2012 No. 16 s 8

Definitions for sdiv 3

s 297 prev s 297 ins 2000 No. 64 s 6
om 2012 No. 16 s 7
pres s 297 ins 2012 No. 16 s 8 (amd 2013 No. 10 s 7(12))
def *small scale mining tenure* ins 2012 No. 16 s 8 (amd 2013 No. 10 s 7(13))

Application of sdiv 3

- s 298** prev s 298 ins 2000 No. 64 s 6
amd 2002 No. 45 s 3(2) sch; 2005 No. 53 s 79
om 2012 No. 16 s 7
pres s 298 ins 2012 No. 16 s 8 (amd 2013 No. 10 s 7(14)–(15))

Administering authority may claim or realise financial assurance

- s 299** orig s 299 ins 2000 No. 64 s 6
om 2012 No. 16 s 7
pres s 299 ins 2012 No. 16 s 8 (amd 2013 No. 6 s 50 sch)

Steps for amendment to reflect NNTT conditions

- s 299A** ins 2003 No. 10 s 5
om 2012 No. 16 s 7

Considering representations

- s 300** prev s 300 ins 2000 No. 64 s 6
om 2012 No. 16 s 7
pres s 300 ins 2012 No. 16 s 8 (amd 2013 No. 6 s 50 sch)

Decision

- s 301** prev s 301 ins 2000 No. 64 s 6
om 2012 No. 16 s 7
pres s 301 ins 2012 No. 16 s 8 (amd 2013 No. 6 s 50 sch)

Subdivision 4—Amending or discharging financial assurance

- sdiv hdg** ins 2012 No. 16 s 8

Who may apply

- s 302** prev s 302 ins 2000 No. 64 s 6
amd 2004 No. 53 s 2 sch; 2004 No. 48 s 110
om 2012 No. 16 s 7
pres s 302 ins 2012 No. 16 s 8 (amd 2013 No. 10 s 7(16))

Amending application to change applicant

- s 302A** ins 2004 No. 48 s 111
om 2012 No. 16 s 7

Requirements for application

- s 303** prev s 303 ins 2000 No. 64 s 6
amd 2003 No. 96 s 28 sch
amd 2004 No. 53 s 2 sch (amdt could not be given effect)
om 2012 No. 16 s 7
pres s 303 ins 2012 No. 16 s 8 (amd 2013 No. 10 s 7(17))

Administering authority may require compliance statement

- s 304** prev s 304 ins 2000 No. 64 s 6
amd 2004 No. 53 s 2 sch
om 2012 No. 16 s 7
pres s 304 ins 2012 No. 16 s 8 (amd 2013 No. 10 s 7(18)–(23))

Deciding application

s 305 prev s 305 ins 2000 No. 64 s 6
amd 2001 No. 46 ss 22, 3(2) sch; 2007 No. 56 s 6 sch; 2011 No. 3 s 7
om 2012 No. 16 s 7
pres s 305 ins 2012 No. 16 s 8 (amd 2013 No. 10 s 7(24)–(26))

Power to require a change to financial assurance

s 306 prev s 306 ins 2000 No. 64 s 6
om 2012 No. 16 s 7
pres s 306 ins 2012 No. 16 s 8 (amd 2013 No. 10 s 7(27)–(30))

Paramourcy of native title issues decision conditions

s 306A ins 2001 No. 46 s 23
om 2012 No. 16 s 7

Subdivision 5—Replenishing financial assurance

sdiv hdg ins 2012 No. 16 s 8

Replenishment of financial assurance

s 307 ins 2000 No. 64 s 6
sub 2012 No. 16 ss 7–8

Subdivision 6—Directions about rehabilitation

sdiv 6 (s 307A) ins 2012 No. 16 s 8 (amd 2013 No. 10 s 7(31))

Division 3—Annual fees and returns

div hdg ins 2000 No. 64 s 6
sub 2012 No. 16 ss 7–8

Subdivision 1—Annual notices

sdiv hdg ins 2012 No. 16 s 8

Annual fee and return

s 308 prev s 308 ins 2000 No. 64 s 6
om 2012 No. 16 s 7
pres s 308 ins 2012 No. 16 s 8 (amd 2013 No. 6 s 50 sch)

Particular requirement for annual return for CSG environmental authority

s 309 ins 2000 No. 64 s 6
sub 2012 No. 16 ss 7–8

Particular requirement for annual return for existing petroleum tenure under P&G Act

s 309A prev s 309A ins 2009 No. 3 s 460
amd 2011 No. 47 s 295; 2010 No. 31 s 497
om 2012 No. 16 s 7
pres s 309A ins 2012 No. 20 s 127

Division 5—Death of authority holder

div hdg ins 2000 No. 64 s 6
om 2003 No. 95 s 15

Types of environmental authorities (chapter 5A activities)

s 309B ins 2009 No. 3 s 460
om 2012 No. 16 s 7

Levels for chapter 5A activities

s 309C ins 2009 No. 3 s 460
om 2012 No. 16 s 7

What is a *relevant resource authority*

s 309D ins 2009 No. 3 s 460
amd 2010 No. 31 s 498
om 2012 No. 16 s 7

What is *resource legislation*

s 309E ins 2009 No. 3 s 460
om 2012 No. 16 s 7

What is a *relevant chapter 5A activity*

s 309F ins 2009 No. 3 s 460
om 2012 No. 16 s 7

What is a *chapter 5A activity project*

s 309G ins 2009 No. 3 s 460
om 2012 No. 16 s 7

Division 1—Preliminary

div 1 (s 309H) orig ch 5A pt 2 div 1 ins 2009 No. 3 s 460
om 2012 No. 16 s 7

Division 2—General provisions for applications

div hdg orig ch 5A pt 2 div 2 ins 2009 No. 3 s 460
om 2012 No. 16 s 7

Subdivision 1—Restriction on who may apply

sdiv hdg orig ch 5A pt 2 div 2 sdiv 1 hdg ins 2009 No. 3 s 460
om 2012 No. 16 s 7

Restriction

s 309I ins 2009 No. 3 s 460
amd 2010 No. 31 s 499
om 2012 No. 16 s 7

Subdivision 2—Chapter 5A activity projects

sdiv 2 (ss 309J–309K) orig ch 5A pt 2 div 2 sdiv 2 ins 2009 No. 3 s 460
om 2012 No. 16 s 7

Subdivision 3—Joint applications

sdiv 3 (ss 309L–309O) orig ch 5A pt 2 div 2 sdiv 3 ins 2009 No. 3 s 460
om 2012 No. 16 s 7

Division 3—Level 2 chapter 5A activities

div hdg orig ch 5A pt 2 div 3 ins 2009 No. 3 s 460
om 2012 No. 16 s 7

Subdivision 1—Code compliant authorities

sdiv 1 (ss 309P–309T) orig ch 5A pt 2 div 3 sdiv 1 ins 2009 No. 3 s 460
om 2012 No. 16 s 7

Subdivision 2—Non-code compliant authorities

sdiv hdg orig ch 5A pt 2 div 3 sdiv 2 hdg ins 2009 No. 3 s 460
om 2012 No. 16 s 7

Operation of sdiv 2

s 309U ins 2009 No. 3 s 460
om 2012 No. 16 s 7

Requirements for application

s 309V ins 2009 No. 3 s 460
om 2012 No. 16 s 7

Conditions may be requested

s 309W ins 2009 No. 3 s 460
om 2012 No. 16 s 7

Deciding application

s 309X ins 2009 No. 3 s 460
om 2012 No. 16 s 7

Criteria for decision

s 309Y ins 2009 No. 3 s 460
om 2012 No. 16 s 7

Conditions that may and must be imposed

s 309Z ins 2009 No. 3 s 460
amd 2013 No. 6 s 50 sch
om 2012 No. 16 s 7

Subdivision 2—Changing anniversary day

sdiv hdg ins 2012 No. 16 s 8

Changing anniversary day

s 310 prev s 310 ins 2000 No. 64 s 6
om 2003 No. 95 s 15
pres s 310 ins 2009 No. 3 s 460
sub 2012 No. 16 ss 7–8

Information notice about particular decisions

s 310A ins 2009 No. 3 s 460
om 2012 No. 16 s 7

Division 4—Level 1 chapter 5A activities

div hdg orig ch 5A pt 2 div 4hdg ins 2009 No. 3 s 460
om 2012 No. 16 s 7

Operation of div 4

s 310B ins 2009 No. 3 s 460
om 2012 No. 16 s 7

Requirements for application

s 310C ins 2009 No. 3 s 460
amd 2010 No. 20 s 35
om 2012 No. 16 s 7

Environmental management plan

s 310D ins 2009 No. 3 s 460
amd 2010 No. 20 s 36
om 2012 No. 16 s 7

EIS may be required

s 310E ins 2009 No. 3 s 460
amd 2013 No. 6 s 50 sch
om 2012 No. 16 s 7

Public access to application

s 310F ins 2009 No. 3 s 460
om 2012 No. 16 s 7

Public notice of application

s 310G ins 2009 No. 3 s 460
om 2012 No. 16 s 7

Required contents of application notice

s 310H ins 2009 No. 3 s 460
om 2012 No. 16 s 7

Declaration of compliance

s 310I ins 2009 No. 3 s 460
om 2012 No. 16 s 7

Substantial compliance may be accepted

s 310J ins 2009 No. 3 s 460
om 2012 No. 16 s 7

Right to make submission

s 310K ins 2009 No. 3 s 460
om 2012 No. 16 s 7

Acceptance of submission

s 310L ins 2009 No. 3 s 460
om 2012 No. 16 s 7

Deciding application

s 310M ins 2009 No. 3 s 460
amd 2013 No. 6 s 50 sch
om 2012 No. 16 s 7

Criteria for decision

s 310N ins 2009 No. 3 s 460
om 2012 No. 16 s 7

Conditions that may and must be imposed

- s 310O** ins 2009 No. 3 s 460
amd 2011 No. 3 s 8; 2013 No. 6 s 50 sch
om 2012 No. 16 s 7

Steps after granting application and the giving of financial assurance

- s 310P** ins 2009 No. 3 s 460
om 2012 No. 16 s 7

Information notice about particular decisions

- s 310Q** ins 2009 No. 3 s 460
om 2012 No. 16 s 7

Division 5—Term of environmental authority (chapter 5A activities)

- div 5 (s 310R)** orig ch 5A pt 2 div 5 ins 2009 No. 3 s 460
om 2012 No. 16 s 7

Division 1—Making amendment application

- div hdg** orig ch 5A pt 3 div 1 hdg ins 2009 No. 3 s 460
om 2012 No. 16 s 7

Who may apply for amendment

- s 310S** ins 2009 No. 3 s 460
om 2012 No. 16 s 7

Code compliance condition may be amended

- s 310T** ins 2009 No. 3 s 460
om 2012 No. 16 s 7

Requirements for amendment application

- s 310U** ins 2009 No. 3 s 460
amd 2010 No. 20 s 37
om 2012 No. 16 s 7

Division 2—Processing amendment application

- div hdg** orig ch 5A pt 3 div 2 hdg ins 2009 No. 3 s 460
om 2012 No. 16 s 7

EIS may be required

- s 310V** ins 2009 No. 3 s 460
amd 2013 No. 6 s 50 sch
om 2012 No. 16 s 7

Public notice may be required if application is for level 1 activity

- s 310W** ins 2009 No. 3 s 460
om 2012 No. 16 s 7

Public notice process

- s 310X** ins 2009 No. 3 s 460
om 2012 No. 16 s 7

Deciding application

s 310Y ins 2009 No. 3 s 460
amd 2013 No. 6 s 50 sch
om 2012 No. 16 s 7

Criteria for decision

s 310Z ins 2009 No. 3 s 460
om 2012 No. 16 s 7

Division 3—Miscellaneous provisions

div hdg orig ch 5A pt 3 div 3 hdg ins 2009 No. 3 s 460
om 2012 No. 16 s 7

Deciding application

s 311 prev s 311 ins 2000 No. 64 s 6
sub 2002 No. 45 s 12
amd 2003 No. 95 s 3 sch
om 2004 No. 48 s 112
pres s 311 ins 2009 No. 3 s 460
sub 2012 No. 16 ss 7–8

When amendment takes effect

s 311A ins 2009 No. 3 s 460
om 2012 No. 16 s 7

Information notice about particular decisions

s 311B ins 2009 No. 3 s 460
om 2012 No. 16 s 7

Transfer only by approval

s 311C ins 2009 No. 3 s 460
om 2012 No. 16 s 7

General requirements for transfer application

s 311D ins 2009 No. 3 s 460
om 2012 No. 16 s 7

Amendment application may accompany transfer application

s 311E ins 2009 No. 3 s 460
om 2012 No. 16 s 7

Additional requirement for transfer application for code compliant authority if no amendment application made

s 311F ins 2009 No. 3 s 460
om 2012 No. 16 s 7

Audit statement may be required

s 311G ins 2009 No. 3 s 460
om 2012 No. 16 s 7

Deciding application

s 311H ins 2009 No. 3 s 460
om 2012 No. 16 s 7

Additional ground for refusal

s 311I ins 2009 No. 3 s 460
om 2012 No. 16 s 7

Steps after making decision

s 311J ins 2009 No. 3 s 460
om 2012 No. 16 s 7

Division 1—Surrender applications

div 1 (ss 311K–311L) orig ch 5A pt 5 div 1 ins 2009 No. 3 s 460
om 2012 No. 16 s 7

Division 2—Final rehabilitation report

div 2 (ss 311M–311O) orig ch 5A pt 5 div 2 ins 2009 No. 3 s 460
om 2012 No. 16 s 7

Division 3—General provisions for processing surrender applications

div 3 (ss 311P–311R) orig ch 5A pt 5 div 3 ins 2009 No. 3 s 460
om 2012 No. 16 s 7

Division 4—Additional surrender process provisions for greenhouse gas storage activities

div hdg orig ch 5A pt 5 div 4 hdg ins 2009 No. 3 s 460
om 2012 No. 16 s 7

Subdivision 1—Preliminary

sdiv 1 (s 311S) orig ch 5A pt 5 div 4 sdiv 1 ins 2009 No. 3 s 460
om 2012 No. 16 s 7

Subdivision 2—Residual risks requirements

sdiv 2 (ss 311T–311X) orig ch 5A pt 5 div 4 sdiv 2 ins 2009 No. 3 s 460
om 2012 No. 16 s 7

Subdivision 3—Directions

sdiv 3 (s 311Y) orig ch 5A pt 5 div 4 sdiv 3 ins 2009 No. 3 s 460
om 2012 No. 16 s 7

Division 5—Additional surrender provisions for other chapter 5A activities

div hdg orig ch 5A pt 5 div 5 hdg ins 2009 No. 3 s 460
amd 2010 No. 31 s 496 sch 2 pt 4
om 2012 No. 16 s 7

Application of div 5

s 311Z ins 2009 No. 3 s 460
amd 2010 No. 31 s 496 sch 2 pt 4
om 2012 No. 16 s 7

Notice of decision

s 312 prev s 312 ins 2000 No. 64 s 6
sub 2002 No. 45 s 12
amd 2003 No. 95 s 3 sch

Endnotes

om 2004 No. 48 s 112
pres s 312 ins 2009 No. 3 s 460
sub 2012 No. 16 ss 7–8

When surrender application required

s 312A ins 2009 No. 3 s 460
om 2012 No. 16 s 7

Notice by administering authority to make surrender application

s 312B ins 2009 No. 3 s 460
om 2012 No. 16 s 7

Failure to comply with surrender notice

s 312C ins 2009 No. 3 s 460
om 2012 No. 16 s 7

Corrections

s 312D ins 2009 No. 3 s 460
om 2012 No. 16 s 7

Other amendments

s 312E ins 2009 No. 3 s 460
amd 2010 No. 20 s 38; 2012 No. 43 s 231
om 2012 No. 16 s 7

Conditions for cancellation or suspension

s 312F ins 2009 No. 3 s 460
om 2012 No. 16 s 7

Application of div 2

s 312G ins 2009 No. 3 s 460
om 2012 No. 16 s 7

Notice of proposed action

s 312H ins 2009 No. 3 s 460
om 2012 No. 16 s 7

Considering representations

s 312I ins 2009 No. 3 s 460
om 2012 No. 16 s 7

Decision on proposed action

s 312J ins 2009 No. 3 s 460
om 2012 No. 16 s 7

Notice of proposed action decision

s 312K ins 2009 No. 3 s 460
om 2012 No. 16 s 7

Division 3—Steps after making decision

div 3 (ss 312L–312N) orig ch 5A pt 6 div 3 ins 2009 No. 3 s 460
om 2012 No. 16 s 7

PART 7—FINANCIAL ASSURANCE

pt 7 (ss 312O–312Q) orig ch 5A pt 7 ins 2009 No. 3 s 460
om 2012 No. 16 s 7

PART 8—PRINCIPAL HOLDERS

pt 8 (ss 312R–312T) orig ch 5A pt 8 ins 2009 No. 3 s 460
om 2012 No. 16 s 7

PART 9—MISCELLANEOUS PROVISIONS

pt hdg orig ch 5A pt 9 hdg ins 2009 No. 3 s 460
om 2012 No. 16 s 7

Grounds for refusing application for or to transfer non-code compliant authority

s 312U ins 2009 No. 3 s 460
om 2012 No. 16 s 7

Restrictions on authority or transfer taking effect

s 312V ins 2009 No. 3 s 460
om 2012 No. 16 s 7

Statutory conditions of environmental authority (chapter 5A activities)

s 312W ins 2010 No. 52 s 16
om 2012 No. 16 s 7

When decision takes effect

s 313 prev s 313 ins 2000 No. 64 s 6
sub 2002 No. 45 s 12
om 2004 No. 48 s 112
pres s 313 ins 2012 No. 16 s 8

Division 4—Non-compliance with eligibility criteria

div hdg ins 2012 No. 16 s 8

Requirement to replace environmental authority if non-compliance with eligibility criteria

s 314 prev s 314 ins 2000 No. 64 s 6
sub 2002 No. 45 s 12
om 2004 No. 48 s 112
pres s 314 ins 2012 No. 16 s 8

Division 5—Miscellaneous provisions

div hdg ins 2012 No. 16 s 8

Administering authority may seek advice, comment or information about application

s 315 prev s 315 ins 2000 No. 64 s 6
sub 2002 No. 45 s 12
om 2004 No. 48 s 112
pres s 315 ins 2012 No. 16 s 8 (amd 2013 No. 6 s 50 sch)

Constituent parts continue to be environmental authorities

s 315A ins 2002 No. 45 s 12
amd 2003 No. 95 s 3 sch
om 2004 No. 48 s 112

Additional requirement for amending or transferring constituent part

s 315B ins 2002 No. 45 s 12
amd 2003 No. 95 s 3 sch
om 2004 No. 48 s 112

Amendment or cancellation to reflect change to constituent part

s 315C ins 2002 No. 45 s 12
om 2004 No. 48 s 112

Adding new constituent part

s 315D ins 2002 No. 45 s 12
amd 2003 No. 95 s 3 sch
om 2004 No. 48 s 112

Decision criteria are not exhaustive

s 316 ins 2000 No. 64 s 6
amd 2002 No. 45 s 3(2) sch
sub 2003 No. 95 s 17
amd 2007 No. 56 s 16; 2009 No. 3 s 461
sub 2012 No. 16 ss 7–8

Particular requirement for annual return for CSG environmental authority

s 316A ins 2010 No. 20 s 39
om 2012 No. 16 s 7

PART 13—MISCELLANEOUS PROVISIONS

pt hdg orig ch 5 pt 13 hdg ins 2000 No. 64 s 6
om 2012 No. 16 s 7

Division 1—Advice from MRA chief executive

div hdg orig ch 5 pt 13 div 1 hdg ins 2000 No. 64 s 6
om 2012 No. 16 s 7

Division 1A—Transfer of interest in an application for or to transfer environmental authority (mining activities)

div hdg orig ch 5 pt 13 div 1A hdg ins 2004 No. 48 s 111
om 2012 No. 16 s 7

Division 2—When authorities or transfers take effect

div hdg orig ch 5 pt 13 div 2 hdg ins 2000 No. 64 s 6
om 2012 No. 16 s 7

Division 3—General provisions for applications and conditions

div hdg orig ch 5 pt 13 div 3 hdg ins 2000 No. 64 s 6
om 2012 No. 16 s 7

Division 4—Principal holder of authority

div hdg orig ch 5 pt 13 div 4 hdg ins 2000 No. 64 s 6
om 2012 No. 16 s 7

CHAPTER 5A—GENERAL PROVISIONS ABOUT ENVIRONMENTALLY RELEVANT ACTIVITIES

ch hdg ins 2009 No. 3 s 460
sub 2012 No. 16 ss 7–8

PART 1—ELIGIBILITY CRITERIA

pt hdg ins 2009 No. 3 s 460
sub 2012 No. 16 ss 7–8

Notice of proposed eligibility criteria

s 317 ins 2000 No. 64 s 6
sub 2012 No. 16 ss 7–8

Making eligibility criteria

s 318 prev s 318 ins 2000 No. 64 s 6
om 2003 No. 95 s 18
pres s 318 ins 2012 No. 16 s 8

PART 2—STANDARD CONDITIONS

pt hdg ins 2009 No. 3 s 460
sub 2012 No. 16 ss 7–8

Definition for pt 2

s 318A ins 2002 No. 45 s 13
sub 2003 No. 95 s 19
amd 2004 No. 48 s 114; 2009 No. 3 s 462
sub 2012 No. 16 ss 7–8

When standard conditions must be made

s 318B ins 2002 No. 45 s 13
sub 2003 No. 95 s 19; 2012 No. 16 ss 7–8

Notice of proposed standard conditions

s 318C prev s 318C ins 2003 No. 95 s 19
om 2012 No. 16 s 7
pres s 318C ins 2012 No. 16 s 8 (amd 2013 No. 6 s 50 sch)

Making standard conditions

s 318D ins 2012 No. 16 s 8 (amd 2013 No. 6 s 50 sch)

PART 3—CODES OF PRACTICE

pt hdg ins 2009 No. 3 s 460
sub 2012 No. 16 ss 7–8

Codes of practice

s 318E ins 2012 No. 16 s 8

PART 4—REGISTRATION OF SUITABLE OPERATORS

pt hdg ins 2009 No. 3 s 460
sub 2012 No. 16 ss 7–8

Division 1—Applications for registration

div hdg ins 2012 No. 16 s 8

Application for registration

s 318F ins 2012 No. 16 s 8 (amd 2013 No. 6 s 50 sch)

Deciding application

s 318G ins 2012 No. 16 s 8

Grounds for refusing application for registration

s 318H ins 2012 No. 16 s 8 (amd 2013 No. 6 s 50 sch)

Steps after deciding application for registration

s 318I ins 2012 No. 16 s 8

Term of registration

s 318J ins 2012 No. 16 s 8

Division 2—Cancelling or suspending registration

div hdg ins 2012 No. 16 s 8

Cancellation or suspension of registration

s 318K ins 2012 No. 16 s 8 (amd 2013 No. 6 s 10(11))

Notice of proposed action

s 318L ins 2012 No. 16 s 8

Considering representations

s 318M ins 2012 No. 16 s 8

Decision on proposed action

s 318N ins 2012 No. 16 s 8

Notice of proposed action decision

s 318O ins 2012 No. 16 s 8

When decision takes effect

s 318P ins 2012 No. 16 s 8

Steps for cancelling or suspending registration

s 318Q ins 2012 No. 16 s 8

Division 3—Investigating suitability

div hdg ins 2012 No. 16 s 8

Investigation of applicant suitability or disqualifying events

s 318R ins 2012 No. 16 s 8 (amd 2013 No. 6 s 10(12))

Use of information in suitability report

s 318S ins 2012 No. 16 s 8

Notice of use of information in suitability report

s 318T ins 2012 No. 16 s 8

Confidentiality of suitability reports

s 318U ins 2012 No. 16 s 8

Destruction of suitability reports

s 318V ins 2012 No. 16 s 8

PART 5—WORK DIARY REQUIREMENTS FOR PARTICULAR REGISTERED SUITABLE OPERATORS

pt hdg ins 2009 No. 3 s 460
sub 2012 No. 16 ss 7–8

Application of pt 5

s 318W ins 2012 No. 16 s 8

Requirement to keep work diary

s 318X ins 2012 No. 16 s 8

Requirement to notify chief executive if work diary lost or stolen

s 318Y ins 2012 No. 16 s 8

PART 6—PROGRESSIVE REHABILITATION

pt hdg ins 2009 No. 3 s 460
sub 2012 No. 16 ss 7–8

Division 1—Certification of progressive rehabilitation for resource projects

div hdg ins 2009 No. 3 s 460
sub 2012 No. 16 ss 7–8

Subdivision 1—Preliminary

sdiv hdg ins 2009 No. 3 s 460
sub 2012 No. 16 ss 7–8

What is progressive certification

s 318Z ins 2012 No. 16 s 8

Effect of progressive certification

s 318ZA ins 2012 No. 16 s 8

Continuing responsibility of environmental authority holder relating to certified rehabilitated area

s 318ZB ins 2012 No. 16 s 8

Subdivision 2—Applying for progressive certification

sdiv hdg ins 2009 No. 3 s 460
sub 2012 No. 16 ss 7–8

Who may apply for progressive certification

s 318ZC ins 2012 No. 16 s 8

Requirements for progressive certification application

s 318ZD ins 2012 No. 16 s 8

Amending progressive certification application

s 318ZE ins 2012 No. 16 s 8

Subdivision 3—Progressive rehabilitation report

sdiv 3 (s 318ZF) ins 2012 No. 16 s 8

Subdivision 4—Requests for information

sdiv 4 (s 318ZG) ins 2012 No. 16 s 8

Subdivision 5—Deciding progressive certification application

sdiv 5 (ss 318ZH–318ZJ) ins 2012 No. 16 s 8

Division 2—Payment for residual risks of rehabilitation

div hdg ins 2009 No. 3 s 460
sub 2012 No. 16 ss 7–8

Application of div 2

s 318ZK ins 2012 No. 16 s 8

Payment may be required for residual risks

s 318ZL ins 2012 No. 16 s 8

Criteria for decision to make requirement

s 318ZM ins 2012 No. 16 s 8

Amount and form of payment

s 318ZN ins 2012 No. 16 s 8

**CHAPTER 6—GENERAL PROVISIONS ABOUT ENVIRONMENTAL
AUTHORITIES AND REGISTRATION CERTIFICATES**

ch hdg orig ch 6 hdg ins 2000 No. 64 s 6
amd 2003 No. 95 s 16
om 2012 No. 16 s 7

PART 1—INTEGRATED AUTHORITIES

pt hdg orig ch 6 pt 1 hdg ins 2000 No. 64 s 6
sub 2002 No. 45 s 12
om 2004 No. 48 s 112

Division 1—Obtaining integrated authority

div hdg orig ch 6 pt 1 div 1 hdg ins 2002 No. 45 s 12
om 2004 No. 48 s 112

Division 2—Constituent parts

div hdg orig ch 6 pt 1 div 2 hdg ins 2002 No. 45 s 12
om 2004 No. 48 s 112

Division 3—Changing integrated authority

div hdg orig ch 6 pt 1 div 3 hdg ins 2002 No. 45 s 12
om 2004 No. 48 s 112

PART 2—MISCELLANEOUS PROVISIONS

pt hdg orig ch 6 pt 2 hdg ins 2000 No. 64 s 6
om 2004 No. 48 s 113

CHAPTER 7—ENVIRONMENTAL MANAGEMENT

PART 1—ENVIRONMENTAL DUTIES

Division 1—Duty to prevent and minimise environmental harm

div hdg ins 2010 No. 52 s 17

Division 2—Duty to notify of environmental harm**div hdg** ins 2010 No. 52 s 18**Subdivision 1—Preliminary****sdiv hdg** ins 2010 No. 52 s 18**Definitions for div 2**

s 320 amd 1998 No. 13 s 36; 2003 No. 95 s 20, s 3 sch; 2007 No. 56 s 6 sch; 2009 No. 42 s 7
sub 2010 No. 52 s 18
def *public notice* amd 2012 No. 16 s 78 sch

Application of div 2

s 320A ins 2010 No. 52 s 18
amd 2012 No. 16 s 78 sch (amd 2013 No. 10 s 21(1))

Subdivision 2—Duty of person carrying out an activity**sdiv hdg** ins 2010 No. 52 s 18**Duty of employee to notify employer****s 320B** ins 2010 No. 52 s 18**Duty of other persons to notify particular owners and occupiers**

s 320C ins 2010 No. 52 s 18
amd 2012 No. 16 s 78 sch

Subdivision 3—Duty of employer**sdiv hdg** ins 2010 No. 52 s 18**Duty of employer to notify particular owners and occupiers**

s 320D ins 2010 No. 52 s 18
amd 2012 No. 16 s 78 sch

Subdivision 4—Miscellaneous**sdiv 4** (ss 320E–320G) ins 2010 No. 52 s 18**PART 2—ENVIRONMENTAL EVALUATIONS****Division 1—Preliminary****div hdg** ins 2012 No. 16 s 9**What is an environmental evaluation**

s 321 amd 2007 No. 56 s 6 sch
sub 2012 No. 16 s 9

Division 2—Environmental audits**div hdg** ins 2012 No. 16 s 9**Subdivision 1—Audit requirements****sdiv hdg** ins 2012 No. 16 s 9**Administering authority may require environmental audit about environmental authority**

s 322 amd 1998 No. 13 s 47; 1999 No. 19 sch; 2000 No. 64 s 9; 2002 No. 45 ss 14, 3(2) sch; 2007 No. 56 s 17; 2011 No. 6 s 69
sub 2012 No. 16 s 9 (amd 2013 No. 6 s 50 sch)

Administering authority may require environmental audit about other matters

s 323 amd 2000 No. 64 s 10; 2002 No. 45 ss 15 (amdt could not be given effect),
 3(2) sch
 sub 2012 No. 16 s 9 (amd 2013 No. 6 s 50 sch)

Content of audit notice

s 324 sub 2012 No. 16 s 9 (amd 2013 No. 6 s 50 sch)

Failure to comply with audit notice

s 325 amd 2000 No. 64 s 3(2) sch
 sub 2012 No. 16 s 9

Subdivision 2—Audits by administering authority

sdiv hdg ins 2012 No. 16 s 9

Administering authority may conduct environmental audit for resource activities

s 326 amd 1998 No. 13 s 48; 2000 No. 64 s 11, s 3(2) sch; 2002 No. 45 s 3(2) sch;
 2003 No. 95 s 21; 2007 No. 56 s 6 sch
 sub 2012 No. 16 s 9

Administering authority's costs of environmental audit or report

s 326A ins 2012 No. 16 s 9

Division 3—Environmental investigations

div 3 (ss 326B–326D) ins 2012 No. 16 s 9

Division 4—Requirement for declarations

div hdg ins 2012 No. 16 s 9

Declarations to accompany report

s 326E ins 2012 No. 16 s 9 (amd 2013 No. 6 s 11(1))

Division 5—Steps after receiving environmental reports

div hdg ins 2012 No. 16 s 9

Administering authority may request further information

s 326F ins 2012 No. 16 s 9 (amd 2013 No. 6 s 11(2))

Decision about environmental report

s 326G ins 2012 No. 16 s 9 (amd 2013 No. 6 s 11(3))

Action following acceptance of report

s 326H ins 2012 No. 16 s 9 (amd 2013 No. 6 s 11(4))

Action following refusal of report

s 326I ins 2012 No. 16 s 9 (amd 2013 No. 6 s 11(5))

Division 6—Miscellaneous

div hdg ins 2012 No. 16 s 9

Extensions of time for decisions on submission of environmental reports

s 328 amd 2000 No. 64 s 3(2) sch
 om 2012 No. 16 s 10

Failure to make decision on environmental report taken to be refusal

s 329 amd 2012 No. 16 s 11

PART 3—TRANSITIONAL ENVIRONMENTAL PROGRAMS

pt hdg sub 2007 No. 56 s 6 sch

Division 1—Preliminary

div hdg ins 1997 No. 7 s 7

What is a transitional environmental program

prov hdg amd 2007 No. 56 s 6 sch

s 330 amd 2007 No. 56 s 6 sch
 sub 2011 No. 6 s 70
 amd 2012 No. 16 s 12 (amd 2013 No. 10 s 8)

Content of program

s 331 amd 1997 No. 7 s 8; 2007 No. 56 s 6 sch
 sub 2011 No. 6 s 71
 amd 2012 No. 16 s 13 (amd 2013 No. 10 s 9)

Division 2—Submission and approval of transitional environmental programs

div hdg ins 1997 No. 7 s 9
 amd 2007 No. 56 s 6 sch

Administering authority may require draft program

s 332 amd 1998 No. 13 s 49; 2000 No. 64 s 12; 2002 No. 45 s 16; 2003 No. 95 ss 22,
 s 3 sch; 2007 No. 56 s 6 sch; 2012 No. 16 s 14 (amd 2013 No. 10 s 10)

Voluntary submission of draft program

s 333 amd 2007 No. 56 s 6 sch; 2011 No. 6 s 72

Fee for consideration of draft program

s 334 amd 2007 No. 56 s 6 sch

Administering authority may request further information

s 334A ins 2012 No. 16 s 15

Public notice of submission for approval of certain draft programs

s 335 amd 2007 No. 36 s 2 sch; 2007 No. 56 s 6 sch; 2012 No. 16 s 16

Authority may call conference

s 336 amd 2000 No. 64 s 3(2) sch; 2007 No. 56 s 6 sch

Administering authority may seek advice, comment or information about submission

s 336A ins 2012 No. 16 s 17

Administering authority to consider draft programs

s 337 amd 1996 No. 10 s 14; 2002 No. 45 s 3(2) sch; 2007 No. 56 s 6 sch; 2008 No.
 52 s 27; 2012 No. 16 s 18

Criteria for deciding draft program

s 338 sub 1996 No. 10 s 15
 amd 1998 No. 13 s 50; 2007 No. 56 ss 18, 6 sch (amdt could not be given
 effect); 2012 No. 16 s 19

Decision about draft program

s 339 amd 2002 No. 45 s 3(2) sch; 2007 No. 56 s 6 sch
 sub 2011 No. 6 s 73
 amd 2012 No. 16 s 20

Notice of decision

s 340 sub 2000 No. 64 s 3(2) sch
 amd 2003 No. 95 s 3 sch; 2007 No. 56 s 6 sch
 sub 2011 No. 6 s 73

Content of approved program

s 341 prev s 341 amd 1996 No. 10 s 16; 2000 No. 64 s 3(2) sch
 om 2002 No. 45 s 17
 pres s 341 ins 2011 No. 6 s 73

Substantial compliance with Act may be accepted as compliance

s 342 amd 2007 No. 56 s 6 sch

Failure to approve draft program taken to be refusal

s 343 amd 2007 No. 56 s 6 sch

Notation of approval of transitional environmental program on particular environmental authorities

s 343A ins 2012 No. 16 s 21

Division 3—Amendment of approval for transitional environmental programs

div hdg ins 1997 No. 7 s 10
 amd 2007 No. 56 s 6 sch

Application

s 344 ins 1997 No. 7 s 10
 amd 2000 No. 64 s 14; 2007 No. 56 s 6 sch

Division 3A—Financial assurances

div 3A (ss 344A–344D) ins 2012 No. 16 s 22

Division 4—Miscellaneous

div hdg ins 1997 No. 7 s 11

Annual return

s 345 amd 2002 No. 45 s 3(2) sch; 2007 No. 56 s 6 sch

Effect of compliance with program

s 346 amd 1998 No. 13 s 51; 2000 No. 64 s 16; 2002 No. 45 s 18; 2003 No. 95 s 23;
 2007 No. 56 s 19; 2009 No. 42 s 8; 2012 No. 16 s 23 (amd 2013 No. 10 s
 11)

Notice of disposal by holder of program approval

s 347 amd 2002 No. 45 s 3(2) sch; 2007 No. 56 s 6 sch; 2012 No. 16 s 24

Notice of ceasing activity by holder of program approval

s 348 amd 2002 No. 45 s 3(2) sch; 2007 No. 56 s 6 sch

Compliance with Act at completion of program

s 349 amd 2007 No. 56 s 6 sch

**PART 4—SPECIAL PROVISIONS ABOUT VOLUNTARY SUBMISSION OF
TRANSITIONAL ENVIRONMENTAL PROGRAMS****pt hdg** amd 2007 No. 56 s 6 sch**Program notice****s 350** amd 2007 No. 56 s 6 sch**Authority to act on notice****s 352** amd 2002 No. 45 s 3(2) sch; 2007 No. 56 s 6 sch**Effect of program notice****s 353** amd 2000 No. 64 s 3(2) sch; 2007 No. 56 s 6 sch**Effect of failure to comply with program****s 354** amd 2000 No. 64 s 3(2) sch; 2007 No. 56 s 6 sch**Authority may apply to Court for order setting aside immunity from prosecution****s 355** amd 1995 No. 40 s 6; 2002 No. 45 s 3(2) sch**Court to decide application****s 356** amd 2007 No. 56 s 6 sch**PART 4A—TEMPORARY EMISSIONS LICENCES****pt hdg** ins 2012 No. 43 s 232**What is an *applicable event*****s 357A** ins 2012 No. 43 s 232
sub 2012 No. 16 s 24A (amd 2012 No. 43 s 244)**Who may apply for temporary emissions licence****s 357B** ins 2012 No. 43 s 232
amd 2012 No. 16 s 24B (amd 2012 No. 43 s 244)**Deciding application****s 357C** ins 2012 No. 43 s 232**Criteria for decision****s 357D** ins 2012 No. 43 s 232**Decision about temporary emissions licence****s 357E** ins 2012 No. 43 s 232**Information notice****s 357F** ins 2012 No. 43 s 232**Temporary emissions licence****s 357G** ins 2012 No. 43 s 232
amd 2012 No. 16 s 24C (amd 2012 No. 43 s 244)**Licence can not be surrendered or transferred****s 357H** ins 2012 No. 43 s 232**Failure to comply with conditions of licence****s 357I** ins 2012 No. 43 s 232

Amendment, cancellation or suspension of temporary emissions licence

s 357J ins 2012 No. 43 s 232

PART 5—ENVIRONMENTAL PROTECTION ORDERS

When order may be issued

s 358 amd 1998 No. 13 s 52; 2000 No. 64 s 17; 2003 No. 95 s 24; 2005 No. 53 s 80;
2007 No. 56 ss 20, 6 sch (amdt could not be given effect); 2009 No. 42 s 9;
2011 No. 6 s 74; 2012 No. 16 s 25 (amd 2013 No. 10 s 12)

Form and content of order

s 360 amd 2000 No. 64 s 3(2) sch; 2012 No. 16 s 26

Notice of disposal by recipient

s 362 amd 2000 No. 64 s 3(2) sch

Notice of ceasing to carry out activity

s 363 amd 2000 No. 64 s 3(2) sch

PART 5A—DIRECTION NOTICES

pt hdg ins 2008 No. 52 s 28

Prescribed provisions

s 363A ins 2008 No. 52 s 28
sub 2009 No. 42 s 10

Authorised person may issue a direction notice

s 363B ins 2008 No. 52 s 28

Matters to consider before issuing a direction notice relating to particular emissions

s 363C ins 2008 No. 52 s 28

Requirements of direction notices

s 363D ins 2008 No. 52 s 28

Offence not to comply with a direction notice

s 363E ins 2008 No. 52 s 28

PART 5B—CLEAN-UP NOTICES

pt hdg ins 2008 No. 52 s 28

Definitions for pt 5B

s 363F ins 2008 No. 52 s 28

Who are the *prescribed persons* for a contamination incident

s 363G ins 2008 No. 52 s 28

Administering authority may issue clean-up notice

s 363H ins 2008 No. 52 s 28
amd 2011 No. 3 s 9

Offence not to comply with clean-up notice

s 363I ins 2008 No. 52 s 28
amd 2011 No. 3 s 10

Procedure if recipient is not the owner of land on which action is required

s 363J ins 2008 No. 52 s 28

Taking action in place of recipient

s 363K ins 2008 No. 52 s 28

Obstruction of recipient complying with notice

s 363L ins 2008 No. 52 s 28

PART 5C—COST RECOVERY NOTICES

pt hdg ins 2008 No. 52 s 28

Who are the *prescribed persons* for a contamination incident

s 363M ins 2008 No. 52 s 28

Administering authority may issue cost recovery notice

s 363N ins 2008 No. 52 s 28
amd 2011 No. 3 s 11; 2013 No. 6 s 50 sch

Several recipients of a cost recovery notice

s 363O ins 2008 No. 52 s 28

PART 6—FINANCIAL ASSURANCES

pt hdg om 2012 No. 16 s 27

When financial assurance may be required

s 364 amd 1997 No. 80 s 16; 2000 No. 64 s 18; 2003 No. 95 ss 25, 3 sch; 2004 No. 48 s 115; 2005 No. 53 s 81; 2007 No. 56 s 6 sch; 2008 No. 52 s 29
om 2012 No. 16 s 27

Person may show cause why financial assurance should not be required for transitional environmental program or site management plan

prov hdg amd 2004 No. 48 s 116(1); 2007 No. 56 s 6 sch
s 365 amd 1997 No. 80 s 17; 2000 No. 64 s 19; 2002 No. 45 s 3(2) sch; 2002 No. 45 s 3(2) sch; 2003 No. 95 s 3 sch; 2004 No. 48 s 116(2)–(5); 2007 No. 56 s 6 sch; 2011 No. 6 s 75
om 2012 No. 16 s 27

Application for amendment or discharge of financial assurance

s 366 amd 1997 No. 80 s 18; 2000 No. 64 s 20; 2002 No. 45 s 3(2) sch; 2003 No. 95 s 3 sch; 2005 No. 53 s 82; 2007 No. 56 s 6 sch
om 2012 No. 16 s 27

Claims on financial assurances

s 367 sub 1997 No. 80 s 19
amd 2000 No. 64 s 21; 2003 No. 95 s 26; 2004 No. 53 s 2 sch (amdt could not be given effect); 2004 No. 48 s 117; 2007 No. 56 s 6 sch; 2009 No. 3 s 463
om 2012 No. 16 s 27

PART 7—SPECIAL PROVISIONS ABOUT WASTE MANAGEMENT

pt hdg ins 1995 No. 52 s 5
om 2011 No. 31 s 305

Chief executive may require local government to remove waste etc.

s 368 ins 1995 No. 52 s 5
om 2011 No. 31 s 305

Restrictions on performing waste management works

s 369 ins 1995 No. 52 s 5
sub 2001 No. 86 s 7; 2008 No. 52 s 30
om 2011 No. 31 s 305

Obtaining approval to perform waste management works

s 369A ins 2001 No. 86 s 7
amd 2002 No. 45 s 3(2) sch
om 2011 No. 31 s 305

Amendment or cancellation of approval

s 369B ins 2001 No. 86 s 7
amd 2002 No. 45 s 3(2) sch
om 2011 No. 31 s 305

Offence of contravening approval

s 369C ins 2008 No. 52 s 31
om 2011 No. 31 s 305

PART 8—CONTAMINATED LAND

pt hdg ins 1997 No. 80 s 21

Division 1—Interpretation

div hdg ins 1997 No. 80 s 21

Definitions for pt 8

s 370 ins 1997 No. 80 s 21
amd 2000 No. 64 s 3(2) sch

Division 2—Inclusion of land on environmental management register

div hdg ins 1997 No. 80 s 21

Owner or occupier of land to notify administering authority

s 371 ins 1997 No. 80 s 21
amd 2000 No. 64 s 3(2) sch

Local government to notify administering authority

s 372 ins 1997 No. 80 s 21
amd 2000 No. 64 s 3(2) sch

Notice to be given to owner of land

s 373 ins 1997 No. 80 s 21
amd 2002 No. 45 s 3(2) sch

Decision about including land in environmental management register

s 374 ins 1997 No. 80 s 21
amd 2000 No. 64 s 3(2) sch; 2002 No. 45 s 3(2) sch

Division 3—Investigation of land on environmental management register

div hdg ins 1997 No. 80 s 21

Voluntary submission of report about investigation

s 375 ins 1997 No. 80 s 21
amd 2012 No. 16 s 78 sch (amd 2013 No. 6 s 50 sch)

Administering authority may require site investigation

s 376 ins 1997 No. 80 s 21
amd 2000 No. 64 s 3(2) sch

Notice to conduct or commission site investigation

s 377 ins 1997 No. 80 s 21
amd 2000 No. 64 s 3(2) sch; 2012 No. 16 s 78 sch (amd 2013 No. 6 s 50 sch)

Waiver of requirement to conduct or commission site investigation

s 378 ins 1997 No. 80 s 21
amd 2000 No. 64 s 3(2) sch; 2002 No. 45 s 3(2) sch

Failure to make decision on waiver of site investigation taken to be refusal

s 379 ins 1997 No. 80 s 21

Procedure to be followed if recipient is not owner

s 380 ins 1997 No. 80 s 21
amd 2002 No. 45 s 3(2) sch; 2008 No. 52 s 32

Who must conduct site investigation

s 381 ins 1997 No. 80 s 21
om 2012 No. 16 s 78 sch

Fee for consideration of report about site investigation

s 382 ins 1997 No. 80 s 21

Declarations to accompany report

s 383 ins 1997 No. 80 s 21
amd 2012 No. 16 s 78 sch

Administering authority to consider and act on site investigation report

s 384 ins 1997 No. 80 s 21
amd 2000 No. 64 s 3(2) sch; 2002 No. 45 s 3(2) sch

Administering authority may require another report or additional information

s 385 ins 1997 No. 80 s 21
amd 2000 No. 64 s 3(2) sch

Owner of land to be given copy of report

s 386 ins 1997 No. 80 s 21
amd 2002 No. 45 s 3(2) sch

Cost of site investigation and report

s 387 ins 1997 No. 80 s 21

Extensions of time for decisions on submission of site investigation report

s 388 ins 1997 No. 80 s 21
amd 2000 No. 64 s 3(2) sch

Failure to make decision on site investigation report taken to be refusal

s 389 ins 1997 No. 80 s 21

Division 4—Remediation of land

div hdg ins 1997 No. 80 s 21

Voluntary remediation of contaminated land

s 390 ins 1997 No. 80 s 21
amd 2012 No. 16 s 78 sch (amd 2013 No. 6 s 50 sch)

Administering authority may require remediation of contaminated land

s 391 ins 1997 No. 80 s 21
amd 2000 No. 64 s 3(2) sch; 2012 No. 16 s 78 sch (amd 2013 No. 6 s 50 sch)

Waiver of requirement to remediate land

s 392 ins 1997 No. 80 s 21
amd 2000 No. 64 s 3(2) sch; 2002 No. 45 s 3(2) sch

Failure to make decision on remediation taken to be refusal

s 393 ins 1997 No. 80 s 21

Procedure to be followed if recipient is not owner

s 394 ins 1997 No. 80 s 21
amd 2002 No. 45 s 3(2) sch; 2008 No. 52 s 33

Fee for consideration of validation report

s 395 ins 1997 No. 80 s 21
sub 2012 No. 16 s 28

Administering authority to consider and act on validation report

s 396 ins 1997 No. 80 s 21
amd 2002 No. 45 s 3(2) sch

Notice to be given of decision made about validation report

s 397 ins 1997 No. 80 s 21
amd 1999 No. 19 sch; 2000 No. 64 s 3(2) sch; 2002 No. 45 s 3(2) sch

Administering authority may require another report or additional information

s 398 ins 1997 No. 80 s 21
amd 2000 No. 64 s 3(2) sch

Extensions of time for consideration of validation report

s 399 ins 1997 No. 80 s 21
amd 2000 No. 64 s 3(2) sch

Failure to make a decision on validation report taken to be refusal

s 400 ins 1997 No. 80 s 21

Division 5—Site management plans

div hdg ins 1997 No. 80 s 21

Subdivision 1—Preliminary

sdiv 1 (ss 401–402) ins 1997 No. 80 s 21

Subdivision 2—Procedure for approval of site management plan

sdiv hdg ins 1997 No. 80 s 21

Voluntary submission of draft site management plan

s 403 ins 1997 No. 80 s 21
amd 2012 No. 16 s 78 sch (amd 2013 No. 6 s 50 sch)

Application for approval of site management plan

s 404 ins 1997 No. 80 s 21

Administering authority may prepare or require site management plan

s 405 ins 1997 No. 80 s 21
amd 2000 No. 64 s 3(2) sch

Requirement to prepare draft site management plan

s 406 ins 1997 No. 80 s 21
amd 2000 No. 64 s 3(2) sch; 2012 No. 16 s 78 sch (amd 2013 No. 6 s 50 sch)

Waiver of requirement to prepare or commission site management plan

s 407 ins 1997 No. 80 s 21
amd 2000 No. 64 s 3(2) sch; 2002 No. 45 s 3(2) sch

Failure to make decision on waiver of site management plan taken to be refusal

s 408 ins 1997 No. 80 s 21

Procedure to be followed if recipient is not owner

s 409 ins 1997 No. 80 s 21
amd 2002 No. 45 s 3(2) sch; 2008 No. 52 s 34

Who must prepare draft site management plan

s 410 ins 1997 No. 80 s 21
om 2012 No. 16 s 78 sch

Administering authority may require another site management plan or additional information

s 411 ins 1997 No. 80 s 21
amd 2000 No. 64 s 3(2) sch

Administering authority to consider draft site management plan

s 412 ins 1997 No. 80 s 21
amd 2002 No. 45 s 3(2) sch

Approval of draft site management plan

s 413 ins 1997 No. 80 s 21
amd 1999 No. 19 sch; 2000 No. 64 s 3(2) sch; 2002 No. 45 s 3(2) sch

Refusal to approve draft site management plan

s 414 ins 1997 No. 80 s 21
amd 2000 No. 64 s 3(2) sch; 2002 No. 45 s 3(2) sch

Extensions of time for decisions on submission of draft site management plans

s 415 ins 1997 No. 80 s 21
amd 2000 No. 64 s 3(2) sch

Failure to approve draft site management plan taken to be refusal

s 416 ins 1997 No. 80 s 21

Subdivision 3—Restriction on local government approvals and authorities

div hdg ins 1997 No. 80 s 21
sub 2000 No. 64 s 23

Approval or authority must not allow contravention of site management plan

s 417 ins 1997 No. 80 s 21
sub 2000 No. 64 s 23
amd 2009 No. 36 s 872 sch 2

Subdivision 4—Amendment of site management plan

sdiv hdg ins 1997 No. 80 s 21

Voluntary amendment of site management plans

s 418 ins 1997 No. 80 s 21

Administering authority may amend or require amendment of site management plan

s 419 ins 1997 No. 80 s 21
amd 2000 No. 64 s 3(2) sch

Subdivision 5—Residual risk requirement

sdiv 5 (ss 419A–419C) ins 2012 No. 16 s 29

Division 6—Notices to be given about land recorded in registers

div hdg ins 1997 No. 80 s 21

Notice to be given about recording of land in contaminated land register

s 420 ins 1997 No. 80 s 21
amd 2002 No. 45 s 3(2) sch

Notice to be given to proposed purchaser of land

s 421 ins 1997 No. 80 s 21

Division 7—Miscellaneous

div hdg ins 1997 No. 80 s 21

Registrar to maintain records about contaminated land

s 422 ins 1997 No. 80 s 21
amd 2002 No. 45 s 3(2) sch

Offence to destroy etc. signs

s 423 ins 1997 No. 80 s 21
amd 2000 No. 64 s 3(2) sch

Removal and treatment or disposal of contaminated soil

s 424 ins 1997 No. 80 s 21
amd 2000 No. 64 s 24, s 3(2) sch

Failure to comply with disposal permit

s 425 ins 2000 No. 64 s 25

PART 4—ENVIRONMENTAL OFFENCES

pt hdg om 2000 No. 64 s 26

CHAPTER 8—GENERAL ENVIRONMENTAL OFFENCES

ch hdg ins 2000 No. 64 s 26

PART 1—OFFENCES RELATING TO ENVIRONMENTALLY RELEVANT ACTIVITIES**pt hdg** ins 2000 No. 64 s 26**Division 1—Offences****div hdg** ins 2000 No. 64 s 26**Environmental authority required for particular environmentally relevant activities****s 426** ins 2000 No. 64 s 26
sub 2003 No. 95 s 27
amd 2004 No. 48 s 118; 2005 No. 53 s 159 sch
sub 2008 No. 52 s 35; 2012 No. 16 s 30 (amd 2013 No. 10 s 13)**Environmental authority required for chapter 5A activity****s 426A** ins 2008 No. 52 s 35
sub 2009 No. 3 s 464
om 2012 No. 16 s 31 (amd 2013 No. 6 s 12)**Offence to operate under environmental authority if not a registered suitable operator in particular circumstances****s 427** ins 2000 No. 64 s 26
sub 2003 No. 95 s 27
amd 2008 No. 52 s 36
sub 2012 No. 16 s 31 (amd 2013 No. 6 s 12)**New approval required for certain activities if significant change****s 428** ins 2000 No. 64 s 26
om 2004 No. 48 s 119**Division 2—Exemptions****div hdg** ins 2000 No. 64 s 26**Special provisions for interstate transporters of controlled waste****s 429** ins 2000 No. 64 s 26
amd 2003 No. 95 s 28; 2004 No. 48 s 120; 2012 No. 16 s 32**PART 2—OFFENCES RELATING TO ENVIRONMENTAL REQUIREMENTS****pt hdg** ins 2000 No. 64 s 26
amd 2003 No. 95 s 3 sch**Division 1—Environmental authorities****div hdg** prev div 1 hdg exp 1 March 1997 (see ss 224– 225)
pres div 1 hdg ins 2000 No. 64 s 26**Contravention of condition of environmental authority****s 430** ins 2000 No. 64 s 26
amd 2003 No. 95 s 3 sch; 2004 No. 48 s 121; 2007 No. 56 s 21; 2009 No. 3 s 465; 2012 No. 16 s 33**Environmental authority holder responsible for ensuring conditions complied with****s 431** ins 2000 No. 64 s 26
amd 2002 No. 45 s 3(2) sch

Division 2—Transitional environmental programs

div hdg prev div 2 hdg exp 1 March 1996 (ss 224, 228)
pres div 2 hdg ins 2000 No. 64 s 26
sub 2007 No. 56 s 6 sch

Contravention of requirement of program

prov hdg amd 2011 No. 6 s 76(1)
s 432 ins 2000 No. 64 s 26
amd 2007 No. 56 s 6 sch; 2011 No. 6 s 76(2)

Contravention of condition of approval

s 432A ins 2011 No. 6 s 77

Approval holder responsible for ensuring program complied with

s 433 ins 2000 No. 64 s 26
amd 2007 No. 56 s 6 sch

Division 3—Site management plans

div 3 (s 434) ins 2000 No. 64 s 26

PART 2A—OFFENCES RELATING TO CONDITIONS

pt hdg (prev ch 8, pt 2, div 4 hdg) ins 2000 No. 64 s 26
sub 2003 No. 95 s 3 sch

Offence to contravene development condition

s 435 ins 2000 No. 64 s 26
om 2012 No. 16 s 34

Offence to contravene prescribed conditions for particular activities

s 435A ins 2003 No. 95 s 29
sub 2012 No. 16 s 35 (amd 2013 No. 10 s 14)

Registered operator responsible for ensuring conditions complied with

s 435B ins 2003 No. 95 s 29
om 2012 No. 16 s 78 sch

PART 3—OFFENCES RELATING TO ENVIRONMENTAL HARM

pt hdg prev pt 3 hdg ins 1996 No. 10 s 27
exp 1 March 1997 (see s 252)
pres pt 3 hdg ins 2000 No. 64 s 26

Division 1—Interpretation

div hdg ins 1996 No. 10 s 27
exp 1 March 1997 (see s 252)

Unlawful environmental harm

s 436 amd 1998 No. 13 s 53; 2000 No. 64 s 27; 2003 No. 95 s 30; 2005 No. 53 s 83;
2007 No. 56 s 6 sch
om 2008 No. 52 s 37

Offences of causing serious environmental harm

s 437 amd 2008 No. 52 s 38

Offences of causing material environmental harm

s 438 amd 2008 No. 52 s 39

Offence of causing environmental nuisance

s 440 amd 2008 No. 52 s 40

PART 3A—OFFENCES RELATING TO DEPOSITING LITTER

pt hdg ins 2007 No. 44 s 4
om 2011 No. 31 s 306

Division 1—Preliminary

div hdg ins 2007 No. 44 s 4
om 2011 No. 31 s 306

Definitions for pt 3A

s 440A ins 2007 No. 44 s 4
amd 2008 No. 52 s 3 sch 1
om 2011 No. 31 s 306

Meaning of litter

s 440B ins 2007 No. 44 s 4
om 2011 No. 31 s 306

Division 2—General offence

div hdg ins 2007 No. 44 s 4
om 2011 No. 31 s 306

When deposit of litter unlawful

s 440C ins 2007 No. 44 s 4
om 2011 No. 6 s 78

Depositing litter

s 440D ins 2007 No. 44 s 4
amd 2011 No. 6 s 79
om 2011 No. 31 s 306

Division 3—Vehicle littering offence

div 3 (ss 440E–440J) ins 2007 No. 44 s 4
om 2011 No. 31 s 306

PART 3B—OFFENCES RELATING TO NOISE STANDARDS

pt hdg ins 2008 No. 52 s 41

Division 1—Preliminary

div hdg ins 2008 No. 52 s 41

Definitions for pt 3B

s 440K ins 2008 No. 52 s 41
def *educational institution* amd 2013 No. 27 s 70 sch 1 pt 2

Meaning of audible noise

s 440L ins 2008 No. 52 s 41
amd 2011 No. 6 s 80

Reference to making a noise

s 440M ins 2008 No. 52 s 41

Noise levels measured at an affected building

s 440N ins 2008 No. 52 s 41

Division 2—Application of noise standards

div hdg ins 2008 No. 52 s 41

Local law may prescribe noise standards

s 440O ins 2008 No. 52 s 41

Default noise standards under div 3

s 440P ins 2008 No. 52 s 41

Offence of contravening a noise standard

s 440Q ins 2008 No. 52 s 41

Division 3—Default noise standards

div hdg ins 2008 No. 52 s 41

Building work

s 440R ins 2008 No. 52 s 41

Regulated devices

s 440S ins 2008 No. 52 s 41

Pumps

s 440T ins 2008 No. 52 s 41

Air-conditioning equipment

s 440U ins 2008 No. 52 s 41

Refrigeration equipment

s 440V ins 2008 No. 52 s 41

Indoor venues

s 440W ins 2008 No. 52 s 41

Open-air events

s 440X ins 2008 No. 52 s 41

Amplifier devices other than at indoor venue or open-air event

s 440Y ins 2008 No. 52 s 41

Power boat sports in waterway

s 440Z ins 2008 No. 52 s 41

Operating power boat engine at premises

s 440ZA ins 2008 No. 52 s 41

Blasting

s 440ZB ins 2008 No. 52 s 41

Outdoor shooting ranges

s 440ZC ins 2008 No. 52 s 41

PART 3C—OFFENCES RELATING TO WATER CONTAMINATION**pt 3C (ss 440ZD–440ZG)** ins 2008 No. 52 s 41**PART 3D—OFFENCES RELATING TO RELEASES FROM BOATS INTO
NON-COASTAL WATERS****pt 3D (ss 440ZH–440ZK)** ins 2008 No. 52 s 41**PART 3E—OFFENCES RELATING TO AIR CONTAMINATION****pt 3E (ss 440ZL–440ZM)** ins 2008 No. 52 s 41**PART 3F—OFFENCES RELATING TO FUEL STANDARDS****pt 3F (ss 440ZN–440ZY)** ins 2008 No. 52 s 41**Division 1—Preliminary****div 1 (ss 440ZN–440ZO)** ins 2008 No. 52 s 41**Division 2—Offences****div hdg** ins 2008 No. 52 s 41**Non-application of div 2****s 440ZP** ins 2008 No. 52 s 41**Supply of fuel that does not comply with Commonwealth fuel standard
determinations****s 440ZQ** ins 2008 No. 52 s 41
amd 2012 No. 16 s 78 sch**Permitted Reid vapour pressure—fuel with particular ethanol content****s 440ZR** ins 2008 No. 52 s 41**Permitted Reid vapour pressure—other fuel****s 440ZS** ins 2008 No. 52 s 41**Division 3—Exemptions****div 3 (ss 440ZT–440ZX)** ins 2008 No. 52 s 41**Division 4—Record keeping****div 4 (s 440ZY)** ins 2008 No. 52 s 41**PART 4—OTHER OFFENCES****pt hdg** ins 2000 No. 64 s 28**Offences of contravention of environmental protection policy or regulation****prov hdg** amd 2007 No. 56 s 22(1)
s 441 amd 2007 No. 56 s 22(2)–(3)
om 2008 No. 52 s 42**Offence of releasing prescribed contaminant****s 442** amd 2007 No. 56 s 23**Offence of interfering with monitoring equipment****s 444** amd 1998 No. 13 s 54

Offence not to notify chapter 4 activity has stopped

s 444A ins 2003 No. 95 s 31
om 2012 No. 16 s 78 sch

CHAPTER 9—INVESTIGATION AND ENFORCEMENT

PART 1—ADMINISTRATION GENERALLY

Appointment of authorised persons

s 445 amd 2000 No. 64 s 3(2) sch

Terms of appointment of authorised persons

s 446 amd 2000 No. 64 s 3(2) sch

Production of identity card

s 449 amd 2000 No. 5 s 461 sch 3 (as amd by 2000 No. 22 s 28)

Administering authority may require relevant information

s 451 amd 2000 No. 64 s 3(2) sch

PART 2—POWERS OF AUTHORISED PERSONS FOR PLACES AND VEHICLES

Entry of place—general

prov hdg sub 2000 No. 64 s 29(1)

s 452 amd 1997 No. 80 s 22; 1998 No. 13 s 55; 2000 No. 64 s 29(2)–(5); 2003 No. 95 s 32; 2008 No. 52 s 43; 2009 No. 3 s 466; 2009 No. 42 s 11; 2012 No. 16 s 36 (amd 2013 No. 10 s 15)

Entry of land—search, test, sample etc. for release of contaminant

s 453 amd 2008 No. 52 s 44; 2011 No. 6 s 81

Entry of land—preliminary investigation

s 454 ins 1997 No. 80 s 23
amd 1999 No. 19 sch; 2000 No. 64 s 30; 2002 No. 45 s 3(2) sch; 2008 No. 52 s 45

Entry of land for access

s 455 ins 2000 No. 64 s 31
amd 2002 No. 45 s 3(2) sch; 2008 No. 52 s 46; 2011 No. 6 s 82

Warrants

s 456 amd 2011 No. 6 s 83

Order to enter land to conduct investigation or conduct work

s 458 ins 1997 No. 80 s 24
amd 2000 No. 64 s 32; 2003 No. 95 s 33; 2007 No. 56 s 6 sch; 2008 No. 52 s 47; 2009 No. 42 s 12; 2012 No. 16 s 37 (amd 2013 No. 10 s 16)

General powers for places and vehicles

s 460 amd 1997 No. 80 s 25; 2008 No. 52 s 3 sch 1

Procedure after seizure of evidence

s 462 amd 2008 No. 52 s 3 sch 1

**PART 2A—POWER OF AUTHORISED PERSONS TO GIVE DIRECTIONS
ABOUT LITTER REMOVAL**

pt 2A (s 463A) ins 2007 No. 44 s 5
om 2011 No. 31 s 307

PART 3—OTHER ENFORCEMENT POWERS OF AUTHORISED PERSONS

pt hdg sub 1995 No. 40 s 7
amd 2000 No. 5 s 461 sch 3

Power to require name and address

s 464 amd 1995 No. 40 s 8; 1998 No. 19 s 25; 2000 No. 5 s 461 sch 3

Power to require answers to questions

s 465 amd 2011 No. 6 s 84

Power to require production of documents

s 466 amd 1998 No. 13 s 56

Application of pt 4

s 466A ins 2012 No. 43 s 233

What is an *emergency*

s 466B ins 2012 No. 43 s 233

Emergency powers

prov hdg sub 2012 No. 43 s 234(1)

s 467 amd 2004 No. 53 s 2 sch; 2012 No. 43 s 234(2)–(3); 2013 No. 55 s 175 sch 1
pt 1

Authorised person may direct emergency release of contaminant

s 468 om 2012 No. 43 s 235

PART 5—OFFENCES

Failure to give information to administering authority

s 470 amd 2011 No. 6 s 142 sch

Failure to help authorised person—emergency

s 473 amd 1998 No. 13 s 57; 2002 No. 45 s 29(2); 2011 No. 6 s 85

Failure to help authorised person—other cases

s 474 amd 1998 No. 13 s 58; 2011 No. 6 s 142 sch

Failure to comply with authorised person’s direction to remove litter

s 474A ins 2007 No. 44 s 6
om 2011 No. 31 s 308

Failure to attend or answer questions

prov hdg amd 2011 No. 6 s 86(1)

s 476 amd 1999 No. 19 sch; 2011 No. 6 s 86(2)–(3)

Failure to comply with authorised person’s direction in emergency

s 478 sub 2008 No. 52 s 48
amd 2011 No. 3 s 12; 2012 No. 43 s 236

Offences in relation to release of contaminant in emergency

s 479 om 2012 No. 43 s 237

False or misleading documents

prov hdg amd 2011 No. 6 s 87(1)

s 480 amd 2004 No. 48 s 122; 2005 No. 53 s 84; 2011 No. 3 s 13; 2011 No. 6 s 87(2)–(5); 2012 No. 16 s 78 sch

Incomplete documents

s 480A ins 2011 No. 6 s 88

False or misleading information

s 481 amd 2005 No. 53 s 85

Obstruction of authorised persons

s 482 sub 2008 No. 52 s 49

amd 2013 No. 6 s 50 sch

PART 6—GENERAL

Authorised person to give notice of seizure or damage

s 486 amd 2008 No. 52 s 50; 2013 No. 6 s 50 sch

Compensation

s 487 amd 2008 No. 52 s 51; 2012 No. 43 s 325 sch 2

Administering authority to reimburse costs and expenses incurred

s 488 amd 2008 No. 52 s 52; 2012 No. 43 s 325 sch 2

Costs of investigation or remediation to be paid by recipient

s 489 ins 1997 No. 80 s 27

CHAPTER 10—LEGAL PROCEEDINGS

PART 1—EVIDENCE

Evidentiary provisions

s 490 amd 1997 No. 80 s 28; 2000 No. 64 s 33; 2003 No. 95 s 34; 2009 No. 42 s 13; 2012 No. 16 s 78 sch

Special evidentiary provision—particular emissions

s 491 amd 2000 No. 64 s 34

sub 2008 No. 52 s 53

Further special evidentiary provisions for noise

s 491A ins 2008 No. 52 s 53

Responsibility for acts or omissions of representatives

s 492 amd 2005 No. 53 s 86

PART 2A—UNLAWFULNESS OF PARTICULAR ACTS

pt hdg ins 2008 No. 52 s 54

When environmental harm or related acts are unlawful

s 493A amd 2009 No. 42 s 14; 2012 No. 16 s 38 (amd 2013 No. 10 s 17)

PART 3—LEGAL PROCEEDINGS**Indictable and summary offences**

s 494 amd 2003 No. 96 s 28 sch

Proceedings for indictable offences

s 495 amd 2004 No. 48 s 123

Notice of defence

s 498 amd 2000 No. 64 s 35; 2002 No. 45 s 3(2) sch; 2007 No. 56 s 24

Proof of authority

s 499 amd 2003 No. 95 s 35; 2012 No. 16 s 78 sch

Fines payable to local government

s 500 amd 2002 No. 45 s 19

Court may make particular orders

s 502 sub 2011 No. 6 s 89
 amd 2012 No. 16 s 39

Administering authority may take action and recover costs

s 502A ins 2011 No. 6 s 89

Recovery of costs of investigation

s 503 amd 2002 No. 45 s 20; 2007 No. 56 s 25

PART 4—RESTRAINT ORDERS**Application of pt 4**

s 504 ins 1998 No. 13 s 59
 om 2012 No. 16 s 78 sch

Restraint of contraventions of Act etc.

s 505 amd 2008 No. 52 s 55

PART 5—ENFORCEMENT ORDERS

pt 5 (ss 507–513) ins 1998 No. 13 s 60
 om 2012 No. 16 s 78 sch

CHAPTER 11—ADMINISTRATION**PART 1—DEVOLUTIONS****Devolution of powers**

s 514 amd 1996 No. 10 s 17; 1997 No. 80 s 29; 1998 No. 13 s 61; 2007 No. 56 s 26;
 2008 No. 52 s 56

PART 2—DELEGATIONS**Delegation by Minister**

s 515 amd 2000 No. 64 s 3(2) sch

Delegation by chief executive

s 516 sub 2000 No. 64 s 36; 2002 No. 45 s 21

Delegation by administering executive or local government chief executive officer

s 517 ins 2000 No. 64 s 36
 sub 2002 No. 45 s 21

Delegation by administering authority

s 518 amd 2000 No. 64 s 3(2) sch
sub 2002 No. 45 s 21

PART 3—REVIEW OF DECISIONS AND APPEALS

Division 1—Interpretation

Original decisions

s 519 (prev s 520) renum and reloc 2000 No. 64 s 3(2) sch
amd 2008 No. 52 s 3 sch 1

Dissatisfied person

s 520 (prev s 521) amd 1995 No. 52 s 6; 1996 No. 10 s 18; 1997 No. 80 s 30; 1999
No. 19 sch; 2000 No. 64 s 37
renum and reloc 2000 No. 64 s 3(2) sch
amd 2001 No. 46 s 7(2) sch 2; 2001 No. 86 s 8; 2002 No. 45 ss 22, 3(2) sch;
2003 No. 95 ss 36, 3 sch; 2004 No. 48 s 124; 2007 No. 56 ss 27, 6 sch;
2008 No. 37 s 3; 2008 No. 52 s 57; 2009 No. 3 s 467; 2009 No. 42 s 15;
2011 No. 31 s 309; 2012 No. 43 s 238; 2012 No. 16 s 40 (amd 2012 No. 43
s 245)

Division 2—Internal review of decisions

Procedure for review

s 521 amd 1996 No. 10 s 19; 2002 No. 45 s 3(2) sch; 2008 No. 52 s 58; 2012 No. 16
s 41

Stay of operation of particular original decisions

prov hdg amd 2012 No. 16 s 42(1)

s 522 amd 2000 No. 64 s 38; 2007 No. 39 s 41 sch; 2008 No. 52 s 3 sch 1; 2012 No.
16 s 42(2)

Division 3—Appeals

div hdg sub 2000 No. 64 s 39

Subdivision 1—Appeals to Land Court

sdiv hdg ins 2000 No. 64 s 39
amd 2007 No. 39 s 41 sch

Review decisions subject to Land Court appeal

prov hdg amd 2007 No. 39 s 41 sch

s 523 ins 2000 No. 64 s 39
amd 2008 No. 52 s 3 sch 1

Right of appeal

s 524 ins 2000 No. 64 s 39
amd 2007 No. 39 s 41 sch

Appeal period

s 525 ins 2000 No. 64 s 39
amd 2002 No. 45 s 3(2) sch; 2007 No. 39 s 41 sch

Land Court mediation

prov hdg amd 2007 No. 39 s 41 sch
s 526 ins 2000 No. 64 s 39
 amd 2007 No. 39 s 41 sch

Nature of appeal

s 527 ins 2000 No. 64 s 39

Land Court's powers for appeal

prov hdg amd 2007 No. 39 s 41 sch
s 528 ins 2000 No. 64 s 39
 amd 2007 No. 39 s 41 sch

Decision for appeals against refusals under s 207

s 529 ins 2000 No. 64 s 39
 amd 2004 No. 48 s 125; 2007 No. 39 s 41 sch
 om 2012 No. 16 s 43

Decision for appeals

prov hdg amd 2012 No. 16 s 44(1)
s 530 ins 2000 No. 64 s 39
 amd 2004 No. 53 s 2 sch; 2007 No. 39 s 41 sch; 2011 No. 6 s 90; 2012 No. 16
 s 44(2)–(5)

Subdivision 2—Appeals to Court

sdiv hdg ins 2000 No. 64 s 39

Who may appeal

s 531 amd 2000 No. 64 s 40; 2012 No. 16 s 45

How to start appeal

s 532 amd 2002 No. 45 s 3(2) sch

Appellant to give notice of appeal to other parties

s 533 amd 2000 No. 64 s 3(2) sch

Stay of decision to issue a clean-up notice

s 535A ins 2008 No. 52 s 59

Appeals may be heard with planning appeals

s 538 amd 1997 No. 80 s 31; 2000 No. 64 s 3(2) sch; 2003 No. 95 s 37; 2009 No. 36
 s 872 sch 2; 2009 No. 42 s 16; 2012 No. 16 s 46

PART 4—GENERAL**Registers to be kept by administering authority**

prov hdg sub 1997 No. 80 s 32(1)
s 540 amd 1997 No. 80 s 32(2); 1998 No. 13 s 62
 sub 2000 No. 64 s 41
 amd 2002 No. 45 s 23; 2003 No. 95 ss 38, 3 sch; 2004 No. 48 s 126; 2005 No.
 53 s 87; 2007 No. 56 s 6 sch; 2008 No. 52 s 60; 2009 No. 3 s 468; 2009 No.
 42 s 17; 2011 No. 3 s 14; 2012 No. 43 s 239
 sub 2012 No. 16 s 47 (amd 2012 No. 43 s 246)

Registers to be kept by chief executive

s 540A ins 2012 No. 16 s 47 (amd 2013 No. 6 s 13)

Keeping of registers

s 541 ins 2000 No. 64 s 41
sub 2012 No. 16 s 47

Inspection of register

s 542 amd 1997 No. 80 s 33; 2000 No. 64 s 42; 2012 No. 16 s 48

Appropriate fee for copies

s 543 ins 2000 No. 64 s 43
amd 2012 No. 16 s 49

Approved forms

s 544 amd 2000 No. 64 s 44

Chief executive may require administering authority to report

s 546 amd 2002 No. 45 s 24
sub 2012 No. 16 s 50

Chief executive to provide annual report

s 546A sub 2012 No. 16 s 50

CHAPTER 12—MISCELLANEOUS

PART 1—GUIDELINES

pt hdg ins 2000 No. 64 s 45
sub 2012 No. 16 s 51

Chief executive may make guidelines for administering authorities

s 548 amd 1997 No. 80 s 34
sub 2012 No. 16 s 51

Chief executive may make guidelines to inform persons

s 549 ins 2000 No. 64 s 46
amd 2004 No. 48 s 127; 2005 No. 53 s 88
sub 2012 No. 16 s 51

When standard environmental conditions must be complied with

s 549A ins 2003 No. 95 s 39; 2005 No. 53 s 89
om 2012 No. 16 s 51

Effect of changes to standard environmental conditions

s 550 ins 2000 No. 64 s 46
sub 2004 No. 48 s 128
om 2012 No. 16 s 51

Effect of changes to standard environmental conditions (chapter 4 activities)

s 550A ins 2003 No. 95 s 40
om 2004 No. 48 s 128

PART 2—GENERAL PROVISIONS ABOUT APPLICATIONS AND SUBMISSIONS

pt hdg ins 2000 No. 64 s 46

Definitions for pt 2

- s 551** ins 2000 No. 64 s 46
def *EMP submission* om 2007 No. 56 s 28(2)
amd 2007 No. 56 s 6 sch (amdt could not be given effect)
def *TEP submission* ins 2007 No. 56 s 28(2)
om 2012 No. 16 s 53

When documents are served

- prov hdg** amd 2007 No. 56 s 6 sch
s 552 ins 2000 No. 64 s 46
amd 2002 No. 45 ss 25, 3(2) sch; 2007 No. 56 s 6 sch; 2011 No. 6 s 91
sub 2012 No. 16 s 54

Electronic applications and submissions

- s 553** ins 2000 No. 64 s 46

Electronic notices about applications and submissions

- s 554** ins 2000 No. 64 s 46
amd 2012 No. 16 s 55

Extension of decision period

- s 555** ins 2000 No. 64 s 46
amd 2004 No. 53 s 2 sch; 2007 No. 56 s 6 sch
om 2012 No. 16 s 56

Administering authority may seek advice, comment or information

- s 556** ins 2000 No. 64 s 46
amd 2007 No. 56 s 6 sch
om 2012 No. 16 s 56

Decision criteria are not exhaustive

- s 557** ins 2000 No. 64 s 46
amd 2007 No. 56 s 6 sch
om 2012 No. 16 s 56

Publication of decision or document by administering authority

- s 558** ins 2000 No. 64 s 46
amd 2001 No. 86 s 9

Investigation of applicant suitability or disqualifying events

- s 559** ins 2000 No. 64 s 46
amd 2003 No. 95 s 41
om 2012 No. 16 s 57

Use of information in suitability report

- s 560** ins 2000 No. 64 s 46
amd 2002 No. 45 s 3(2) sch
om 2012 No. 16 s 57

Notice of use of information in suitability report

- s 561** ins 2000 No. 64 s 46
om 2012 No. 16 s 57

Confidentiality of suitability reports

s 562 ins 2000 No. 64 s 46
amd 2007 No. 39 s 41 sch
om 2012 No. 16 s 57

Destruction of suitability reports

s 563 ins 2000 No. 64 s 46
om 2012 No. 16 s 57

Division 1—Preliminary

div hdg orig ch 12 pt 2 div 1 hdg ins 2000 No. 64 s 46
om 2012 No. 16 s 52

Division 2—General provisions

div hdg orig ch 12 pt 2 div 2 hdg ins 2000 No. 64 s 46
om 2012 No. 16 s 52

Division 3—Investigating suitability

div hdg orig ch 12 pt 2 div 3 hdg ins 2000 No. 64 s 46
om 2012 No. 16 s 57

PART 3—EXEMPTION FROM DISCLOSURE

pt hdg prev pt 3 hdg ins 2000 No. 64 s 46
om 2011 No. 6 s 92
pres pt 3 hdg ins 2012 No. 16 s 58

Definitions for pt 3

s 564 prev s 564 ins 2000 No. 64 s 46
om 2011 No. 6 s 92
pres s 564 ins 2012 No. 16 s 58

Only suitably qualified person can perform regulatory functions

s 565 prev s 565 ins 2000 No. 64 s 46
om 2011 No. 6 s 92
pres s 565 ins 2012 No. 16 s 58

Declaration to accompany document

s 566 prev s 566 ins 2000 No. 64 s 46
om 2011 No. 6 s 92
pres s 566 ins 2012 No. 16 s 58

Division 1—Obtaining disclosure exemption

div hdg orig ch 12 pt 3 div 1 hdg ins 2000 No. 64 s 46
om 2011 No. 6 s 92

Division 2—Effects of disclosure exemption

div hdg orig ch 12 pt 3 div 2 hdg ins 2000 No. 64 s 46
om 2011 No. 6 s 92

Subdivision 1—Preliminary

sdiv hdg orig ch 12 pt 3 div 2 sdiv 1 hdg ins 2000 No. 64 s 46
om 2011 No. 6 s 92

Subdivision 2—Effects

sdiv hdg orig ch 12 pt 3 div 2 sdiv 2 hdg ins 2000 No. 64 s 46
om 2011 No. 6 s 92

PART 3A—AUDITORS

pt hdg ins 2012 No. 16 s 58

Division 1—Preliminary

div hdg ins 2012 No. 16 s 58

Who is an auditor

s 567 prev s 567 ins 2000 No. 64 s 46
om 2011 No. 6 s 92
pres s 567 ins 2012 No. 16 s 58

Auditor's functions

s 568 prev s 568 ins 2000 No. 64 s 46
om 2011 No. 6 s 92
pres s 568 ins 2012 No. 16 s 58

Division 2—Obtaining approval as auditor

div hdg ins 2012 No. 16 s 58

Who may apply

s 569 prev s 569 ins 2000 No. 64 s 46
om 2011 No. 6 s 92
pres s 569 ins 2012 No. 16 s 58

Requirements for application

s 570 prev s 570 ins 2000 No. 64 s 46
om 2011 No. 6 s 92
pres s 570 ins 2012 No. 16 s 58

Deciding application

s 571 prev s 571 ins 2000 No. 64 s 46
om 2011 No. 6 s 92
pres s 571 ins 2012 No. 16 s 58

Criteria for decision

s 572 prev s 572 ins 2000 No. 64 s 46
amd 2007 No. 39 s 41 sch
om 2011 No. 6 s 92
pres s 572 ins 2012 No. 16 s 58

Notice of decision

s 573 prev s 573 ins 2000 No. 64 s 46
om 2011 No. 6 s 92
pres s 573 ins 2012 No. 16 s 58

Term of approval

s 574 prev s 574 ins 2000 No. 64 s 46
om 2011 No. 6 s 92
pres s 574 ins 2012 No. 16 s 58 (amd 2013 No. 6 s 14(1))

Division 3—Performance of auditor’s functions

div hdg ins 2012 No. 16 s 58

Who may perform auditor’s functions

s 574A ins 2012 No. 16 s 58 (amd 2013 No. 6 s 14(2))

Auditor must comply with approval

s 574B ins 2012 No. 16 s 58

Report and declaration to accompany document

s 574C ins 2012 No. 16 s 58

Division 4—Suspension or cancellation of approval

div 4 (ss 574D–574G) ins 2012 No. 16 s 58

Division 5—Complaints

div 5 (ss 574H–574J) ins 2012 No. 16 s 58

Division 6—Miscellaneous

div 6 (ss 574K–574M) ins 2012 No. 16 s 58

PART 4—ENTRY TO LAND TO COMPLY WITH ENVIRONMENTAL REQUIREMENT

pt hdg ins 2000 No. 64 s 46

Entry orders

s 575 ins 2000 No. 64 s 46
amd 2004 No. 48 s 129; 2008 No. 52 s 61

Procedure for entry under entry order

s 576 ins 2000 No. 64 s 46

Duty to avoid damage

s 577 ins 2000 No. 64 s 46

Notice of damage

s 578 ins 2000 No. 64 s 46

Compensation

s 579 ins 2000 No. 64 s 46
sub 2004 No. 48 s 130
amd 2009 No. 3 s 469; 2010 No. 12 s 251 sch; 2010 No. 31 s 496 sch 2 pt 4;
2013 No. 2 s 117; 2013 No. 55 s 175 sch 1 pt 2

PART 4A—VALIDATION

pt 4A (s 579A) ins 2007 No. 46 s 43B

PART 4B—PROTOCOLS AND STANDARDS

pt 4B (ss 579B–579C) ins 2008 No. 52 s 62

PART 4C—DECLARATION

pt 4C (s 579D) ins 2013 No. 10 s 3A
exp 1 April 2013 (see s 579D(3))

PART 5—REGULATIONS**pt hdg** ins 2000 No. 64 s 46**Regulation-making power****prov hdg** sub 1996 No. 10 s 20(1)**s 580** amd 1995 No. 52 s 7; 1996 No. 10 s 20(2); 1997 No. 80 s 35; 1998 No. 13 s 63; 1999 No. 19 sch; 2000 No. 64 s 47; 2001 No. 86 s 10; 2007 No. 56 s 29; 2008 No. 52 s 63; 2009 No. 36 s 872 sch 2; 2011 No. 31 s 310; 2012 No. 16 s 59**CHAPTER 13—SAVINGS, TRANSITIONAL AND RELATED PROVISIONS****ch hdg** amd R1 (see RA s 7(1)(k)); 1996 No. 10 s 21

sub 2000 No. 64 s 48

PART 1—TRANSITIONAL PROVISIONS FOR ENVIRONMENTAL PROTECTION AND OTHER LEGISLATION AMENDMENT ACT 1997**pt hdg** prev pt 1 hdg amd R1 (see RA s 7(1)(k))

pres pt 1 hdg ins 2000 No. 64 s 50

amd 2002 No. 45 s 3(2) sch

Transfer of certain land on contaminated sites register to environmental management register**s 582** ins 1997 No. 80 s 36**Transfer of certain land on contaminated sites register to contaminated land register****s 583** ins 1997 No. 80 s 36**PART 2—TRANSITIONAL PROVISIONS FOR ENVIRONMENTAL PROTECTION AND OTHER LEGISLATION AMENDMENT ACT 2000****pt hdg** ins 2000 No. 64 s 52

amd 2002 No. 45 s 3(2) sch

Division 1—Preliminary**div hdg** ins 2000 No. 64 s 52**Definitions for pt 2****s 584** ins 2000 No. 64 s 52def *additional conditions* ins 2004 No. 48 s 131(2)def *amendment notice* ins 2008 No. 37 s 4def *conversion application* sub 2004 No. 48 s 131def *special agreement Act* reloc from s 614(2) 2008 No. 37 s 7(2)

amd 2008 No. 52 s 3 sch 1

Division 2—Existing environmental authorities and mining activities**div hdg** ins 2000 No. 64 s 52**Subdivision 1—Preliminary****sdiv hdg** ins 2000 No. 64 s 52**What is a *condition* of a mining tenement for div 2****s 585** ins 2000 No. 64 s 52

amd 2003 No. 96 s 28 sch; 2004 No. 48 s 132; 2012 No. 20 s 281 sch 2

Subdivision 2—Existing authorities for mining activities

sdiv hdg ins 2000 No. 64 s 52

Existing authority becomes an environmental authority (mining activities)

s 586 ins 2000 No. 64 s 52

Existing authority becomes an environmental authority (mining activities)

s 586A ins 2003 No. 95 s 42

Conditions of environmental authority

s 587 ins 2000 No. 64 s 52
amd 2003 No. 95 s 43

Subdivision 3—Existing mining activities without environmental authority

sdiv hdg ins 2000 No. 64 s 52

New environmental authority (mining activities) for existing activities

s 588 ins 2000 No. 64 s 52

Conditions of environmental authority

s 589 ins 2000 No. 64 s 52
amd 2007 No. 36 s 2 sch

Division 3—Unfinished applications

div 3 (ss 590–591) ins 2000 No. 64 s 52

Division 4—Transitional authorities for mining activities

div hdg ins 2000 No. 64 s 52

Subdivision 1—Preliminary

sdiv hdg ins 2000 No. 64 s 52

Meaning of *transitional authority* for div 4

s 592 ins 2000 No. 64 s 52
amd 2003 No. 95 s 44

Subdivision 2—Special provisions for transitional authorities

sdiv hdg ins 2000 No. 64 s 52

Transitional authority taken to be non-code compliant

s 593 ins 2000 No. 64 s 52
sub 2004 No. 48 s 133
amd 2008 No. 52 s 64

Limited application of s 426 for transitional authority

prov hdg amd 2005 No. 53 s 159 sch
s 594 ins 2000 No. 64 s 52
amd 2004 No. 53 s 2 sch; 2005 No. 53 s 159 sch

Requirement to apply to amend, surrender or transfer transitional authority

prov hdg amd 2002 No. 45 s 3(2) sch
s 595 ins 2000 No. 64 s 52

Notice by administering authority to amend, surrender or transfer transitional authority

prov hdg amd 2002 No. 45 s 3(2) sch
s 596 ins 2000 No. 64 s 52

Consequences of failure to comply with reminder notice

s 597 ins 2000 No. 64 s 52

Financial assurance for transitional authority

s 598 ins 2000 No. 64 s 52

Effect of financial assurance on security

s 599 ins 2000 No. 64 s 52

Plan of operations

s 600 ins 2000 No. 64 s 52
amd 2002 No. 45 s 3(2) sch

Annual fee and return for first year of transitional period

s 601 ins 2000 No. 64 s 52

Anniversary day for certain transitional authorities

s 602 ins 2000 No. 64 s 52

Subdivision 3—Amendment and consolidation of transitional authorities

sdiv hdg ins 2000 No. 64 s 52

Application to convert transitional authority to environmental authority for a level 2 mining project

s 603 ins 2000 No. 64 s 52
sub 2004 No. 48 s 134

Requirements for conversion application

s 603A ins 2004 No. 48 s 134

Automatic conversion for particular applications

s 603B ins 2004 No. 48 s 134

Deciding application if additional conditions requested

s 603C ins 2004 No. 48 s 134

Other amendment applications

s 604 ins 2000 No. 64 s 52

Additional grounds for amendment by administering authority

s 605 ins 2000 No. 64 s 52

Ministerial power to amend

s 606 ins 2000 No. 64 s 52

Consolidation of conditions for same mining project

s 607 ins 2000 No. 64 s 52

Subdivision 4—Environmental management plan requirements

sdiv hdg ins 2000 No. 64 s 52
amd 2004 No. 48 s 135

Environmental management plan may be required

prov hdg amd 2004 No. 48 s 136(1)
s 608 ins 2000 No. 64 s 52
amd 2004 No. 48 s 136(2)–(3)

Consequence of failure to comply with requirement

s 609 ins 2000 No. 64 s 52

Division 5—Transitional provisions other than for mining activities

div 5 (ss 610–612) ins 2000 No. 64 s 52

Division 6—Original provisions about special agreement Acts

div hdg ins 2000 No. 64 s 52
sub 2008 No. 37 s 5

Existing Act continues to apply for special agreement Acts until div 7 commences

prov hdg amd 2008 No. 37 s 7(1)
s 614 ins 2000 No. 64 s 52
amd 2004 No. 5 s 8 sch; 2008 No. 37 s 7(3)

Division 7—Provisions about special agreement Acts inserted under Environmental Protection and Other Legislation Amendment Act 2008

div hdg ins 2008 No. 37 s 9

Subdivision 1—Preliminary

sdiv hdg ins 2008 No. 37 s 9

Definitions for div 7

s 615 prev s 615 ins 2000 No. 64 s 52
exp 1 January 2006 (see s 615(4))
pres s 615 ins 2008 No. 37 s 9

What is a *condition* under a special agreement Act

prov hdg sub 2002 No. 45 s 3(2) sch
s 616 prev s 616 ins 2000 No. 64 s 52
amd 2002 No. 45 s 3(2) sch
om 2008 No. 37 s 8
pres s 616 ins 2008 No. 37 s 9

EPA provisions prevail

s 616A ins 2008 No. 37 s 9

Subdivision 2—Conversion of SAA environmental authorities (mining)

sdiv hdg ins 2008 No. 37 s 9

Conversion to transitional authority (SAA)

s 616B ins 2008 No. 37 s 9

Conditions of transitional authority (SAA)

s 616C ins 2008 No. 37 s 9

Changing conditions of transitional authority (SAA)

s 616D ins 2008 No. 37 s 9
amd 2010 No. 52 s 19

Subdivision 3—Unfinished applications

sdiv 3 (s 616E) ins 2008 No. 37 s 9

Subdivision 4—Special provisions for transitional authorities (SAA)

sdiv hdg ins 2008 No. 37 s 9

Transitional authority (SAA) taken to be non-code compliant

s 616F ins 2008 No. 37 s 9

Limited application of s 426 for transitional authority (SAA)

s 616G ins 2008 No. 37 s 9

Requirement to apply for new authority or amend etc. transitional authority (SAA)

s 616H ins 2008 No. 37 s 9
amd 2010 No. 52 s 20

Financial assurance for transitional authority (SAA)

s 616I ins 2008 No. 37 s 9

Effect of financial assurance on security

s 616J ins 2008 No. 37 s 9

Plan of operations

s 616K ins 2008 No. 37 s 9

First anniversary day for transitional authority (SAA)

s 616L ins 2008 No. 37 s 9

End of transitional authority (SAA)

s 616M ins 2008 No. 37 s 9
amd 2010 No. 52 s 21

Subdivision 5—Applications for new authorities

sdiv hdg ins 2008 No. 37 s 9

Application of sdiv 5

s 616N ins 2008 No. 37 s 9
amd 2010 No. 52 s 22

Application of current Act to new authority application

s 616O ins 2008 No. 37 s 9

No public notice or EIS requirement for particular new authority application

s 616P ins 2008 No. 37 s 9

Reference to State government agreement includes particular rights

s 616Q ins 2008 No. 37 s 9
amd 2008 No. 52 s 3 sch 1

Subdivision 6—Amendment of transitional authorities (SAA) for conversion to new authorities

sdiv hdg ins 2008 No. 37 s 9

Application of sdiv 6

s 616R ins 2008 No. 37 s 9
amd 2010 No. 52 s 23

Application of current Act to amendment application

s 616S ins 2008 No. 37 s 9

No public notice or EIS requirement for particular amendment applications

s 616T ins 2008 No. 37 s 9

Reference to State government agreement includes particular rights

s 616U ins 2008 No. 37 s 9
amd 2008 No. 52 s 3 sch 1

Consolidation of conditions for same mining project

s 616V ins 2008 No. 37 s 9

Subdivision 7—Amendment of transitional authorities (SAA) other than by application

sdiv 7 (ss 616W–616X) ins 2008 No. 37 s 9

Subdivision 8—Provisions for chapter 4 activities

sdiv hdg ins 2008 No. 37 s 9

Application of sdiv 8

s 616Y ins 2008 No. 37 s 9

Continuing effect of environmental authority as a registration certificate and development approval

s 616Z ins 2008 No. 37 s 9
amd 2009 No. 36 s 872 sch 2

Additional ground for changing or cancelling development conditions

s 616ZA ins 2008 No. 37 s 9

End of environmental authority

s 616ZB ins 2008 No. 37 s 9
amd 2009 No. 36 s 872 sch 2

Administering authority may issue replacement documents

s 616ZC ins 2008 No. 37 s 9

Subdivision 9—Other matters

sdiv 9 (ss 616ZCA–616ZCB) ins 2008 No. 37 s 9

Division 8—Miscellaneous provision

div hdg ins 2008 No. 37 s 9

Requirement to seek advice from MRA chief executive

s 616ZD (prev s 613) ins 2000 No. 64 s 52
reloc and renum 2008 No. 37 s 6

**PART 3—VALIDATION PROVISION FOR ENVIRONMENTAL PROTECTION
AND ANOTHER ACT AMENDMENT ACT 2002**

pt hdg ins 2002 No. 10 s 5

Validation of particular environmental authorities

s 617 ins 2002 No. 10 s 5
amd 2003 No. 95 s 3 sch

**PART 4—TRANSITIONAL PROVISION FOR ENVIRONMENTAL
PROTECTION AND OTHER LEGISLATION AMENDMENT ACT 2002**

pt 4 (s 618) ins 2002 No. 45 s 26

**PART 5—TRANSITIONAL PROVISIONS FOR ENVIRONMENTAL
PROTECTION LEGISLATION AMENDMENT ACT 2003**

pt hdg ins 2003 No. 95 s 45

Continuing effect of particular environmental authorities

s 619 ins 2003 No. 95 s 45
amd 2005 No. 53 s 90; 2009 No. 36 s 872 sch 2

Additional ground for changing or cancelling development conditions

s 620 ins 2003 No. 95 s 45

Administering authority may issue replacement documents

s 621 ins 2003 No. 95 s 45

Effect of commencement on particular integrated authorities

s 622 ins 2003 No. 95 s 45
om 2004 No. 48 s 137

**Effect of commencement on level 1 approvals for particular environmentally relevant
activities**

s 623 ins 2003 No. 95 s 45

Effect of commencement on particular approvals

s 624 ins 2003 No. 95 s 45
amd 2005 No. 53 s 91; 2009 No. 36 s 872 sch 2

**Effect of commencement on applications for development approvals for level 2
environmentally relevant activities**

s 625 ins 2003 No. 95 s 45

Effect of commencement on particular applications in progress

s 626 ins 2003 No. 95 s 45

Effect of commencement on development approval applications in progress

s 627 ins 2003 No. 95 s 45

Effect of commencement on particular actions in progress

s 628 ins 2003 No. 95 s 45

**Continuing operation of s 594 (Limited application of s 427 for transitional
authority)**

s 629 ins 2003 No. 95 s 45
om 2005 No. 53 s 92

Continuing operation of s 611 (Unfinished applications under existing Act)

s 630 ins 2003 No. 95 s 45

**PART 6—TRANSITIONAL PROVISIONS FOR PETROLEUM AND OTHER
LEGISLATION AMENDMENT ACT 2004**

pt hdg ins 2004 No. 26 s 270

Financial assurance if security for related petroleum authority is monetary

s 631 ins 2004 No. 26 s 270
amd 2005 No. 53 s 93

Financial assurance if security for related petroleum authority is non-monetary

s 632 ins 2004 No. 26 s 270
amd 2005 No. 53 s 94

Effect of financial assurance on the security

s 633 ins 2004 No. 26 s 270

Amendment of financial assurance condition under this part

s 634 ins 2004 No. 26 s 270
amd 2005 No. 53 s 95

**PART 7—TRANSITIONAL PROVISIONS FOR ENVIRONMENTAL
PROTECTION AND OTHER LEGISLATION AMENDMENT ACT 2004**

pt hdg ins 2004 No. 48 s 138

Division 1—Original provisions

div hdg ins 2004 No. 48 s 138
sub 2008 No. 37 s 10

Subdivision 1—Preliminary

sdiv hdg ins 2008 No. 37 s 10

Definitions for div 1

prov hdg amd 2008 No. 37 s 11(1)
s 635 ins 2004 No. 48 s 138
amd 2008 No. 37 s 11(2)

Subdivision 2—Provisions for former integrated authorities

div hdg (prev ch 13 pt 7 div 2 hdg) ins 2004 No. 48 s 138
amd 2008 No. 37 s 12

Application of sdiv 2

prov hdg amd 2008 No. 37 s 13(1)
s 636 ins 2004 No. 48 s 138
amd 2008 No. 37 s 13(2)

Continuing status of each constituent part as an environmental authority

s 637 ins 2004 No. 48 s 138

**Re-issuing of environmental authorities if they do not form a single mining or
petroleum project**

s 638 ins 2004 No. 48 s 138

Subdivision 3—Other provisions

div hdg (prev ch 13 pt 7 div 3 hdg) ins 2004 No. 48 s 138
amd 2008 No. 37 s 12

Environmental authorities under old chapter 4A

s 639 ins 2004 No. 48 s 138

Applications in progress under old chapter 4A

s 640 ins 2004 No. 48 s 138

Existing environmental management documents

s 641 ins 2004 No. 48 s 138

Division 2—Provisions inserted under Environmental Protection and Other Legislation Amendment Act 2007

div hdg (prev ch 13 pt 7 div 4 hdg) ins 2007 No. 56 s 30
renum 2008 No. 37 s 14

Definition for div 2

prov hdg amd 2008 No. 37 s 15
s 641A ins 2007 No. 56 s 30

Non-standard environmental authority taken to be environmental authority for level 1 mining project

s 641B ins 2007 No. 56 s 30

Standard environmental authority taken to be environmental authority for level 2 mining project

s 641C ins 2007 No. 56 s 30

PART 8—TRANSITIONAL PROVISIONS FOR ENVIRONMENTAL PROTECTION AND OTHER LEGISLATION AMENDMENT ACT 2005

pt 8 (ss 642–643) ins 2005 No. 53 s 96

PART 9—TRANSITIONAL PROVISION FOR ENVIRONMENTAL PROTECTION AND OTHER LEGISLATION AMENDMENT ACT 2007

pt 9 (s 644) ins 2007 No. 56 s 31

PART 10—SAVINGS PROVISIONS FOR ENVIRONMENTAL PROTECTION AND OTHER LEGISLATION AMENDMENT ACT (No. 2) 2008

pt 10 (ss 645–646) ins 2008 No. 52 s 65

PART 11—TRANSITIONAL PROVISIONS FOR GREENHOUSE GAS STORAGE ACT 2009

pt hdg ins 2009 No. 3 s 470

Division 1—Preliminary

div 1 (s 647) ins 2009 No. 3 s 470

Division 2—Provisions for Zerogen

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div 3 (ss 650–655) ins 2009 No. 3 s 470

PART 12—TRANSITIONAL PROVISION FOR RIGHT TO INFORMATION ACT 2009

pt 12 (s 656) ins 2009 No. 13 s 213 sch 5
om 2013 No. 39 s 109 sch 2

PART 13—TRANSITIONAL PROVISIONS FOR GREAT BARRIER REEF PROTECTION AMENDMENT ACT 2009

pt 13 (ss 657–658) ins 2009 No. 42 s 18

PART 14—TRANSITIONAL PROVISION FOR SUSTAINABLE PLANNING ACT 2009

pt 14 (s 659) ins 2009 No. 36 s 872 sch 2

PART 15—TRANSITIONAL PROVISIONS FOR SOUTH-EAST QUEENSLAND WATER (DISTRIBUTION AND RETAIL RESTRUCTURING) AND OTHER LEGISLATION AMENDMENT ACT 2010

pt 15 (ss 660–663) ins 2010 No. 20 s 40

PART 16—TRANSITIONAL PROVISIONS FOR GEOTHERMAL ENERGY ACT 2010

pt hdg ins 2010 No. 31 s 500

Deferral of requirement for environmental authority for existing authorised geothermal activities

s 664 ins 2010 No. 31 s 500
amd 2012 No. 16 s 78 sch

Deferral of requirement for environmental authority for Birdsville geothermal lease

s 665 ins 2010 No. 31 s 500
amd 2012 No. 16 s 78 sch

PART 17—TRANSITIONAL PROVISIONS FOR THE ENVIRONMENTAL PROTECTION AND OTHER LEGISLATION AMENDMENT ACT 2011

pt hdg ins 2011 No. 6 s 93

Definitions for pt 17

s 666 ins 2011 No. 6 s 93

Existing EISs

s 667 ins 2011 No. 6 s 93

Existing application for registration to carry out chapter 4 activity

s 668 ins 2011 No. 6 s 93

Registration to carry out chapter 4 activity

s 669 ins 2011 No. 6 s 93

Existing non-code compliant application for a level 1 mining project

s 670 ins 2011 No. 6 s 93

Existing draft transitional environmental programs

s 671 ins 2011 No. 6 s 93

Transitional environmental programs

s 672 ins 2011 No. 6 s 93

Existing application for disclosure exemption

s 673 ins 2011 No. 6 s 93

Existing reviews and appeals about disclosure exemptions

s 674 ins 2011 No. 6 s 93

Existing disclosure exemptions

s 675 ins 2011 No. 6 s 93

PART 18—TRANSITIONAL PROVISIONS FOR ENVIRONMENTAL PROTECTION (GREENTAPE REDUCTION) AND OTHER LEGISLATION AMENDMENT ACT 2012

pt hdg ins 2012 No. 16 s 60

Division 1—Preliminary

div hdg ins 2012 No. 16 s 60

Definitions for pt 18

s 676 ins 2012 No. 16 s 60

def *chapter 4 activity* ins 2012 No. 16 s 60 (amd 2013 No. 6 s 15(2))def *code of environmental compliance* ins 2012 No. 16 s 60 (amd 2013 No. 6 s 15(2))def *conversion application* ins 2012 No. 16 s 60 (amd 2013 No. 6 s 15(2))def *environmental authority (chapter 5A activities)* ins 2012 No. 16 s 60 (amd 2013 No. 6 s 15(2))def *environmental authority (mining activities)* ins 2012 No. 16 s 60 (amd 2013 No. 6 s 15(2))def *former* ins 2012 No. 16 s 60 (amd 2013 No. 6 s 15(1)–(2))def *former holder* ins 2012 No. 16 s 60 (amd 2013 No. 6 s 15(2))def *non-transitional ERA* ins 2012 No. 16 s 60 (amd 2013 No. 6 s 15(2))def *registration certificate* ins 2012 No. 16 s 60 (amd 2013 No. 6 s 15(2))def *standard environmental conditions* ins 2012 No. 16 s 60 (amd 2013 No. 6 s 15(2))def *surrendered registration certificate* ins 2012 No. 16 s 60 (amd 2013 No. 6 s 15(2))**Division 2—Provisions for chapter 4 activities**

div hdg ins 2012 No. 16 s 60

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sdiv 1 (s 676A) ins 2012 No. 16 s 60 (amd 2013 No. 6 s 15(3))

Subdivision 2—Chapter 4 activities that are not transitioned

sdiv 2 (ss 676B–676C) ins 2012 No. 16 s 60 (amd 2013 No. 6 s 15(3))

Subdivision 3—Chapter 4 activities that are transitioned

sdiv hdg ins 2012 No. 16 s 60 (amd 2013 No. 6 s 15(3))

Application of sdiv 3

s 676D ins 2012 No. 16 s 60 (amd 2013 No. 6 s 15(3))

Continuing effect of existing development permit for chapter 4 activity as environmental authority

s 677 ins 2012 No. 16 s 60

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s 678 ins 2012 No. 16 s 60 (amd 2013 No. 6 s 15(3A)–(3B))

Application to convert particular existing conditions into environmental authority

s 678A ins 2012 No. 16 s 60 (amd 2013 No. 6 s 15(3C))

Requirements for conversion application

s 678B ins 2012 No. 16 s 60 (amd 2013 No. 6 s 15(3C))

Criterion for decision

s 678C ins 2012 No. 16 s 60 (amd 2013 No. 6 s 15(3C))

Grant of environmental authority for conversion

s 678D ins 2012 No. 16 s 60 (amd 2013 No. 6 s 15(3C))

When environmental authority takes effect

s 678E ins 2012 No. 16 s 60 (amd 2013 No. 6 s 15(3C))

Notice of decision

s 678F ins 2012 No. 16 s 60 (amd 2013 No. 6 s 15(3C))

Continuing effect of existing UDA development approval for chapter 4 activity as environmental authority

s 679 ins 2012 No. 16 s 60
amd 2012 No. 43 s 221 sch 1

Continuing effect of existing registration certificate as environmental authority

s 680 ins 2012 No. 16 s 60

Existing application for registration to carry out chapter 4 activity

s 681 ins 2012 No. 16 s 60 (amd 2013 No. 6 s 15(3D))

Division 3—Provisions for environmental authorities (mining activities)

div hdg ins 2012 No. 16 s 60

Continuing effect of existing environmental authority (mining activities) as environmental authority

s 682 ins 2012 No. 16 s 60

Effect of commencement on particular applications

s 683 ins 2012 No. 16 s 60

Existing progressive certification

s 684 ins 2012 No. 16 s 60 (amd 2013 No. 6 s 15(4))

Existing application for progressive certification

s 685 ins 2012 No. 16 s 60

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s 686 ins 2012 No. 16 s 60

Existing audit notices

s 687 ins 2012 No. 16 s 60

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s 689 ins 2012 No. 16 s 60

Division 4—Provisions for other environmental authorities

div 4 (ss 690–693) ins 2012 No. 16 s 60

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div 7 (s 700) ins 2012 No. 16 s 60

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div hdg ins 2012 No. 16 s 60

Conditions about environmental management plans for particular environmental authorities

s 701 ins 2012 No. 16 s 60 (amd 2013 No. 6 s 15(6)–(7))

Division 9—Provisions about plans of operations

div 9 (ss 702–703) ins 2012 No. 16 s 60

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div hdg ins 2012 No. 16 s 60

Existing application to change anniversary day

s 704 ins 2012 No. 16 s 60

Particular persons taken to be registered suitable operator

s 705 ins 2012 No. 16 s 60 (amd 2013 No. 6 s 15(8))

Effect of proposed standard environmental conditions prepared before commencement of amending Act

s 706 ins 2012 No. 16 s 60

Deferment of application of s 426 to newly prescribed ERAs

s 707 ins 2012 No. 16 s 60

Eligibility criteria and standard conditions for particular environmentally relevant activities

s 707A ins 2012 No. 16 s 60 (amd 2013 No. 6 s 15(9))

Eligibility criteria prescribed for mining activities

s 707B ins 2012 No. 16 s 60 (amd 2013 No. 6 s 15(9))

exp 31 March 2016 (see s 707B(3))

AIA s 20A applies (see s 707B(4))

References to chapter 4 activity, development approval or registration certificate
s 708 ins 2012 No. 16 s 60

References to former chapters 5 and 5A
s 709 ins 2012 No. 16 s 60

References to former terms
s 710 ins 2012 No. 16 s 60 (amd 2013 No. 6 s 15(10); 2013 No. 10 s 18))

**PART 19—TRANSITIONAL PROVISIONS FOR THE MINING AND OTHER
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OR ENVIRONMENTAL HARM**

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**PART 1—ENVIRONMENTAL NUISANCE EXCLUDED FROM SECTIONS 440
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pt hdg ins 2008 No. 52 s 66
amd 2009 No. 36 s 872 sch 2

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s 3 ins 2008 No. 52 s 66 (amd 2008 No. 65 s 9)
amd 2009 No. 36 s 872 sch 2; 2011 No. 12 s 22; 2011 No. 18 s 404 sch 4 pt 1

**PART 2—EXCLUSIONS FROM ENVIRONMENTAL HARM AND
ENVIRONMENTAL NUISANCE**

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om 2000 No. 64 s 54

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37; 1998 No. 13 s 64; 1998 No. 31 s 80

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amd 2001 No. 86 s 11; 2002 No. 45 ss 27, 3(2) sch; 2003 No. 96 s 28 sch;
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2007 No. 39 s 41 sch; 2007 No. 56 s 6 sch; 2008 No. 37 s 16; 2008 No. 52
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renum 2008 No. 52 s 70

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def *additional condition* ins 2000 No. 64 s 56(2)

sub 2004 No. 48 s 140(1)–(2)

om 2012 No. 16 s 62(1)

def *advice agency* ins 1998 No. 13 s 65(2)

amd 2009 No. 36 s 872 sch 2

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def *agricultural chemicals* ins 2009 No. 42 s 20(1)

def *agricultural ERA* ins 2009 No. 42 s 20(1)

def *agricultural ERA record* ins 2009 No. 42 s 20(1)

def *agricultural property* ins 2009 No. 42 s 20(1)

def *aircraft movement* ins 2008 No. 52 s 69(2)

def *amalgamated corporate authority* ins 2012 No. 16 s 62(2)

def *amalgamated environmental authority* ins 2012 No. 16 s 62(2)

def *amalgamated local government authority* ins 2012 No. 16 s 62(2)

def *amalgamated project authority* ins 2012 No. 16 s 62(2)

def *amalgamation application* ins 2012 No. 16 s 62(2)

def *amending Act* ins 2011 No. 6 s 95(2)

om 2012 No. 16 s 62(1) (amd 2013 No. 6 s 17(1))

def *amendment application* ins 2000 No. 64 s 56(2)

sub 2002 No. 45 s 28(1)–(2)

amd 2003 No. 95 s 3 sch; 2004 No. 48 s 140(3); 2005 No. 53 s 98(3)

sub 2009 No. 3 s 472(1)–(2); 2012 No. 16 s 62(1)–(2)

def *amendment decision* ins 2012 No. 16 s 62(2)

def *anniversary day* ins 2000 No. 64 s 56(2)

sub 2002 No. 45 s 28(1)–(2); 2003 No. 95 s 47(1)–(2)

amd 2004 No. 48 s 140(4)–(5); 2011 No. 6 s 95(3)

sub 2012 No. 16 s 62(1)–(2)

def *annual notice* ins 2000 No. 64 s 56(2)

sub 2012 No. 16 s 62(1)–(2)

def *applicable code* ins 2005 No. 42 s 52 sch 1

amd 2007 No. 36 s 2 sch; 2009 No. 36 s 872 sch 2

om 2012 No. 16 s 62(1)

def *applicable event* ins 2012 No. 43 s 241(2)

def *applicant* ins 2000 No. 64 s 56(2)

sub 2012 No. 16 s 62(1)–(2)

def *applicants* ins 2000 No. 64 s 56(2)

sub 2002 No. 45 s 28(1)–(2)

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- amd 2003 No. 95 s 3 sch; 2004 No. 48 s 140(6); 2007 No. 36 s 2 sch
sub 2009 No. 3 s 472(1)–(2)
om 2012 No. 16 s 62(1)
- def **application** ins 2012 No. 16 s 62(2)
- def **application date** sub 2000 No. 64 s 56(1)–(2)
om 2012 No. 16 s 62(1)
- def **application documents** ins 2000 No. 64 s 56(2)
om 2012 No. 16 s 62(1)
ins 2012 No. 16 s 62(2) (amd 2013 No. 6 s 50 sch)
- def **application notice** ins 2000 No. 64 s 56(2)
amd 2002 No. 45 s 3(2) sch; 2003 No. 95 s 3 sch; 2004 No. 48 s 140(7)
sub 2009 No. 3 s 472 (1)–(2); 2012 No. 16 s 62(1)–(2)
- def **application requirements** ins 2000 No. 64 s 56(2)
sub 2004 No. 48 s 140(1)–(2)
om 2012 No. 16 s 62(1)
- def **application stage** ins 2012 No. 16 s 62(2) (amd 2013 No. 6 s 17(2))
- def **appropriately qualified** ins 2000 No. 64 s 56(2)
sub 2002 No. 45 s 28(1)–(2)
- def **approval** sub 1995 No. 40 s 9(1)
om 1997 No. 80 s 39(1)
ins 1998 No. 13 s 65(2)
amd 2002 No. 45 s 3(2) sch
sub 2003 No. 95 s 47(1)–(2)
om 2004 No. 48 s 140(1)
- def **approved code of practice** ins 1997 No. 80 s 39(2)
om 2012 No. 16 s 62(1)
- def **assessable development** ins 2000 No. 64 s 56(2)
amd 2009 No. 36 s 872 sch 2
om 2012 No. 16 s 62(1)
- def **assessment level decision** ins 2000 No. 64 s 56(2)
sub 2004 No. 48 s 140(1)–(2); 2012 No. 16 s 62(1)–(2)
- def **assessment manager** ins 1998 No. 13 s 65(2)
amd 2000 No. 64 s 3(2) sch
sub 2009 No. 36 s 872 sch 2
- def **assessment period** ins 2000 No. 64 s 56(2)
amd 2002 No. 45 s 3(2) sch
om 2012 No. 16 s 62(1)
- def **assessment process** ins 2012 No. 16 s 62(2)
- def **at** ins 2008 No. 52 s 69(2)
- def **audible noise** ins 2008 No. 52 s 69(2)
- def **audit notice** ins 2000 No. 64 s 56(2)
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- def **auditor** ins 2000 No. 64 s 56(2)
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- def **background level** ins 2008 No. 52 s 69(2)
- def **Balance the Earth Trust** ins 2011 No. 3 s 15(2)
- def **bilateral agreement** ins 2000 No. 64 s 56(2)
- def **building** ins 2008 No. 52 s 69(2)

- def **building work** ins 2008 No. 52 s 69(2)
- def **business** sub 2000 No. 64 s 56(1)–(2)
om 2012 No. 16 s 62(1)
- def **business days** ins 2000 No. 64 s 56(2)
om 2007 No. 36 s 2 sch
- def **business days** ins 2003 No. 95 s 47(2)
sub 2007 No. 36 s 2 sch; 2012 No. 16 s 62(1)–(2)
- def **busway** ins 2008 No. 52 s 69(2)
- def **buyer** om 2000 No. 64 s 56(1)
- def **carries out** ins 2009 No. 42 s 20(1)
- def **cattle** ins 2009 No. 42 s 20(1)
sub 2011 No. 6 s 142 sch
- def **certified rehabilitated area** ins 2005 No. 53 s 98(2)
sub 2012 No. 16 s 62(1)–(2)
- def **chapter 3, part 4 environmental authority** ins 1998 No. 13 s 65(2)
amd 1999 No. 19 sch
om 2000 No. 64 s 56(1)
- def **chapter 3, part 4A environmental authority** ins 1998 No. 13 s 65(2)
amd 1999 No. 19 sch
om 2000 No. 64 s 56(1)
- def **chapter 4 activity** ins 2003 No. 95 s 47(2)
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om 2012 No. 16 s 62(1)
- def **chapter 5A activity** ins 2009 No. 3 s 472(2)
om 2012 No. 16 s 62(1)
- def **chapter 5A activity project** ins 2009 No. 3 s 472(2)
om 2012 No. 16 s 62(1)
- def **chief executive officer** om R2 (see RA s 39)
- def **class 1, 2 or 3 environmental offence** om 2000 No. 64 s 56(1)
- def **clean-up notice** ins 2008 No. 52 s 69(2)
- def **coal seam gas** ins 2010 No. 20 s 41
sub 2012 No. 16 s 62(1)–(2)
- def **coal seam gas environmental authority** ins 2010 No. 20 s 41
om 2012 No. 16 s 62(1)
- def **coal seam gas water** ins 2010 No. 20 s 41
om 2012 No. 16 s 62(1)
- def **coastal waters** ins 2008 No. 52 s 69(2)
- def **code compliance condition** ins 2004 No. 48 s 140(2)
sub 2009 No. 3 s 472(1)–(2)
om 2012 No. 16 s 62(1)
- def **code compliant application** ins 2004 No. 48 s 140(2)
om 2012 No. 16 s 62(1)
- def **code compliant authority** ins 2004 No. 48 s 140(2)
sub 2009 No. 3 s 472(1)–(2)
om 2012 No. 16 s 62(1)
- def **code of environmental compliance** ins 2000 No. 64 s 56(2)
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- def *code of practice* ins 2012 No. 16 s 62(2)
- def *commencement* ins 2011 No. 6 s 95(2)
sub 2012 No. 16 s 62(1)–(2)
- def *comment period* ins 2000 No. 64 s 56(2)
- def *Commonwealth Environment Act* ins 2000 No. 64 s 56(2)
- def *Commonwealth Native Title Act* ins 2003 No. 10 s 6
- def *concurrency agency* ins 1998 No. 13 s 65(2)
amd 2009 No. 36 s 872 sch 2
- def *conditional surrender* ins 2005 No. 53 s 98(2)
om 2012 No. 16 s 62(1)
- def *conditions* ins 2000 No. 64 s 56(2)
- def *constituent part* ins 2002 No. 45 s 28(2)
om 2004 No. 48 s 140(1)
- def *consultation period* ins 2012 No. 16 s 62(2)
- def *contaminated land* ins 1997 No. 80 s 39(2)
- def *contaminated land register* ins 1997 No. 80 s 39(2)
amd 2000 No. 64 s 3(2) sch; 2009 No. 42 s 20(3); 2012 No. 16 s 62(3)
- def *contamination incident* ins 2008 No. 52 s 69(2)
- def *continuing chapter 4 activity* ins 2007 No. 56 s 32(2)
om 2012 No. 16 s 62(1)
- def *contravention* ins 2008 No. 52 s 69(2)
- def *conversion application* prev def ins 2000 No. 64 s 56(2)
om 2003 No. 95 s 47(1)
pres def ins 2012 No. 16 s 62(2) (amd 2013 No. 6 s 17(2))
- def *coordinated project* (prev def significant project) ins 2001 No. 46 s 24(1)
amd 2002 No. 45 s 3(2) sch; 2013 No. 6 s 50 sch
- def *Coordinator-General's conditions* ins 2012 No. 16 s 62(2)
- def *Coordinator-General's report* ins 2001 No. 46 s 24(1)
amd 2002 No. 45 s 3(2) sch; 2013 No. 6 s 50 sch
- def *correction* ins 2000 No. 64 s 56(2)
amd 2003 No. 95 s 3 sch; 2004 No. 48 s 140(8); 2007 No. 36 s 2 sch
sub 2009 No. 3 s 472(1)–(2)
om 2012 No. 16 s 62(1)
- def *corresponding law* ins 2000 No. 64 s 56(2)
- def *cost recovery notice* ins 2008 No. 52 s 69(2)
- def *CSG activity* ins 2012 No. 16 s 62(2)
- def *CSG evaporation dam* ins 2010 No. 20 s 41
sub 2012 No. 16 s 62(1)–(2)
- def *CSG water* ins 2012 No. 16 s 62(2)
- def *current objection* ins 2000 No. 64 s 56(2)
amd 2004 No. 53 s 2 sch
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- def *dangerous goods code* ins 1997 No. 80 s 39(2)
- def *deciding* ins 2000 No. 64 s 56(2)
om 2012 No. 16 s 62(1)
- def *decision stage* ins 2012 No. 16 s 62(2) (amd 2013 No. 6 s 17(2))
- def *deposit* ins 2007 No. 44 s 7
sub 2008 No. 52 s 69(1)–(2); 2011 No. 31 s 312

- def **designated urban area** ins 2006 No. 59 s 39(1)
om 2012 No. 16 s 62(1)
- def **development** ins 1998 No. 13 s 65(2)
sub 2009 No. 36 s 872 sch 2
- def **development application** ins 1998 No. 13 s 65(2)
- def **development approval** ins 1998 No. 13 s 65(2)
sub 2000 No. 64 s 56(1)–(2)
amd 2009 No. 36 s 872 sch 2
- def **development condition** ins 1998 No. 13 s 65(2)
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- def **development offence** ins 1998 No. 13 s 65(2)
amd 2000 No. 64 s 3(2) sch
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- def **development permit** ins 2011 No. 6 s 95(2)
- def **direction notice** ins 2008 No. 52 s 69(2)
- def **disclosure exemption** ins 2000 No. 64 s 56(2)
om 2011 No. 6 s 95(1)
- def **disposal permit** ins 1997 No. 80 s 39(2)
amd 2000 No. 64 s 56(3)
- def **disqualifying event** ins 2000 No. 64 s 56(2)
amd 2004 No. 53 s 2 sch; 2012 No. 16 s 62(4)
- def **dissatisfied person** amd 2000 No. 64 s 3(2) sch
- def **draft environmental authority** ins 2000 No. 64 s 56(2)
sub 2012 No. 16 s 62(1)–(2)
- def **draft terms of reference** ins 2000 No. 64 s 56(2)
- def **earth** ins 2008 No. 52 s 69(2)
- def **educational institution** ins 2008 No. 52 s 69(2)
- def **EIS** ins 2000 No. 64 s 56(2)
- def **EIS amendment notice** ins 2000 No. 64 s 56(2)
- def **EIS assessment report** ins 2000 No. 64 s 56(2)
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- def **EIS decision** ins 2000 No. 64 s 56(2)
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- def **EIS notice** ins 2000 No. 64 s 56(2)
- def **EIS process** ins 2000 No. 64 s 56(2)
sub 2005 No. 53 s 98(1)–(2)
- def **EIS requirement** ins 2000 No. 64 s 56(2)
- def **eligible ERA** ins 2012 No. 16 s 62(2)
- def **eligibility criteria** ins 2012 No. 16 s 62(2)
- def **emergency** ins 2012 No. 43 s 241(2)
- def **emergency direction** sub 2012 No. 43 s 241
- def **EMOS** ins 2000 No. 64 s 56(2)
om 2004 No. 48 s 140(1)
- def **EMOS amendment notice** ins 2000 No. 64 s 56(2)
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- def **EMOS assessment report** ins 2000 No. 64 s 56(2)
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om 2004 No. 48 s 140(1)
- def **EM plan assessment report** ins 2000 No. 64 s 56(2)
sub 2004 No. 48 s 140(1)–(2)
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- def **EMP submission** ins 2000 No. 64 s 56(2)
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- def **enforcement order** ins 1998 No. 13 s 65(2)
om 2012 No. 16 s 62(1)
- def **engaging** ins 1995 No. 40 s 9(3)
- def **enter** ins 2000 No. 64 s 56(2)
- def **entry order** ins 2000 No. 64 s 56(2)
- def **environmental audit** sub 2000 No. 64 s 56(1)–(2)
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- def **environmental authority** sub 2000 No. 64 s 56(1)–(2)
amd 2003 No. 95 s 3 sch; 2009 No. 3 s 472(4)
sub 2012 No. 16 s 62(1)–(2)
- def **environmental authority (chapter 5A activities)** ins 2009 No. 3 s 472(2)
om 2012 No. 16 s 62(1)
- def **environmental authority (exploration)** ins 2000 No. 64 s 56(2)
om 2012 No. 16 s 62(1)
- def **environmental authority (mineral development)** ins 2000 No. 64 s 56(2)
om 2012 No. 16 s 62(1)
- def **environmental authority (mining activities)** ins 2000 No. 64 s 56(2)
om 2012 No. 16 s 62(1)
- def **environmental authority (mining claim)** ins 2000 No. 64 s 56(2)
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- def **environmental authority (mining lease)** ins 2000 No. 64 s 56(2)
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- def **environmental authority (petroleum activities)** ins 2004 No. 48 s 140(2)
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- def **environmental authority (prospecting)** ins 2000 No. 64 s 56(2)
om 2012 No. 16 s 62(1)
- def **environmental investigation** sub 2012 No. 16 s 62(1)–(2)
- def **environmentally relevant activity** sub 2000 No. 64 s 56(1)–(2)
- def **environmental management document** ins 2000 No. 64 s 56(2)
om 2004 No. 48 s 140(1)
- def **environmental management plan** ins 2000 No. 64 s 56(2)
sub 2004 No. 48 s 140(1)–(2)
amd 2005 No. 42 s 52 sch 1
sub 2009 No. 3 s 472(1)–(2); 2012 No. 16 s 62(1)–(2)
- def **environmental management program** om 2007 No. 56 s 32(1)
- def **environmental management register** ins 1997 No. 80 s 39(2)
amd 2000 No. 64 s 3(2) sch; 2009 No. 42 s 20(4); 2012 No. 16 s 62(5)
- def **environmental offence** ins 2000 No. 64 s 56(2)
sub 2012 No. 16 s 62(1)–(2)

- def **environmental offset** ins 2012 No. 16 s 62(2)
- def **environmental offset condition** ins 2012 No. 16 s 62(2)
- def **environmental offset trust** ins 2011 No. 3 s 15(2)
- def **environmental protection commitment** ins 2000 No. 64 s 56(2)
 amd 2004 No. 48 s 140(9)–(10)
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- def **environmental protection order** amd 2003 No. 96 s 28 sch
- def **environmental requirement** ins 2000 No. 64 s 56(2)
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- def **environmental standard** ins 2011 No. 6 s 95(2)
- def **EPA Minister** ins 2000 No. 64 s 56(2)
- def **EPP requirement** ins 2000 No. 64 s 56(2)
 om 2007 No. 56 s 32(1)
- def **ERA project** ins 2012 No. 16 s 62(2)
- def **ERMP** ins 2009 No. 42 s 20(1)
- def **ERMP content requirements** ins 2009 No. 42 s 20(1)
- def **ERMP direction** ins 2009 No. 42 s 20(1)
- def **exempted material** ins 2000 No. 64 s 56(2)
 om 2011 No. 6 s 95(1)
- def **existing environmental authority** ins 2012 No. 16 s 62(2)
- def **existing holder** ins 2012 No. 16 s 62(2)
- def **exploration permit** ins 2000 No. 64 s 56(2)
- def **final rehabilitation report** ins 2000 No. 64 s 56(2)
 sub 2004 No. 48 s 140(1)–(2); 2009 No. 3 s 472(1)–(2); 2012 No. 16 s 62(1)–(2)
- def **final terms of reference** ins 2000 No. 64 s 56(2)
- def **financial assurance** ins 2004 No. 48 s 140(2)
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- def **FRR amendment notice** ins 2000 No. 64 s 56(2)
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- def **FRR assessment report** ins 2000 No. 64 s 56(2)
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 om 2012 No. 16 s 62(1)
- def **Geothermal Act** ins 2010 No. 31 s 501(1)
- def **geothermal activities** ins 2010 No. 31 s 501(1)
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- def **geothermal activity** ins 2012 No. 16 s 62(2)
- def **geothermal tenure** ins 2012 No. 16 s 62(2)
- def **GHG** ins 2009 No. 3 s 472(2)
- def **GHG permit** ins 2012 No. 16 s 62(2)
- def **GHG residual risks requirement** ins 2009 No. 3 s 472(2)
 om 2012 No. 16 s 62(1)
- def **GHG storage Act** ins 2009 No. 3 s 472(2)
- def **GHG storage activity** ins 2012 No. 16 s 62(2)
- def **GHG well** ins 2009 No. 3 s 472(2)
- def **greenhouse gas storage activities** ins 2009 No. 3 s 472(2)
 amd 2010 No. 31 s 501(2)–(3)
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- def *harmful substance* ins 2008 No. 52 s 69(2)
- def *hazardous contaminant* ins 1997 No. 80 s 39(2)
amd 2000 No. 64 s 56(4); 2002 No. 45 s 28(3); 2008 No. 52 s 69(6)–(7)
- def *holder* prev def ins 2000 No. 64 s 56(2)
sub 2012 No. 43 s 241
om 2012 No. 16 s 62(1)
pres def ins 2012 No. 16 s 62(2) (amd 2012 No. 43 s 248)
- def *IEMS submission* ins 2000 No. 64 s 56(2)
amd 2002 No. 45 s 3(2) sch
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- def *indoor venue* ins 2008 No. 52 s 69(2)
- def *ineligible ERA* ins 2012 No. 16 s 62(2)
- def *information notice* ins 2000 No. 64 s 56(2)
- def *information request* ins 2012 No. 16 s 62(2)
- def *information request period* ins 2012 No. 16 s 62(2)
- def *information response period* ins 2012 No. 16 s 62(2)
- def *information stage* ins 2012 No. 16 s 62(2) (amd 2013 No. 6 s 17(2))
- def *infringement notice* ins 2007 No. 44 s 7
om 2011 No. 31 s 312(1)
- def *infringement notice offence* ins 2007 No. 44 s 7
om 2011 No. 31 s 312(1)
- def *integrated authority* ins 2000 No. 64 s 56(2)
amd 2002 No. 45 s 3(2) sch
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- def *integrated authority application* ins 2002 No. 45 s 28(2)
om 2004 No. 48 s 140(1)
- def *integrated environmental management system* ins 1998 No. 13 s 65(2)
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- def *Integrated Planning Act* ins 1998 No. 13 s 65(2)
om 2009 No. 36 s 872 sch 2
- def *interested party* om 2000 No. 64 s 56(1)
- def *interested person* ins 2000 No. 64 s 56(2)
- def *Intergovernmental Agreement on the Environment* ins 2012 No. 16 s 62(2)
- def *interim enforcement order* ins 1998 No. 13 s 65(2)
om 2012 No. 16 s 62(1)
- def *interstate environmental authority* ins 1995 No. 40 s 9(3)
om 2000 No. 64 s 56(1)
- def *investigation notice* ins 2012 No. 16 s 62(2)
- def *joint applicants* ins 2000 No. 64 s 56(2)
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- def *joint application* ins 2000 No. 64 s 56(2)
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- def *L_{A90}, T* ins 2008 No. 52 s 69(2)

- def **level 1 approval** ins 1998 No. 13 s 65(2)
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- def **level 1 approval (with development approval)** ins 1998 No. 13 s 65(2)
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- def **level 1 approval (without development approval)** ins 1998 No. 13 s 65(2)
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- def **level 1 chapter 5A activity** ins 2009 No. 3 s 472(2)
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- def **level 1 environmentally relevant activity** ins 2000 No. 64 s 56(2)
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om 2008 No. 52 s 69(1)
- def **level 1 mining project** ins 2004 No. 48 s 140(2)
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- def **level 1 petroleum activity** ins 2004 No. 48 s 140(2)
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- def **level 2 approval** sub 2000 No. 64 s 56(1)–(2); 2003 No. 95 s 47(1)–(2)
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- def **level 2 chapter 4 activity** ins 2005 No. 53 s 98(2)
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- def **level 2 chapter 5A activity** ins 2009 No. 3 s 472(2)
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- def **level 2 environmentally relevant activity** ins 1997 No. 80 s 39(2)
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- def **level 2 mining project** ins 2004 No. 48 s 140(2)
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- def **level 2 petroleum activity** ins 2004 No. 48 s 140(2)
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- def **licence** amd 1998 No. 13 s 65(1)
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om 2004 No. 48 s 140(1)
- def **licence (with development approval)** ins 2000 No. 64 s 56(2)
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- def **licence (without development approval)** ins 2000 No. 64 s 56(2)
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- def **licensed place** amd 2000 No. 64 s 56(6)
om 2004 No. 48 s 140(1)
- def **licensed premises** ins 2008 No. 52 s 69(2)
- def **light rail** ins 2008 No. 52 s 69(2)
- def **litter** ins 2007 No. 44 s 7
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- def **major amendment** ins 2012 No. 16 s 62(2)
- def **MARPOL** ins 2008 No. 52 s 69(2)
- def **mineral development licence** ins 2000 No. 64 s 56(2)
- def **Mineral Resources Act** ins 2000 No. 64 s 56(2)

- def *mining activity* ins 2000 No. 64 s 56(2)
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- def *mining authority* ins 1997 No. 80 s 39(2)
om 2000 No. 64 s 56(1)
- def *mining claim* ins 2000 No. 64 s 56(2)
- def *mining lease* ins 2000 No. 64 s 56(2)
- def *mining project* ins 2000 No. 64 s 56(2)
om 2012 No. 16 s 62(1)
- def *mining registrar* ins 2000 No. 64 s 56(2)
om 2012 No. 16 s 62(1)
- def *mining tenement* ins 2000 No. 64 s 56(2)
om 2012 No. 16 s 62(1)
- def *mining tenure* ins 2012 No. 16 s 62(2)
- def *Minister’s decision* ins 2000 No. 64 s 56(2)
om 2012 No. 16 s 62(1)
- def *minor amendment* ins 2012 No. 16 s 62(2)
- def *minor change* ins 2012 No. 16 s 62(2)
- def *missing information* ins 2000 No. 64 s 56(2)
om 2004 No. 48 s 140(1)
- def *mobile and temporary environmentally relevant activity* ins 2003 No. 95
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- def *MRA department* ins 2012 No. 16 s 62(2)
- def *MRA Minister* ins 2000 No. 64 s 56(2)
- def *national scheme laws* sub 1999 No. 19 sch
- def *National Strategy for Ecologically Sustainable Development* om 2012
No. 16 s 62(1)
- def *natural disaster* ins 2008 No. 52 s 69(2)
- def *natural environment* ins 2008 No. 52 s 69(2)
- def *NNTT* ins 2003 No. 10 s 6
- def *noise abatement direction* om 2000 No. 64 s 56(1)
- def *noise standard* ins 2008 No. 52 s 69(2)
- def *nominated section* ins 2008 No. 52 s 69(2)
- def *nominated waterway* ins 2006 No. 59 s 39(1)
- def *non-coastal waters* ins 2008 No. 52 s 69(2)
- def *non-code compliant application* ins 2004 No. 48 s 140(2)
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- def *non-code compliant authority* ins 2004 No. 48 s 140(2)
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sub 2009 No. 3 s 472(1)–(2)
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- def *non-standard application* ins 2000 No. 64 s 56(2)
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- def *non-standard environmental authority (mining activities)* ins 2000 No.
64 s 56(2)
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- def **notifiable activity** ins 1997 No. 80 s 39(2)
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- def **notification stage** ins 2012 No. 16 s 62(2) (amd 2013 No. 6 s 17(2))
- def **noxious liquid substance** ins 2008 No. 52 s 69(2)
- def **objection notice** ins 2012 No. 16 s 62(2)
- def **objection period** ins 2000 No. 64 s 56(2)
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- def **objections decision** ins 2000 No. 64 s 56(2)
sub 2012 No. 16 s 62(1)–(2)
- def **objections decision hearing** ins 2012 No. 16 s 62(2)
- def **objector** ins 2000 No. 64 s 56(2)
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- def **obstruct** amd 2008 No. 52 s 69(9)
- def **oil** ins 2008 No. 52 s 69(2)
- def **on-site mitigation measure** ins 2012 No. 16 s 62(2)
- def **open-air event** ins 2008 No. 52 s 69(2)
- def **operational land** ins 2000 No. 64 s 56(2)
- def **optimum amount** ins 2009 No. 42 s 20(1)
- def **original decision** amd 2000 No. 64 s 3(2) sch
- def **over-fertilisation** ins 2009 No. 42 s 20(1)
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- def **parent corporation** ins 2008 No. 52 s 69(2)
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- def **person**, for chapter 3, ins 2012 No. 16 s 62(2) (amd 2013 No. 6 s 17(2))
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- def **petroleum activities** ins 2009 No. 3 s 472(2)
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- def **petroleum activity** prev def ins 2003 No. 95 s 47(2)
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- def ***petroleum project*** ins 2004 No. 48 s 140(2)
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- def ***plan of operations*** ins 2012 No. 16 s 62(2) (amd 2013 No. 6 s 17(3))
- def ***power boat*** ins 2008 No. 52 s 69(2)
- def ***preliminary investigation*** ins 1997 No. 80 s 39(2)
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- def **public notice requirement** ins 2000 No. 64 s 56(2)
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- def **public notice requirements** ins 2012 No. 16 s 62(2)
- def **public passenger vehicle** ins 2007 No. 44 s 7
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- def **recipient** amd 1997 No. 80 s 39(3); 2008 No. 52 s 69(10)–(11); 2009 No. 42 s 20(5)
- def **recognised entity** reloc from s 130 2003 No. 95 s 11(2)
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- def **referral agency** ins 1998 No. 13 s 65(2)
- def **refusal period** ins 2000 No. 64 s 56(2)
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- def **relevant mining activity** ins 2000 No. 64 s 56(2)
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- def **remediation notice** ins 1997 No. 80 s 39(2)
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- def **sugar cane growing** ins 2009 No. 42 s 20(1)
- def **suitability report** ins 2000 No. 64 s 56(2)
sub 2012 No. 16 s 62(1)–(2)
- def **suitability statement** ins 1997 No. 80 s 39(2)
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- def **suitably qualified person** ins 2012 No. 16 s 62(2)
- def **surrender application** ins 2000 No. 64 s 56(2)
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- def **suspension application** ins 2012 No. 16 s 62(2) (amd 2013 No. 6 s 17(2))
- def **temporary emissions licence** ins 2012 No. 43 s 241(2)
- def **TEP submission** ins 2007 No. 56 s 32(2)
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- def **UDA development approval** ins 2012 No. 16 s 62(2)
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- def *wild river declaration* ins 2005 No. 42 s 52 sch 1
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- def *wild river high preservation area* ins 2005 No. 42 s 52 sch 1
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34CW	104
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136A.....	.454
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138A(1)(ab).....	.458(1)(b)
138A(1)(b).....	.458(1)(c)
138A(5)(aa).....	.458(5)(a)
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138A(5)(b).....	.458(5)(c)
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140(2).....	.460(3)
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201(1)(aa)	520(1)(a)
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201(1)(ac)	520(1)(d)
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201(1)(f)	520(1)(i)
201(1)(g)	520(1)(j)
201(1)(h)	520(1)(k)
201(1)(ha)	520(1)(l)
201(1)(i)	520(1)(m)
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220(2)(p).....	580(2)(q)
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220(2)(r).....	580(2)(s)
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<i>standard criteria</i> , para (l)	

7 Information about retrospectivity

Retrospective amendments that have been consolidated are noted in the list of legislation and list of annotations. Any retrospective amendment that has not been consolidated is noted in an editor's note to the text.

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