



Geothermal Energy Act 2010

Current as at 28 March 2014

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Queensland

Geothermal Energy Act 2010

Contents

| | | Page |
|----------------------|---|------|
| Chapter 1 | Preliminary | |
| Part 1 | Introduction | |
| 1 | Short title | 21 |
| 2 | Commencement | 21 |
| Part 2 | Purposes and application of Act | |
| 3 | Purposes of Act and their achievement | 22 |
| 4 | Facilitation of Act by Petroleum and Gas (Production and Safety) Act 2004 | 23 |
| 5 | Act binds all persons | 23 |
| 6 | Application of Act to coastal waters of the State | 23 |
| 7 | Relationship with Nature Conservation Act 1992 | 23 |
| 8 | Relationship with GHG storage Act and principal mining and petroleum Acts | 24 |
| 8A | Declaration for Commonwealth Act | 24 |
| 9 | Act does not affect other rights or remedies. | 24 |
| Part 3 | Interpretation | |
| Division 1 | Dictionary | |
| 10 | Definitions. | 25 |
| Division 2 | Key definitions | |
| Subdivision 1 | Key concepts | |
| 11 | What is geothermal energy | 25 |
| 12 | What are geothermal resources | 25 |
| 13 | What is geothermal exploration | 25 |
| 14 | What is geothermal production. | 26 |
| 15 | What is exempt heat pump production | 26 |
| 16 | References to large-scale geothermal production | 26 |
| 17 | What is production testing | 27 |
| 18 | What is a geothermal activity | 27 |

Contents

| | | |
|----------------------|---|----|
| Subdivision 2 | Definitions relating to authorities under Act | |
| 19 | Types of authority under Act | 27 |
| 20 | What are the conditions of a geothermal tenure | 28 |
| 21 | References to geothermal tenure or provisions of geothermal tenure | 29 |
| 22 | What is an authorised activity for a geothermal tenure | 29 |
| Subdivision 3 | Other key definitions | |
| 23 | Who is an eligible person | 29 |
| 24 | What is a work program for a geothermal permit | 30 |
| 25 | What is a development plan for a geothermal lease | 30 |
| 26 | Graticulation of earth’s surface into blocks and sub-blocks | 30 |
| 27 | What is a resource Act | 31 |
| Part 4 | State ownership of geothermal energy | |
| 28 | State ownership of geothermal energy | 31 |
| 29 | Reservation in land grants | 31 |
| Chapter 2 | Geothermal exploration permits | |
| Part 1 | Key authorised activities | |
| 30 | Operation of pt 1 | 33 |
| 31 | Principal authorised activities | 33 |
| 32 | Incidental activities | 33 |
| Part 2 | Obtaining geothermal permit | |
| Division 1 | Restricted areas | |
| 33 | Minister’s power to decide restricted areas for geothermal tenures | 34 |
| 34 | Amendment or cancellation of restricted area | 34 |
| Division 2 | Applying for geothermal permit | |
| 35 | Who may apply | 35 |
| 36 | Requirements for making application | 36 |
| Division 3 | Deciding application | |
| 37 | Restriction on deciding during application period for released area | 37 |
| 38 | Effect of identification of restricted area on application | 37 |
| 39 | Deciding whether to grant geothermal permit | 37 |
| 40 | Provisions and granting of geothermal permit | 38 |
| 41 | Criteria for decisions | 39 |
| 42 | Notice of decision | 39 |

| | | |
|-------------------|--|----|
| Division 4 | Priority for deciding competing geothermal permit applications | |
| 43 | Priority for deciding competing applications | 39 |
| Part 3 | Work programs | |
| Division 1 | Function and purpose | |
| 44 | Function and purpose. | 40 |
| Division 2 | Requirements for proposed initial work programs | |
| 45 | Operation of div 2. | 40 |
| 46 | Program period. | 41 |
| 47 | General requirements. | 41 |
| 48 | Water issues. | 42 |
| Division 3 | Approval of proposed initial work programs | |
| 49 | Criteria | 42 |
| 50 | Verification may be required. | 43 |
| Division 4 | Requirements for proposed later work programs | |
| 51 | Operation of div 4. | 44 |
| 52 | General requirements. | 44 |
| 53 | Program period. | 45 |
| 54 | Implementation of evaluation program for potential geothermal commercial area | 45 |
| Division 5 | Approval of proposed later work programs | |
| 55 | Application of div 5 | 45 |
| 56 | Geothermal permit taken to have work program until decision on whether to approve proposed program | 45 |
| 57 | Deciding whether to approve proposed program | 46 |
| 58 | Steps after, and taking effect of, decision. | 46 |
| Division 6 | Amending work programs | |
| 59 | Restrictions on amending work program | 47 |
| 60 | Applying for approval to amend | 47 |
| 61 | Verification | 47 |
| 62 | Deciding application. | 48 |
| 63 | Steps after, and taking effect of, decision. | 48 |
| Part 4 | Potential geothermal commercial areas | |
| 64 | Purpose of potential geothermal commercial area. | 49 |
| 65 | Applying for potential geothermal commercial area. | 49 |
| 66 | Deciding potential geothermal commercial area application | 50 |
| 67 | Inclusion of evaluation program in work program. | 51 |

Contents

| | | |
|-------------------|---|----|
| 68 | Term of declaration | 51 |
| 69 | Potential geothermal commercial area still part of geothermal permit | 52 |
| 70 | Effect of ending of declaration of potential geothermal commercial area | 52 |
| Part 5 | Provisions to facilitate transition to geothermal lease | |
| 71 | Application of pt 5 | 53 |
| 72 | Ministerial direction to apply for geothermal lease | 53 |
| 73 | Taking proposed action | 54 |
| Chapter 3 | Geothermal production leases | |
| Part 1 | Key authorised activities | |
| 74 | Operation of pt 1 | 55 |
| 75 | Principal authorised activities | 56 |
| 76 | Incidental activities | 56 |
| Part 2 | Transition from geothermal permit to geothermal lease | |
| Division 1 | Applying for geothermal lease | |
| 77 | Who may apply | 57 |
| 78 | Requirements for making application | 57 |
| 79 | Continuing effect of geothermal permit for application | 58 |
| Division 2 | Deciding application | |
| 80 | Deciding whether to grant geothermal lease | 59 |
| 81 | Requirements for grant | 59 |
| 82 | Provisions and granting of geothermal lease | 60 |
| 83 | Provisions about grant and conditions of geothermal lease for coordinated project | 61 |
| 84 | Information notice about refusal | 62 |
| 85 | When refusal takes effect | 62 |
| Part 3 | Development plans | |
| Division 1 | Function and purpose | |
| 86 | Function and purpose | 62 |
| Division 2 | Requirements for proposed initial development plans | |
| 87 | Operation of div 2 | 63 |
| 88 | Plan period | 63 |
| 89 | General requirements | 63 |
| 90 | Water issues | 65 |
| Division 3 | Approval of proposed initial development plans | |
| 91 | Criteria | 66 |

| | | |
|-------------------|---|----|
| 92 | Verification may be required | 66 |
| Division 4 | Requirements for proposed later development plans | |
| 93 | Operation of div 4 | 67 |
| 94 | General requirements | 67 |
| Division 5 | Approval of proposed later development plans | |
| 95 | Application of div 5 | 68 |
| 96 | Geothermal lease taken to have development plan until decision on whether to approve proposed plan | 68 |
| 97 | Deciding whether to approve proposed plan | 69 |
| 98 | Steps after, and taking effect of, decision | 70 |
| Division 6 | Amending development plans | |
| 99 | Restrictions on amendment | 70 |
| 100 | Applying for approval to amend | 71 |
| 101 | Verification | 71 |
| 102 | Deciding application | 71 |
| 103 | Steps after, and taking effect of, decision | 72 |
| Part 4 | Royalty on geothermal production | |
| 104 | Imposition of geothermal royalty on geothermal producers | 72 |
| 105 | Regulation for geothermal royalty | 72 |
| 106 | Obligation to lodge royalty returns | 73 |
| 107 | Confidentiality | 73 |
| 108 | Refusal of disclosure of particular information | 74 |
| Chapter 4 | General mandatory conditions for geothermal tenures | |
| Part 1 | Geothermal permits | |
| Division 1 | Standard relinquishment condition and related provisions | |
| 109 | Standard relinquishment condition | 75 |
| 110 | Consequence of failure to comply with relinquishment condition | 76 |
| 111 | Part usually required to be relinquished | 76 |
| 112 | Relinquishment must be by blocks or sub-blocks | 76 |
| 113 | Blocks or sub-blocks that can not be counted towards relinquishment | 76 |
| 114 | Adjustments for blocks or sub-blocks that can not be counted | 77 |
| 115 | Adjustment for particular potential geothermal commercial areas | 78 |
| Division 2 | Conditions relating to work programs | |
| 116 | Requirement to have work program | 78 |
| 117 | Compliance with activities in work program | 78 |

Contents

| | | |
|-------------------|--|----|
| 118 | Obligation to give proposed later work program | 78 |
| 119 | Consequence of failure to comply with notice to give proposed later work program | 80 |
| Division 3 | Conditions relating to production testing | |
| 120 | Compliance with test plan for production testing | 80 |
| 121 | Requirement of geothermal tenure holder to report outcome of production testing | 81 |
| Part 2 | Geothermal leases | |
| 122 | Obligation to commence geothermal production | 81 |
| 123 | Requirement to have development plan | 81 |
| 124 | Compliance with development plan | 82 |
| 125 | Obligation to give proposed later development plan | 82 |
| 126 | Consequence of failure to comply with notice to give proposed later development plan | 83 |
| Part 3 | All geothermal tenures | |
| 127 | Water Act authorisation required for taking or interfering with water | 84 |
| 128 | Obligation to consult with particular owners and occupiers | 84 |
| 129 | Compliance with land access code | 84 |
| 130 | Annual rent | 85 |
| 131 | Civil penalty for nonpayment of annual rent | 85 |
| 132 | Obligation to comply with Act and prescribed standards | 85 |
| 133 | Obligation to survey if Minister requires | 86 |
| Chapter 5 | Coordination with particular authorities under other resource Acts | |
| Part 1 | Preliminary | |
| 134 | Relationship with chs 2, 3 and 6. | 86 |
| 135 | What is an overlapping resource authority | 87 |
| 136 | What is an exploration authority (non-geothermal) | 87 |
| 137 | Relationship with other resource Acts and overlapping resource authorities | 88 |
| Part 2 | Geothermal coordination arrangements for overlapping resource authorities | |
| Division 1 | Making of arrangements | |
| 138 | Power to make arrangement | 88 |
| 139 | Other provisions about and effect of geothermal coordination arrangement | 89 |
| 140 | Applying for ministerial approval of proposed geothermal coordination arrangement | 89 |

| | | |
|-------------------|--|-----|
| 141 | Ministerial approval of proposed geothermal coordination arrangement | 90 |
| 142 | Approval does not confer right to renew | 91 |
| Division 2 | Amendment and cancellation | |
| 143 | Amendment or cancellation by parties to arrangement | 91 |
| 144 | Minister's power to cancel arrangement | 91 |
| 145 | Cancellation does not affect relevant authorities | 92 |
| Part 3 | Obtaining geothermal lease if overlapping resource authority | |
| Division 1 | Preliminary | |
| 146 | Application of pt 3 | 93 |
| Division 2 | Requirements for application | |
| 147 | Requirements for making application | 93 |
| 148 | Content requirements for geothermal statement | 94 |
| Division 3 | Consultation provisions | |
| 149 | Applicant's information obligation | 94 |
| 150 | Submissions by overlapping resource authority holder | 95 |
| Division 4 | Resource management decision if overlapping exploration authority (non-geothermal) | |
| 151 | Application of div 4 | 96 |
| 152 | Resource management decision | 96 |
| 153 | Criteria for decision | 97 |
| 154 | Restrictions on giving overlapping authority priority | 97 |
| Division 5 | Process if resource management decision is to give overlapping authority priority | |
| 155 | Application of div 5 | 97 |
| 156 | Notice to applicant and overlapping resource authority holder . . | 98 |
| 157 | Relevant lease application for all of the land | 98 |
| 158 | Relevant lease application for part of the land | 99 |
| 159 | No relevant lease application | 99 |
| Division 6 | Resource management decision not to grant and not to give priority | |
| 160 | Lapsing of application | 100 |
| Division 7 | Deciding application | |
| 161 | Application of div 7 | 100 |
| 162 | Application may be refused if no reasonable prospects of geothermal coordination arrangement | 101 |
| 163 | Additional criteria for deciding provisions of geothermal lease . . | 101 |

Contents

| | | |
|-------------------|---|-----|
| 164 | Publication of outcome of application | 102 |
| Part 4 | Priority to particular higher tenure applications under other resource Acts | |
| 165 | Earlier GHG, mining or petroleum lease application | 103 |
| 166 | Proposed GHG, mining or petroleum lease for which EIS approval given | 103 |
| 167 | Proposed GHG, mining or petroleum lease declared a coordinated project | 104 |
| Part 5 | Geothermal lease applications in response to invitation under another resource Act | |
| 168 | Application of pt 5 | 104 |
| 169 | Additional ground for refusing application | 105 |
| Part 6 | Additional provisions for geothermal tenures | |
| Division 1 | Restrictions on authorised activities other than for geothermal leases | |
| 170 | Overlapping GHG, mining or petroleum lease | 105 |
| 171 | Overlapping exploration authority (non-geothermal) | 106 |
| 172 | Resolving disputes | 106 |
| Division 2 | Additional conditions | |
| 173 | Notice of grant by particular geothermal permit holders | 108 |
| 174 | Condition to notify particular other authority holders of proposed start of particular authorised activities | 108 |
| 175 | Continuance of geothermal coordination arrangement after transfer | 109 |
| Division 3 | Restriction on Minister’s power to amend geothermal lease if overlapping resource authority | |
| 176 | Interests of overlapping resource authority holder to be considered | 110 |
| Part 7 | Additional provisions for development plans if overlapping resource authority | |
| 177 | Operation of pt 7 | 110 |
| 178 | Statement about interests of overlapping resource authority holder | 111 |
| 179 | Consistency with overlapping resource authority’s development plan and with any relevant coordination arrangement | 111 |
| 180 | Additional criteria for approval | 111 |
| Part 8 | Additional provisions for safety management plans | |
| 181 | Grant of geothermal lease does not affect obligation to make plan | 112 |

| | | |
|-------------------|---|-----|
| 182 | Requirements for consultation with particular overlapping resource authority holders | 112 |
| 183 | Application of P&G Act provisions for resolving disputes about reasonableness of proposed provision | 114 |
| Chapter 6 | General provisions for geothermal tenures | |
| Part 1 | Area provisions | |
| 184 | Area of geothermal tenure | 114 |
| 185 | References to blocks of geothermal tenure | 115 |
| 186 | Minister's power to decide excluded land | 116 |
| 187 | Minister may add excluded land | 116 |
| 188 | Ending of geothermal permit if all of its area relinquished | 117 |
| 189 | Area of geothermal permit reduced on grant of geothermal lease | 117 |
| Part 2 | Reporting and information provisions | |
| Division 1 | General reporting provisions | |
| 190 | Relinquishment report for partial relinquishment | 118 |
| 191 | End of tenure report | 119 |
| 192 | Power to require information or reports about authorised activities to be kept or given | 120 |
| Division 2 | Records and samples | |
| 193 | Requirement to keep records and samples | 121 |
| 194 | Requirement to give records and samples | 121 |
| Division 3 | Releasing required information | |
| 195 | Meaning of required information | 122 |
| 196 | Public release of required information | 122 |
| 197 | Chief executive may use required information | 123 |
| Part 3 | General provisions for geothermal wells | |
| Division 1 | Responsibility for geothermal wells | |
| 198 | Requirements for drilling geothermal well | 124 |
| Division 2 | Decommissioning of geothermal wells | |
| 199 | Application of div 2 | 124 |
| 200 | Obligation to decommission | 124 |
| 201 | Right of entry to facilitate decommissioning | 125 |
| 202 | Responsibility for geothermal well after decommissioning | 126 |
| Part 4 | Security | |
| 203 | Operation and purpose of pt 4 | 127 |
| 204 | Power to require security for geothermal tenure | 128 |

Contents

| | | |
|----------------------|---|-----|
| 205 | Minister’s power to require additional security | 128 |
| 206 | Interest on security | 129 |
| 207 | Power to use security | 129 |
| 208 | Replenishment of security | 129 |
| 209 | Security not affected by change in tenure holder | 130 |
| 210 | Retention of security after geothermal tenure ends | 130 |
| Part 5 | Private land | |
| Division 1 | Requirements for entry to private land in geothermal tenure area | |
| Subdivision 1 | Entry notice requirement for preliminary activities and particular advanced activities | |
| 211 | Entry notice requirement | 131 |
| 212 | Required contents of entry notice. | 132 |
| 213 | Exemptions from entry notice requirement. | 133 |
| 214 | Provisions for waiver of entry notice. | 134 |
| 215 | Giving entry notice by publication. | 134 |
| Subdivision 2 | Conduct and compensation agreement requirement for particular advanced activities | |
| 216 | Conduct and compensation agreement requirement | 135 |
| 217 | Exemptions from conduct and compensation agreement requirement | 136 |
| 218 | Requirements for deferral agreement. | 136 |
| Division 2 | Access to private land outside area of geothermal tenure | |
| Subdivision 1 | Preliminary | |
| 219 | Application of div 2 | 137 |
| Subdivision 2 | Access rights and access agreements | |
| 220 | Access rights of geothermal tenure holder. | 137 |
| 221 | Restriction on exercise of access rights | 138 |
| 222 | Owner or occupier must not unreasonably refuse to make access agreement | 139 |
| 223 | Principles for deciding whether access is reasonable | 139 |
| 224 | Provisions for access and access agreements | 140 |
| 225 | Access agreement binds successors and assigns. | 141 |
| Subdivision 3 | Land Court resolution | |
| 226 | Power of Land Court to decide access agreement. | 141 |
| 227 | Power of Land Court to vary access agreement | 141 |
| 228 | Criteria for deciding access | 142 |

| | | |
|----------------------|--|-----|
| Division 3 | Provisions for dealings or change in ownership or occupancy | |
| 229 | Entry notice or waiver of entry notice or access agreement not affected by a dealing | 142 |
| 230 | Change in ownership or occupancy | 142 |
| Division 4 | Periodic notice after entry of land | |
| 231 | Notice to owners and occupiers | 143 |
| Division 5 | Access to carry out rehabilitation and environmental management | |
| 232 | Right of access for authorised activities includes access for rehabilitation and environmental management. | 144 |
| Division 6 | Miscellaneous provision | |
| 233 | Direction to ease concerns of owner or occupier | 144 |
| Part 6 | Public land | |
| Division 1 | Public roads | |
| Subdivision 1 | Preliminary | |
| 234 | Coordinated projects excluded from div 1 | 145 |
| 235 | What is a notifiable road use | 145 |
| Subdivision 2 | Notifiable road uses | |
| 236 | Notice of notifiable road use | 146 |
| 237 | Directions about notifiable road use | 147 |
| 238 | Obligation to comply with road use directions | 148 |
| Division 2 | Other public land | |
| 239 | When entry notice has to be given | 148 |
| 240 | Waiver of entry notice. | 149 |
| 241 | Required contents of entry notice. | 150 |
| 242 | Conditions public land authority may impose | 150 |
| Part 7 | Access to land in area of particular other authorities | |
| 243 | Application of pt 7. | 152 |
| 244 | Access if second authority is a lease | 152 |
| 245 | Access if second authority is not a lease | 152 |
| Part 8 | Compensation and negotiated access | |
| Division 1 | Compensation other than for notifiable road uses | |
| Subdivision 1 | Preliminary | |
| 246 | Application of div 1 | 153 |
| Subdivision 2 | General provisions | |
| 247 | General liability to compensate | 153 |

Contents

| | | |
|----------------------|--|-----|
| Subdivision 3 | General provisions for conduct and compensation agreements | |
| 248 | Conduct and compensation agreement | 155 |
| 249 | Content of conduct and compensation agreement. | 155 |
| Subdivision 4 | Negotiation process | |
| 250 | Notice of intent to negotiate | 157 |
| 251 | Negotiations | 158 |
| 252 | Provision for the minimum negotiation period | 158 |
| 253 | Cooling-off during minimum negotiation period | 159 |
| 254 | Parties may seek conference or independent ADR | 159 |
| 255 | Conduct of conference or ADR. | 160 |
| Subdivision 5 | Deciding compensation through Land Court | |
| 256 | Land Court may decide if negotiation process unsuccessful | 160 |
| 257 | Land Court review of compensation. | 161 |
| 258 | Orders Land Court may make | 162 |
| Subdivision 6 | Additional Land Court jurisdiction for compensation and related matters | |
| 259 | What sdiv 6 is about. | 163 |
| 260 | Additional jurisdiction | 163 |
| 261 | Jurisdiction to impose or vary conditions | 164 |
| Subdivision 7 | Miscellaneous provision | |
| 262 | Compensation not affected by change in ownership or occupancy | 164 |
| Division 2 | Compensation for notifiable road uses | |
| 263 | Liability to compensate public road authority | 165 |
| 264 | Compensation agreement | 166 |
| 265 | Deciding compensation through Land Court | 167 |
| 266 | Criteria for decision | 167 |
| 267 | Land Court review of compensation. | 168 |
| 268 | Compensation to be addressed before carrying out notifiable road use | 169 |
| 269 | Compensation not affected by change in administration or holder | 169 |
| Part 9 | Ownership of equipment and improvements | |
| 270 | Application of pt 9. | 170 |
| 271 | Ownership of equipment and improvements | 170 |

| | | |
|-------------------|--|-----|
| Part 10 | Geothermal register | |
| 272 | Geothermal register | 171 |
| 273 | Keeping of register | 172 |
| 274 | Access to register | 172 |
| 275 | Arrangements with other departments for copies from geothermal register | 173 |
| 276 | Supply of statistical data from geothermal register | 173 |
| 277 | Chief executive may correct register | 174 |
| Part 11 | Dealings | |
| Division 1 | Preliminary | |
| 277A | Definitions for pt 11 | 175 |
| 278 | What is a dealing with a geothermal tenure | 176 |
| 279 | Prohibited dealings | 176 |
| 280 | Types of transfers | 176 |
| Division 2 | Registration of dealings generally | |
| 281 | Registration required for all dealings | 177 |
| 282 | Obtaining registration | 178 |
| 283 | Effect of approval and registration | 178 |
| Division 3 | Approval of assessable transfers | |
| 284 | Indicative approval | 178 |
| 285 | Applying for approval of assessable transfer | 179 |
| 286 | Deciding application | 179 |
| 287 | Security may be required | 182 |
| 288 | Notice of decision | 182 |
| Part 11A | Recording associated agreements | |
| 289 | Definition for pt 11A | 182 |
| 289A | Recording associated agreements | 183 |
| 289B | Effect of recording associated agreements | 183 |
| Part 11B | Caveats | |
| 289C | Requirements of caveats | 183 |
| 289D | Lodging of caveat | 184 |
| 289E | Chief executive's functions on receipt of caveat | 185 |
| 289F | Effect of lodging caveat | 185 |
| 289G | Lapsing, withdrawal or removal of caveat | 186 |
| 289H | Further caveat not available to same person | 187 |
| 289I | Compensation for lodging caveat without reasonable cause | 188 |

Contents

| | | |
|-------------------|--|-----|
| Part 12 | Renewals | |
| 290 | General conditions for renewal application | 188 |
| 291 | Restriction on applying for renewal of geothermal permit | 189 |
| 292 | Requirements for making application | 189 |
| 293 | Continuing effect of geothermal tenure for renewal application . . | 190 |
| 294 | Deciding application | 190 |
| 295 | Provisions and term of renewed geothermal permit. | 192 |
| 296 | Provisions of renewed geothermal lease | 192 |
| 297 | Additional provisions for term of any renewed geothermal tenure | 193 |
| 298 | Criteria for decisions. | 193 |
| 299 | Information notice about refusal. | 194 |
| 300 | When refusal takes effect. | 194 |
| Part 13 | Surrenders | |
| 301 | Requirements for surrender | 194 |
| 302 | Requirements for making surrender application. | 195 |
| 303 | Deciding application | 195 |
| 304 | Notice and taking effect of decision | 196 |
| Part 14 | Enforcement of end of tenure and area reduction obligations | |
| 305 | Power of authorised person to ensure compliance | 196 |
| 306 | Requirements for entry to ensure compliance | 197 |
| 307 | Duty to avoid damage in exercising remedial powers. | 198 |
| 308 | Notice of damage because of exercise of remedial powers. | 198 |
| 309 | Compensation for exercise of remedial powers | 199 |
| 310 | Ownership of thing removed in exercise of remedial powers | 199 |
| 311 | Recovery of costs of and compensation for exercise of remedial power | 200 |
| Chapter 7 | Conferences, enforcement, offences and proceedings | |
| Part 1 | Conferences with eligible claimants or owners and occupiers | |
| Division 1 | Preliminary | |
| 312 | Application of pt 1 | 201 |
| Division 2 | Calling conference and attendance | |
| 313 | Calling conference | 202 |
| 314 | Who may attend conference. | 202 |
| 315 | What happens if a party does not attend | 203 |

| | | |
|-------------------|--|-----|
| Division 3 | Conduct of conference | |
| 316 | Authorised officer's role | 203 |
| 317 | Statements made at conference. | 203 |
| 318 | Agreement made at conference | 204 |
| Part 2 | Noncompliance action for geothermal tenures | |
| Division 1 | Preliminary | |
| 319 | Operation of div 1 | 204 |
| Division 2 | Noncompliance action by Minister | |
| 320 | Types of noncompliance action that may be taken. | 205 |
| 321 | When noncompliance action may be taken | 206 |
| Division 3 | Procedure for noncompliance action | |
| 322 | Notice of proposed noncompliance action | 207 |
| 323 | Considering submissions | 208 |
| 324 | Decision on proposed noncompliance action. | 208 |
| 325 | Notice and taking effect of decision | 209 |
| 326 | Consequence of failure to comply with relinquishment requirement | 209 |
| Part 3 | General offences | |
| 327 | Restriction on carrying out geothermal activities | 210 |
| 328 | Defence if geothermal activity is for GHG storage injection. | 211 |
| 329 | Geothermal tenure holder's measurement obligations. | 211 |
| 330 | Duty to avoid interference in carrying out geothermal activities . . | 212 |
| 331 | Obstruction of geothermal tenure holder | 212 |
| 332 | False or misleading information | 213 |
| 333 | Liability of executive officer—offence committed by corporation against s 327 | 214 |
| 333A | Executive officer may be taken to have committed offence | 215 |
| 334 | Attempts to commit offences | 216 |
| Part 4 | Appeals | |
| 335 | Who may appeal. | 216 |
| 336 | Period to appeal | 216 |
| 337 | Starting appeal | 216 |
| 338 | Stay of operation of decision | 217 |
| 339 | Hearing procedures | 217 |
| 340 | Land Court's powers on appeal | 218 |
| 341 | Restriction on Land Court's powers for decision not to grant geothermal lease | 218 |

Contents

| | | |
|-------------------|---|-----|
| Part 5 | Evidence and legal proceedings | |
| Division 1 | Evidentiary provisions | |
| 342 | Application of div 1 | 218 |
| 343 | Authority | 219 |
| 344 | Signatures | 219 |
| 345 | Other evidentiary aids | 219 |
| Division 2 | Offence proceedings | |
| 346 | Offences under Act are summary. | 220 |
| 347 | Statement of complainant's knowledge | 220 |
| 348 | Conduct of representatives. | 221 |
| 349 | Additional orders that may be made on conviction. | 222 |
| Chapter 8 | Miscellaneous provisions | |
| Part 1 | Provisions about geothermal tenures | |
| Division 1 | General provisions | |
| 350 | Geothermal tenure does not create an interest in land | 222 |
| 350A | Extinguishing geothermal interests on the taking of land in a geothermal tenure's area (other than by an easement) | 223 |
| 350B | Effect of extinguishment of geothermal interests on the taking of land in a geothermal tenure's area (other than by an easement). | 225 |
| 350C | Applications relating to land taken under a resumption law for which geothermal interests were extinguished. | 226 |
| 350D | Compensation for effect of taking of land in a geothermal tenure's area on geothermal interests | 227 |
| 351 | Joint holders of a geothermal tenure | 228 |
| 352 | Minister's power to ensure compliance by geothermal tenure holder | 228 |
| 353 | Power to correct or amend tenure | 229 |
| 354 | Replacement of instrument for geothermal tenure. | 230 |
| 355 | Joint and several liability for conditions and for debts to State | 230 |
| Division 2 | General provisions about authorised activities | |
| 356 | Authorised activities may be carried out despite rights of owner or occupier | 231 |
| 357 | General restrictions on right to carry out authorised activity | 231 |
| 358 | Restrictions on carrying out authorised activities on particular land | 232 |
| 359 | Who may carry out authorised activity for geothermal tenure holder | 233 |
| 360 | Limitation of owner's or occupier's tortious liability for authorised activities | 233 |

| | | |
|-------------------|---|-----|
| Division 3 | Provisions for when geothermal tenure ends or area reduced | |
| 361 | Obligation to remove equipment and improvements | 234 |
| 362 | Authorisation to enter to facilitate compliance | 235 |
| Part 2 | Applications, lodging documents and making submissions | |
| 363 | Place or way for making applications, lodging documents or making submissions | 236 |
| 364 | Requirements for making an application | 237 |
| 365 | Request to applicant about application | 238 |
| 366 | Refusing application for failure to comply with request | 239 |
| 366A | Notice to progress geothermal tenure or renewal application . . . | 240 |
| 367 | Particular criteria generally not exhaustive | 240 |
| 368 | Particular grounds for refusal generally not exhaustive | 240 |
| 369 | Amending applications | 241 |
| 370 | Withdrawal of application | 241 |
| 371 | Minister's power to refund application fee | 241 |
| Part 3 | Other miscellaneous provisions | |
| 372 | Interest on amounts owing to the State | 242 |
| 373 | Recovery of unpaid amounts | 242 |
| 374 | General public interest criteria for particular Ministerial decisions | 243 |
| 375 | Provision for entry by State to carry out geothermal activity | 243 |
| 376 | Name and address for service | 244 |
| 377 | Notice of agents | 244 |
| 378 | Additional information about reports and other matters | 244 |
| 379 | References to right to enter | 245 |
| 380 | Application of provisions | 245 |
| 381 | Protection from liability for particular persons | 245 |
| 382 | Delegation by Minister or chief executive | 246 |
| 383 | Practice manual | 246 |
| 384 | Approved forms | 247 |
| 385 | Regulation-making power | 248 |
| Chapter 9 | Repeal and transitional provisions | |
| Part 1 | Repeal provisions | |
| 386 | Repeal of Geothermal Exploration Act 2004 | 249 |
| 387 | Repeal of Timber Utilisation and Marketing Act 1987 | 249 |

Contents

| | | |
|----------------------|--|-----|
| Part 2 | Transitional provisions for Act No. 31 of 2010 | |
| Division 1 | Preliminary | |
| 388 | Definitions for pt 2. | 250 |
| Division 2 | Provisions for Ergon Energy geothermal production near Birdsville | |
| Subdivision 1 | Grant of and provisions about Birdsville lease | |
| 389 | Geothermal lease for Ergon Energy. | 251 |
| 390 | Authorised activities | 251 |
| 391 | Conditions | 252 |
| 392 | Land access provisions until the new land access provisions start day | 252 |
| Subdivision 2 | Development plan provisions | |
| 393 | Deferral of development plan requirement | 253 |
| 394 | Provisions for approval of development plan | 253 |
| 395 | Exemption from geothermal royalty | 253 |
| Division 3 | New land access provisions for 2004 Act permits until 2010 Act start day | |
| 396 | Application of div 3 | 254 |
| 397 | Compliance with land access code | 254 |
| 398 | Application of particular provisions of this Act | 254 |
| Division 4 | General provisions | |
| 399 | Conversion of 2004 Act permits on 2010 Act start day | 255 |
| 400 | Outstanding tenders under 2004 Act | 256 |
| 401 | Other undecided applications. | 256 |
| 402 | Decisions or documents under 2004 Act | 256 |
| 403 | Outstanding appeals | 257 |
| Part 3 | Transitional provisions for Mines Legislation (Streamlining) Amendment Act 2012 | |
| Division 1 | Preliminary | |
| 404 | Definitions for pt 3. | 257 |
| Division 2 | Transitional provisions for amendments in amending Act commencing on assent | |
| 405 | Land in a geothermal tenure's area taken before the commencement | 258 |
| 406 | Land in a geothermal tenure's area for which notice of intention to resume given before the commencement | 259 |

| | | |
|-------------------|---|------------|
| Division 3 | Transitional provisions for amendments in amending Act commencing by proclamation | |
| 407 | Undecided applications for approval of particular dealing | 259 |
| 408 | Deciding applications for approval of assessable transfers until commencement of particular provisions. | 260 |
| 409 | Uncommenced appeals about refusal to approve particular dealing | 260 |
| 410 | Unfinished appeals about refusal to approve particular dealing. | 261 |
| Schedule 1 | Decisions subject to appeal | 262 |
| Schedule 2 | Dictionary | 265 |
| | | |
| Endnotes | | |
| 1 | Index to endnotes. | 283 |
| 2 | Key | 283 |
| 3 | Table of reprints | 283 |
| 4 | List of legislation. | 284 |
| 5 | List of annotations | 286 |

Geothermal Energy Act 2010

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

An Act to enable and facilitate the production of geothermal energy

Chapter 1 Preliminary

Part 1 Introduction

1 Short title

This Act may be cited as the *Geothermal Energy Act 2010*.

2 Commencement

- (1) Subject to subsections (2) and (3), this Act commences on a day to be fixed by proclamation.
- (2) The following provisions commence on the date of assent—
 - (a) chapter 9, part 2;
 - (b) chapter 10, part 1;
 - (c) schedule 2, part 1.
- (3) Schedule 2, part 3 commences immediately after all of chapter 10 and all of the other provisions of schedule 2 have commenced.

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

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

- (a) applying chapter 9 of that Act (the *P&G Act safety provisions*) to particular authorised activities for a geothermal tenure; and
- (b) applying its provisions about investigations and some of its provisions about enforcement to authorised activities for geothermal tenures.

5 Act binds all persons

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

6 Application of Act to coastal waters of the State

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

7 Relationship with Nature Conservation Act 1992

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

Editor's note—

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

[s 8]

8 Relationship with GHG storage Act and principal mining and petroleum Acts

The relationship between this Act and the following Acts and the tenures and other authorities under them is provided for under chapter 5, parts 2 to 8 and—

- (a) for the *Greenhouse Gas Storage Act 2009* (the **GHG storage Act**)—chapter 4, parts 2 to 8 of that Act;
- (b) for the *Mineral Resources Act 1989* (the **Mineral Resources Act**)—chapter 9 of that Act;
- (c) for the *Petroleum Act 1923* (the **1923 Act**)—section 40(1A) and part 6FA of that Act;
- (d) for the P&G Act—chapter 3A of that Act.

8A Declaration for Commonwealth Act

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

9 Act does not affect other rights or remedies

- (1) Subject to sections 202, 360 and 381 this Act does not affect or limit a civil right or remedy that exists apart from this Act, whether at common law or otherwise.

Editor's note—

sections 202 (Responsibility for geothermal well after decommissioning), 360 (Limitation of owner's or occupier's tortious liability for authorised activities) and 381 (Protection from liability for particular persons)

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

- (4) This Act does not limit a court's powers under the *Penalties and Sentences Act 1992* or another law.

Part 3 Interpretation

Division 1 Dictionary

10 Definitions

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

Division 2 Key definitions

Subdivision 1 Key concepts

11 What is *geothermal energy*

Geothermal energy is heat energy derived from the earth's natural (subsurface) heat.

12 What are *geothermal resources*

Geothermal resources are geological strata and associated material in which elevated levels of geothermal energy exist.

Examples of associated material—

groundwater, other fluids and gases that may fill fractures or voids in geological strata

13 What is *geothermal exploration*

Geothermal exploration is—

[s 14]

- (a) exploring for and quantifying geothermal resources; and
- (b) carrying out investigations and other activities associated with exploring for, or quantifying, geothermal resources.

Note—

Some geothermal exploration and production is not regulated under this Act, but may be under other legislation. See section 327(b) and (d) to (f) and note and also sections 16, 35 and 77.

14 What is *geothermal production*

- (1) ***Geothermal production*** is the recovery of geothermal energy—
 - (a) on or from beneath the surface of the land in which it is contained, other than production testing; or
 - (b) from a place at which geothermal energy naturally appears at the surface of the land.

Example for paragraph (b)—

hot springs

- (2) However, for this Act, geothermal energy is only produced when it is used for any purpose.

15 What is *exempt heat pump production*

Exempt heat pump production is geothermal production using a geothermal heat pump if—

- (a) the purpose of the production is to cool or heat buildings; and
- (b) the production is not of a large-scale.

16 References to large-scale geothermal production

- (1) This section applies to a reference in this Act to large-scale geothermal production.

-
- (2) In deciding whether geothermal production is or will not be of a large-scale, regard must be had to any criteria prescribed under a regulation.
 - (3) In making a regulation under subsection (2), the following may be considered—
 - (a) the temperature of fluid or gases extracted in the geothermal production;
 - (b) the flow rate of fluid or gases extracted in the geothermal production;
 - (c) the amount of geothermal energy produced.
 - (4) In this section—

geothermal production includes proposed geothermal production.

17 What is *production testing*

Production testing is testing from a geothermal well to evaluate the feasibility of geothermal production.

18 What is a *geothermal activity*

A *geothermal activity* is any activity that may be an authorised activity for any geothermal tenure, whether or not a geothermal tenure has been granted for the activity.

Subdivision 2 Definitions relating to authorities under Act

19 Types of authority under Act

- (1) The types of authority under this Act are—
 - (a) a *geothermal exploration permit* (also called a *geothermal permit*)—

[s 20]

- (i) granted under section 40; or
- (ii) continued in force under section 79 or 293; or
- (iii) renewed under section 294; and

Note—

See also section 399 (Conversion of 2004 Act permits on 2010 Act start day).

- (b) a ***geothermal production lease*** (also called a ***geothermal lease***)—
 - (i) granted under section 82; or
 - (ii) continued in force under section 79 or 293; or
 - (iii) renewed under section 294.
- (2) A ***geothermal tenure*** is a geothermal permit or a geothermal lease.

20 What are the ***conditions*** of a geothermal tenure

- (1) The ***conditions*** of a geothermal tenure are—
 - (a) the conditions stated in it from time to time; and
 - (b) the geothermal tenure holder's obligations under chapters 2 to 6; and
 - (c) any condition of the geothermal tenure imposed under chapters 2 to 6 or prescribed under section 385; and
 - (d) a condition that the holder must ensure each person who, under section 359, may carry out an authorised activity for the geothermal tenure complies with its conditions to the extent the conditions apply to the carrying out of the activity.
- (2) A condition mentioned in subsection (1)(b) or (c) is a ***mandatory condition*** of the geothermal tenure.

21 References to geothermal tenure or provisions of geothermal tenure

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

22 What is an *authorised activity* for a geothermal tenure

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

Notes—

- 1 The provisions of the geothermal tenure may restrict the carrying out of authorised activities. See sections 40, 82, 295, 296, 297 and 320(3).
- 2 The carrying out of authorised activities is subject to the restrictions under chapters 2 to 6 and section 357 and holder's rights and obligations under those chapters.
- 3 The carrying out of particular activities on particular land in the geothermal tenure's area may not be authorised following the taking of the land under a resumption law. See section 350B.

Subdivision 3 Other key definitions

23 Who is an *eligible person*

An *eligible person* is—

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

[s 24]

24 What is a *work program* for a geothermal permit

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

25 What is a *development plan* for a geothermal lease

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

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

- (1) A *block* is the land resulting from a notional division of the earth's surface—
 - (a) by 2 meridians of longitude 5 minutes apart, each meridian being a multiple of 5 minutes of longitude from the meridian of Greenwich; and
 - (b) by 2 parallels of latitude 5 minutes apart, each parallel being a multiple of 5 minutes of latitude from the equator.
- (2) A *sub-block* is the land resulting from a notional division of a block into 25 areas, each sub-block being bounded by 2 meridians of longitude 1 minute of longitude apart and 2 parallels of latitude 1 minute of latitude apart.
- (3) Each block and sub-block must be identified in the way approved by the chief executive.

27 What is a *resource Act*

A *resource Act* is any of the following—

- this Act
- the GHG storage Act
- the Mineral Resources Act
- the 1923 Act
- the P&G Act.

Part 4 State ownership of geothermal energy

28 State ownership of geothermal energy

- (1) All geothermal energy on or below the surface of any land in the State is, and is taken always to have been, the property of the State.
- (2) To remove any doubt, it is declared that—
 - (a) a person does not acquire any property in geothermal energy merely because the person discovers it or discovers geothermal resources from which geothermal energy may be extracted; and
 - (b) subsection (1) applies whether or not the land is freehold or other land.
- (3) This section applies despite any other Act, grant, title or other document.

29 Reservation in land grants

- (1) This section applies to each grant under another Act of a right relating to land.

[s 29]

- (2) This section applies whether the grant was made before or after the commencement of this section.
- (3) The grant is taken to contain a reservation to the State of—
 - (a) all geothermal energy on or below the surface of the land; and
 - (b) the exclusive right to do the following in relation to the land—
 - (i) to enter and carry out any geothermal activity;
 - (ii) to authorise, under this Act, persons to carry out any geothermal activity;
 - (iii) to regulate, under this Act, geothermal activities carried out by others.

Note—

See, however, section 375 (Provision for entry by State to carry out geothermal activity).

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

Chapter 2 Geothermal exploration permits

Notes—

- 1 For the general requirement to have a geothermal tenure and the exceptions to the requirement, see section 327.
- 2 In particular, section 327 does not require the holding of a geothermal permit for geothermal exploration that is only for exempt heat pump production.
- 3 Chapter 5 (Coordination with particular authorities under other resource Acts) imposes requirements for and restrictions on the granting of, and restrictions on authorised activities that may be carried out under, particular geothermal tenures. See section 134.

Part 1 Key authorised activities

30 Operation of pt 1

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

Notes—

- 1 For other authorised activities, see chapter 6, part 5, division 2 (Access to private land outside area of geothermal tenure) and chapter 8, part 1, division 2 (General provisions about authorised activities).
- 2 For general restrictions on authorised activities, their relationship with owners' and occupiers' rights and who may carry out authorised activities for a geothermal tenure holder, see chapter 4 and chapter 8, part 1, division 2.
- 3 The carrying out of particular activities on particular land in the geothermal permit's area may not be authorised following the taking of the land under a resumption law. See section 350B.

31 Principal authorised activities

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

- (a) geothermal exploration;
- (b) evaluating the feasibility of geothermal production, including, for example, by production testing.

32 Incidental activities

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

Examples of incidental activities—

- constructing or operating facilities, plant or works, including, for example, communication systems, compressors, pipelines,

[s 33]

pumping stations, reservoirs, roads, evaporation or storage ponds and tanks

- constructing or using temporary structures or structures of a technical nature

(2) However, constructing or using a structure, other than a temporary structure, for office or residential accommodation is not an incidental activity.

Part 2 Obtaining geothermal permit

Division 1 Restricted areas

33 Minister's power to decide restricted areas for geothermal tenures

- (1) The Minister may declare that land in an area (a *restricted area*) is land for which a geothermal tenure application can not be made.
- (2) However, a declaration can not be made under subsection (1) for excluded land or land in an existing geothermal tenure's area.
- (3) The declaration must be made by gazette notice or by publishing a notice about the declaration.

34 Amendment or cancellation of restricted area

- (1) The power under section 33 to declare a restricted area includes the power to amend or cancel a restricted area.
- (2) If land ceases to be in a restricted area, the relevant declaration may state a period within which geothermal permit applications for the land will not be considered, to allow them to be considered competitively after the period ends.

-
- (3) Land mentioned in subsection (2) is a *released area*.
 - (4) The period stated under subsection (2) for a released area is the *application period* for the area.

Division 2 Applying for geothermal permit

35 Who may apply

- (1) Any eligible person may apply for a geothermal permit for land other than—
 - (a) land in a restricted area; or
 - (b) excluded land; or
 - (c) land in an existing geothermal tenure's area; or
 - (d) land that has been in a geothermal tenure's area and less than 2 months has passed since the end of the month in which the land ceased to be in—
 - (i) the geothermal tenure; or
 - (ii) if the geothermal tenure has ended—the former geothermal tenure's area; or
 - (e) land that has been the subject of an earlier geothermal tenure application that has been refused or withdrawn and less than 2 months has passed since the end of the month in which the earlier geothermal tenure application was refused or withdrawn.
- (2) Also, a geothermal permit application (the *relevant application*) may be made for land the subject of an existing application only if—
 - (a) the land is in a released area and the relevant application is made during the application period for the area; or
 - (b) the existing application was made on the same day as the relevant application.

[s 36]

- (3) Despite subsection (1), a geothermal permit application can not be made for geothermal exploration—
- (a) for exempt heat pump production; or
 - (b) to evaluate the feasibility of exempt heat pump production.
- (4) In this section—
- existing application* means another geothermal permit application made but not decided.

36 Requirements for making application

The application must—

- (a) be made to the Minister in the approved form; and
- (b) include a proposed work program complying with the initial work program requirements; and
- (c) include a statement about the extent to which the applicant has—
 - (i) the financial and technical resources to carry out authorised activities for the proposed geothermal permit; and
 - (ii) the ability to manage geothermal exploration; and
- (d) state the name and address for service of 1 person on whom any notice to the applicant may be served; and
- (e) be accompanied by the fee prescribed under a regulation.

Note—

For other relevant provisions about applications, see chapter 8, part 2.

Division 3 Deciding application

37 Restriction on deciding during application period for released area

If the application is for land in a released area and is made within the application period for the area, the application can not be decided before the end of that period.

Note—

See also section 43 (Priority for deciding competing applications).

38 Effect of identification of restricted area on application

- (1) If, before the deciding of the application, any land the subject of the application is declared to be in a restricted area, the application lapses to the extent it applies to the restricted area.
- (2) No amount, whether by way of compensation, reimbursement or otherwise, is payable by the State to any person for or in connection with the operation of subsection (1).

39 Deciding whether to grant geothermal permit

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

[s 40]

- (iv) any relevant Water Act authorisation has been issued.

Note—

If the application relates to acquired land, see also section 350C.

- (3) The Minister can not grant a geothermal permit unless the applicant—
 - (a) has paid the annual rent for the first year of the geothermal permit; and
 - (b) if the Minister requires the applicant to give security under section 204—has given the security.

40 Provisions and granting of geothermal permit

- (1) If the Minister decides to grant the applicant a geothermal permit, the Minister must decide its provisions and grant the applicant the permit.
- (2) The permit must state its term and area.
- (3) The term must end no later than 5 years after the permit takes effect.
- (4) The area must comply with chapter 6, part 1.
- (5) The permit may also state—
 - (a) conditions or other provisions of the permit, other than conditions or provisions that are—
 - (i) inconsistent with the mandatory conditions for geothermal permits; or
 - (ii) the same as, or substantially the same as, or inconsistent with, any relevant environmental condition for the permit; and
 - (b) the day the permit takes effect.
- (6) However, the provisions of the permit may exclude or restrict the carrying out of an authorised activity for the permit.

-
- (7) The day the permit takes effect can not be before the day it is granted.
 - (8) If no day of effect is stated, the permit takes effect on the day after it is granted.

41 Criteria for decisions

In deciding whether or not to grant the applicant a geothermal permit, or in deciding its provisions, the Minister must consider—

- (a) the applicant's proposed initial work program; and
- (b) the extent to which the Minister is of the opinion that the applicant is capable (the *capability criteria*) of carrying out authorised activities for the geothermal permit, having regard to the applicant's—
 - (i) financial and technical resources; and
 - (ii) ability to manage geothermal exploration.

42 Notice of decision

The Minister must, as soon as practicable after deciding whether or not to grant the applicant a geothermal permit, give the applicant notice of the decision.

Division 4 Priority for deciding competing geothermal permit applications

43 Priority for deciding competing applications

- (1) This section applies if 2 or more geothermal permit applications are—
 - (a) for land in a released area and made before the end of the application period for the area; or
 - (b) for the same land and made on the same day.

[s 44]

Note—

Competing applications for land other than land in a released area can not be made on different days. See section 35.

- (2) The applications take the priority the Minister decides, after considering the relative merits of each application.

Part 3 Work programs

Division 1 Function and purpose

44 Function and purpose

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

Division 2 Requirements for proposed initial work programs

45 Operation of div 2

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

46 Program period

- (1) The proposed work program must state its period.
- (2) The period can not be longer than 5 years from when the proposed geothermal permit is to take effect.

47 General requirements

- (1) The proposed work program must provide for the following—
 - (a) its period;
 - (b) an overview of the activities proposed to be carried out under the proposed geothermal permit during all of its term (the *proposed activities*);
 - (c) for each year of the program period—
 - (i) the extent and nature of geothermal exploration proposed to be carried out during the year; and
 - (ii) generally where the proposed activities will be carried out; and
 - (iii) the estimated cost of the proposed activities;
 - (d) maps showing where the proposed activities will be carried out;
 - (e) reasons why the program is considered appropriate;
 - (f) any other matter prescribed under a regulation.
- (2) The proposed program may include any other information relevant to the work program criteria.
- (3) A regulation may impose requirements about the form of the work program.
- (4) The proposed program can not be inconsistent with the mandatory conditions for geothermal permits.
- (5) In this section—

program period start day means the day the program period starts.

[s 48]

year, of the program period, means—

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

48 Water issues

- (1) The proposed work program must include an assessment of—
 - (a) water needed for the proposed activities; and
 - (b) the potential for obtaining any relevant Water Act authorisation; and
 - (c) the potential structural and other impacts of the carrying out of the proposed activities on aquifers.
- (2) The proposed program must include a plan for the treatment and disposal of any water taken or that may be taken because of the proposed activities.
- (3) This section is subject to section 52(2).

Division 3 Approval of proposed initial work programs

Note—

For the requirement for an initial work program, see section 39.

49 Criteria

- (1) In deciding whether to approve a proposed initial work program, the Minister must consider the following—

- (a) the potential of the proposed area of the geothermal permit for geothermal exploration;
 - (b) the extent and nature of the proposed geothermal exploration and when and where it will be carried out;
 - (c) any relevant environmental authority;
 - (d) any relevant Water Act authorisation;
 - (e) any potential structural and other impacts of the carrying out of the proposed activities on aquifers.
- (2) The matters mentioned in subsection (1) are the *work program criteria*.

50 Verification may be required

- (1) The Minister may by notice require the applicant to give the Minister, within a stated reasonable period, a document made by an appropriately qualified independent person verifying all or any of the following—
- (a) an assessment of data supplied in the proposed work program;
 - (b) the source of the data;
 - (c) the work done for the proposed work program;
 - (d) that, in the person's opinion, the applicant has—
 - (i) the financial and technical resources to carry out authorised activities for the proposed geothermal permit; and
 - (ii) the ability to manage geothermal exploration.
- (2) If the applicant does not comply with the requirement, the Minister may refuse to approve the proposed program.
- (3) The applicant must bear any costs incurred in complying with the requirement.

[s 51]

Note—

For other relevant provisions about giving a document to the Minister, see section 363.

Division 4 Requirements for proposed later work programs

51 Operation of div 4

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

Note—

For the requirements to give a proposed later work program, see sections 118, 187(7) and 320.

52 General requirements

- (1) The proposed work program must—
 - (a) other than for the program period, comply with the initial work program requirements; and
 - (b) state the extent to which the current work program for the geothermal permit has been complied with; and
 - (c) if there have been any amendments to the geothermal permit or its current work program, state—
 - (i) whether the changes have been incorporated in the proposed program; and
 - (ii) any effect the changes have on the proposed program; and
 - (d) state the effect of the discovery of geothermal resources on the proposed program.
- (2) The proposed program can not be inconsistent with any relevant environmental condition for the geothermal permit.

53 Program period

The program period for the work program can not be longer than the proposed term of the geothermal permit.

54 Implementation of evaluation program for potential geothermal commercial area

If, under section 67, an evaluation program is taken to be an additional part of the existing work program for the geothermal permit, the proposed work program must include work necessary to implement the evaluation program for the period of that program.

Division 5 Approval of proposed later work programs

55 Application of div 5

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

56 Geothermal permit taken to have work program until decision on whether to approve proposed program

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

[s 57]

57 Deciding whether to approve proposed program

- (1) The Minister may approve or refuse to approve the proposed later work program.
- (2) In deciding whether to give the approval, the Minister must consider the following—
 - (a) the capability criteria;
 - (b) the work program criteria;
 - (c) the extent to which the current work program for the geothermal permit has been complied with;
 - (d) any amendments made to the geothermal permit or any of the following for the permit, and the reasons for the amendments—
 - (i) the current work program;
 - (ii) the relevant environmental authority;
 - (iii) any relevant Water Act authorisation;
 - (e) any geothermal viability report or independent viability assessment for the geothermal permit.
- (3) Section 50 applies for the proposed program as if it were an initial work program and an application for approval of the initial work program had been made.

58 Steps after, and taking effect of, decision

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

- (4) The refusal does not take effect until the end of the appeal period for the decision to refuse.
- (5) Subsection (4) applies subject to section 338 and any decision of the Land Court under section 340 relating to the decision to refuse.

Division 6 Amending work programs

59 Restrictions on amending work program

- (1) A geothermal permit holder may amend the work program for the permit.
- (2) However, the amendment is subject to approval under this division.
- (3) Also, a work program can not be amended if the program as amended would be inconsistent with—
 - (a) the mandatory conditions for geothermal permits; or
 - (b) any relevant environmental condition for the permit.

60 Applying for approval to amend

- (1) A geothermal permit holder may apply to the Minister for approval of an amendment of the work program for the permit.
- (2) The application must be in the approved form and accompanied by the fee prescribed under a regulation.

61 Verification

Section 50 applies for the application as if—

- (a) the application were an application for a geothermal permit; and
- (b) a reference in the section to a proposed work program were a reference to the amendment.

62 Deciding application

- (1) The Minister must consider and decide whether or not to approve the amendment.
- (2) In making the decision the Minister must consider the following—
 - (a) the capability criteria;
 - (b) the work program criteria;
 - (c) the extent to which the current work program for the geothermal permit has been complied with;
 - (d) any amendments made to the geothermal permit or any of the following for the permit, and the reasons for the amendments—
 - (i) the current work program;
 - (ii) the relevant environmental authority;
 - (iii) any relevant Water Act authorisation.

63 Steps after, and taking effect of, decision

- (1) If the Minister decides to approve the amendment, the Minister must give the geothermal permit holder notice of the decision.
- (2) The approval takes effect when the holder is given the notice or, if the notice states a later day of effect, on the later day.
- (3) If the Minister decides to refuse to approve the amendment, the Minister must give the holder an information notice about the decision.
- (4) The refusal takes effect when the holder is given the notice or, if the notice states a later day of effect, on the later day.
- (5) Subsection (4) applies subject to section 338 and any decision of the Land Court under section 340 relating to the decision to refuse.

Part 4 Potential geothermal commercial areas

64 Purpose of potential geothermal commercial area

- (1) The purpose of the declaration of an area as a potential geothermal commercial area for a geothermal permit is to encourage longer-term development of the area for geothermal production.
- (2) The purpose is achieved by making special provisions about work programs and relinquishment for potential geothermal commercial areas.

Note—

For the provisions, see sections 67 and 115.

65 Applying for potential geothermal commercial area

- (1) A geothermal permit holder may apply for a declaration by the Minister that all or a stated part of the permit's area is a potential geothermal commercial area for the permit.
- (2) The application must be—
 - (a) made to the Minister in the approved form; and
 - (b) accompanied by the fee prescribed under a regulation.
- (3) The application may be made—
 - (a) for more than 1 part of the geothermal permit's area; and
 - (b) even if another part of the geothermal permit's area is already a potential geothermal commercial area.
- (4) The application must include—
 - (a) a report for or that includes the proposed potential geothermal commercial area that—
 - (i) complies with the requirements prescribed under a regulation for geothermal viability reports; and

[s 66]

- (ii) is still relevant to the circumstances of the proposed potential geothermal commercial area; and
- (b) an evaluation program for—
 - (i) potential geothermal production in the proposed potential geothermal commercial area; and
 - (ii) market opportunities for potential geothermal production.
- (5) However, subsection (4)(a) does not apply if—
 - (a) a geothermal viability report or an independent viability assessment relates to or includes the proposed potential geothermal commercial area; and
 - (b) the report or assessment is still relevant to the circumstances of the proposed potential geothermal commercial area.
- (6) The evaluation program may provide for a suspension of all or part of the work program for the area the subject of the application.

66 Deciding potential geothermal commercial area application

- (1) The Minister may declare an area the subject of the application to be a potential geothermal commercial area only if satisfied—
 - (a) the area is no more than is needed to cover the maximum extent of geothermal resources identified in the report; and
 - (b) geothermal production in the area is not, and will not soon be, commercially viable, but is likely to become viable within 5 years.
- (2) The area declared must form a single contiguous parcel of land.
- (3) In deciding the application, regard must be had to—

- (a) whether the relevant geothermal permit's conditions have been substantially complied with; and
 - (b) any other matter prescribed under a regulation.
- (4) To remove any doubt, it is declared that the declaration may be made even if the geothermal permit is being continued in force under section 79 or 293.
- (5) If the Minister decides to refuse the application, the Minister must give the applicant an information notice about the decision.

67 Inclusion of evaluation program in work program

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

68 Term of declaration

- (1) A declaration of a potential geothermal commercial area continues in force for the period stated in the declaration.
- (2) The period can not be more than 5 years.
- (3) In deciding a shorter period, the Minister must consider—
- (a) when any discovery of geothermal resources was made; and
 - (b) any geothermal viability report or independent viability assessment for or that includes the proposed potential geothermal commercial area.
- (4) Despite subsection (1), the declaration ceases if the geothermal permit holder gives the chief executive a notice stating that the holder no longer wishes the area to be a potential geothermal commercial area.

[s 69]

Note—

For other relevant provisions about giving a document to the chief executive, see section 363.

69 Potential geothermal commercial area still part of geothermal permit

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

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

70 Effect of ending of declaration of potential geothermal commercial area

- (1) This section applies if—
 - (a) all or part of the area of a geothermal permit is a potential geothermal commercial area; and
 - (b) the declaration of the potential geothermal commercial area ends more than 5 years after the geothermal permit originally took effect.
- (2) If the declaration applied to a part of the geothermal permit's area, the part ceases to be included in the area.
- (3) If the declaration applies to all of the geothermal permit's area, the permit ends.

Part 5 Provisions to facilitate transition to geothermal lease

71 Application of pt 5

This part applies if the Minister reasonably considers a geothermal permit holder should apply for a geothermal lease for all or part of the permit's area because the Minister considers geothermal production in the area—

- (a) is currently of a large-scale; or
- (b) is likely to become of a large-scale within 2 years.

72 Ministerial direction to apply for geothermal lease

- (1) The Minister may give the geothermal permit holder a notice stating the following—
 - (a) that the Minister proposes to do either of the following, (the *proposed action*) unless the holder has made an appropriate lease application—
 - (i) excise a stated area from the area of the geothermal permit;
 - (ii) cancel the geothermal permit;
 - (b) the grounds for the proposed action;
 - (c) the facts and circumstances forming the basis for the grounds;
 - (d) that the holder may, within a stated period, make submissions to the Minister about why the holder should not make a geothermal lease application under chapter 3, part 2 for the stated area.

Note—

For other relevant provisions about making a submission, see section 363.

[s 73]

- (2) The stated period must be reasonable but must not be more than 6 months.
- (3) In this section—
appropriate lease application means a geothermal lease application for—
 - (a) the stated area or an area that is substantially the same as the stated area; or
 - (b) another area the Minister reasonably considers will effectively allow the holder to carry out authorised activities for a geothermal lease in relation to the stated area.

73 Taking proposed action

- (1) Proposed action under section 72 may be taken only if—
 - (a) the stated period under that section has ended; and
 - (b) either—
 - (i) the holder has not made an appropriate lease application under that section; or
 - (ii) any appropriate lease application under that section made by the holder has been refused; and
 - (c) the Minister has considered any submissions made by the holder within the period.
- (2) If the Minister decides to take the proposed action, the Minister must give the holder an information notice about the decision.
- (3) A decision to take the proposed action does not take effect until the end of the appeal period for the decision.

Chapter 3 Geothermal production leases

Notes—

- 1 Under this chapter, a geothermal lease can only be obtained for large-scale geothermal production. See section 77.
- 2 For the general requirement to have a geothermal tenure and the exceptions to the requirement, see section 327. In particular, section 327 only requires the holding of a geothermal lease for large-scale geothermal production.
- 3 Chapter 5 (Coordination with particular authorities under other resource Acts) imposes requirements for and restrictions on the granting of, and restrictions on authorised activities that may be carried out under, particular geothermal tenures. See section 134.

Part 1 Key authorised activities

74 Operation of pt 1

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

Notes—

- 1 For other authorised activities, see chapter 6, part 5, division 2 (Access to private land outside area of geothermal tenure) and chapter 8, part 1, division 2 (General provisions about authorised activities).
- 2 For general restrictions on authorised activities, their relationship with owners' and occupiers' rights and who may carry out authorised activities for a geothermal tenure holder, see chapter 4 and chapter 8, part 1, division 2.
- 3 The carrying out of particular activities on particular land in the geothermal lease's area may not be authorised following the taking of the land under a resumption law. See section 350B.

[s 75]

75 Principal authorised activities

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

- (a) geothermal exploration;
- (b) evaluating the feasibility of geothermal production, including, for example, by production testing;
- (c) geothermal production.

76 Incidental activities

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

Examples of incidental activities—

- constructing or operating facilities, plant or works, including, for example, communication systems, compressors, pipelines, pumping stations, reservoirs, roads, evaporation or storage ponds and tanks
 - constructing or using temporary structures or structures of a technical nature
- (2) However, constructing or using a structure, other than a temporary structure, for office or residential accommodation is not an incidental activity.
 - (3) To remove any doubt, it is declared that the use of infrastructure supporting the use of, or using, geothermal energy is not, of itself, an incidental activity.

Example of infrastructure that uses geothermal energy—

a power station

Part 2 Transition from geothermal permit to geothermal lease

Division 1 Applying for geothermal lease

77 Who may apply

- (1) A geothermal permit holder who continues to be an eligible person may apply for a geothermal lease over all or part of the permit's area.

Notes—

- 1 For restrictions on what land may be included in a geothermal tenure, see sections 33, 35 and 184.
 - 2 For inclusion of acquired land that was previously in the relevant geothermal permit's area, see section 350C(3).
- (2) However, the holder can only apply for a geothermal lease for the land for large-scale geothermal production.
- (3) Also, a person other than the holder may apply for the geothermal lease—
- (a) jointly with the holder; or
 - (b) with the holder's consent.
- (4) To remove any doubt, it is declared that a geothermal lease can only be applied for or granted under this part.

78 Requirements for making application

The application must—

- (a) be made to the Minister in the approved form; and
- (b) address the capability criteria; and
- (c) include a proposed development plan complying with the initial development plan requirements; and

[s 79]

- (d) include a statement about the extent to which the applicant has—
 - (i) the financial and technical resources to carry out authorised activities for the proposed geothermal lease; and
 - (ii) the ability to manage geothermal production; and
- (e) state the name and address for service of 1 person on whom any notice to the applicant may be served; and
- (f) be accompanied by the fee prescribed under a regulation.

79 Continuing effect of geothermal permit for application

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

Division 2 Deciding application

80 Deciding whether to grant geothermal lease

Subject to section 83, the Minister may grant the applicant a geothermal lease only if satisfied the requirements mentioned in section 81 have been complied with.

Note—

If the application relates to acquired land that was previously in the relevant geothermal permit's area, see also section 350C.

81 Requirements for grant

For section 80, the requirements are the following—

- (a) the applicant continues to be an eligible person;
- (b) the proposed area of the proposed geothermal lease—
 - (i) is appropriate for the authorised activities proposed to be carried out; and
 - (ii) contains adequately identified geothermal resources that are adequate for the geothermal lease's proposed purpose;
- (c) the relevant geothermal permit's conditions have been substantially complied with;
- (d) the Minister has approved the applicant's proposed initial development plan for the geothermal lease;
- (e) the relevant environmental authority has been issued;
- (f) any relevant Water Act authorisation has been issued;
- (g) the applicant has established that geothermal production in the geothermal lease's area will or is likely to happen within 2 years after the lease is to take effect;
- (h) the applicant has paid the annual rent for the first year of the proposed geothermal lease;

[s 82]

- (i) the applicant has, under section 204, given security for the geothermal lease;
- (j) the Minister is of the opinion that the applicant is capable (the *capability criteria*) of carrying out authorised activities for the geothermal lease having regard to the applicant's—
 - (i) financial and technical resources; and
 - (ii) ability to manage geothermal production.

82 Provisions and granting of geothermal lease

- (1) If the Minister decides to grant the applicant a geothermal lease, the Minister must decide its provisions and grant the applicant the lease.
- (2) The lease must state its term and area.
- (3) The term must end no later than 30 years after the lease takes effect.
- (4) The area must comply with chapter 6, part 1.
- (5) The geothermal lease may also state—
 - (a) conditions or other provisions of the lease, other than conditions or provisions that are—
 - (i) inconsistent with the mandatory conditions for geothermal leases; or
 - (ii) the same as, or substantially the same as, or inconsistent with, any relevant environmental condition for the lease; and
 - (b) a day for the lease to take effect; and
 - (c) a day by which geothermal production under the lease is to start (the *production commencement day*).
- (6) However, the provisions of the lease may exclude or restrict the carrying out of an authorised activity for the lease.

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- (7) The day the lease takes effect can not be before the day it is granted.
 - (8) If no day of effect is stated, the lease takes effect on the day after it is granted.
 - (9) In deciding the provisions of the lease, the Minister must consider the development plan criteria and capability criteria.
 - (10) This section applies subject to section 83.

83 Provisions about grant and conditions of geothermal lease for coordinated project

- (1) This section applies if a proposed geothermal lease is for a coordinated project.
- (2) The Minister must not grant the geothermal lease until the Minister has been given the coordinator-general's report for the project.
- (3) Any coordinator-general's conditions for the geothermal lease must be stated in the lease.
- (4) Any other condition of the geothermal lease stated under section 82 can not be inconsistent with the coordinator-general's conditions.
- (5) If a mandatory condition for geothermal leases conflicts with any of the coordinator-general's conditions, the mandatory condition prevails to the extent of the inconsistency.
- (6) In this section—

coordinator-general's conditions, for the proposed geothermal lease, means the conditions for the lease stated in the coordinator-general's report for the coordinated project.

coordinator-general's report means the coordinator-general's report under the *State Development and Public Works Organisation Act 1971* for the EIS for the coordinated project.

[s 84]

84 Information notice about refusal

If the Minister decides to refuse to grant the applicant a geothermal lease, the Minister must give the applicant an information notice about the decision.

85 When refusal takes effect

- (1) A decision to refuse to grant the applicant a geothermal lease takes effect at the end of the appeal period for the decision.
- (2) Subsection (1) applies subject to section 338 and any decision of the Land Court under section 340 relating to the decision to refuse.

Part 3 Development plans

Division 1 Function and purpose

86 Function and purpose

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

- (b) ensure appropriate development of the geothermal lease's area.

Division 2 Requirements for proposed initial development plans

87 Operation of div 2

This division provides for requirements (the *initial development plan requirements*) for a proposed initial development plan for a proposed geothermal lease.

88 Plan period

The plan period for the proposed development plan must be for the following period from when the proposed geothermal lease is to take effect—

- (a) generally—5 years;
- (b) if the applicant is seeking a term of less than 5 years for the proposed geothermal lease—the duration of the proposed term.

89 General requirements

- (1) The proposed development plan must provide for the following—
 - (a) an overview of the activities proposed to be carried out under the proposed geothermal lease during all of its term (the *proposed activities*);
 - (b) a description of the proposed activities for each year of the plan period;
 - (c) reasons why the plan is considered appropriate;
 - (d) the following—

[s 89]

- (i) after geothermal energy has been produced, the purpose for which it will be used and by whom;
- (ii) the characteristics of geothermal resources in the geothermal lease's area;
- (iii) the extent to which further drilling and artificial fracturing is proposed;
- (iv) the scale and scope of geothermal production, including information about the following—
 - the number of geothermal wells
 - the time of commissioning of the geothermal wells
 - the expected life of geothermal resources
 - whether geothermal production is to be staged;
- (v) the part of the area required for full and staged production proposals;
- (vi) how many more geothermal wells need to be drilled;
- (vii) when the area is expected to be free of drilling rigs;
- (viii) the proposed level of investment, and whether the proposed holder has finance or how the proposed holder proposes to obtain finance;
- (ix) the skills, experience and qualifications of staff who comply with the proposed holder's requirements for carrying out the proposed activities;
- (x) a risk management plan for the proposed activities that deals with safety and seismicity issues;
- (xi) a plan for decommissioning exploration wells and any plant or facilities used for the proposed activities, including the expected costs of the decommissioning;

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- (e) any other matter prescribed under a regulation.
 - (2) The proposed plan may include any other information relevant to the development plan criteria.
 - (3) A regulation may impose requirements about the form of the development plan.
 - (4) The proposed plan can not be inconsistent with the mandatory conditions for geothermal leases.
 - (5) In this section—

plan period start day means the day the plan period starts.

year, of the plan period, means—

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

90 Water issues

- (1) The proposed development plan must include an assessment of—
 - (a) water needed for the proposed activities; and
 - (b) the potential for obtaining any relevant Water Act authorisation; and
 - (c) the potential structural and other impacts of the carrying out of the proposed activities on aquifers.
- (2) The proposed plan must include a plan for the treatment and disposal of any water taken or that may be taken because of the carrying out of the proposed activities.
- (3) This section is subject to section 94(2).

[s 91]

Division 3 Approval of proposed initial development plans

Note—

For the requirement for approval of an initial development plan, see section 81 (Requirements for grant).

91 Criteria

- (1) In deciding whether to approve a proposed development plan the Minister must consider the following—
 - (a) the potential of the area of the proposed geothermal lease for geothermal production and related activities;
 - (b) the nature and extent of the proposed activities and when and where they will be carried out;
 - (c) whether geothermal production under the geothermal lease will be optimised in the best interests of the State;
 - (d) the nature and extent of water disposal and treatment activities;
 - (e) any relevant environmental authority;
 - (f) any relevant Water Act authorisation;
 - (g) any potential structural and other impacts of the carrying out of the proposed activities on aquifers.
- (2) The matters mentioned in subsection (1) are the *development plan criteria*.

92 Verification may be required

- (1) The Minister may by notice require the applicant to give the Minister, within a stated reasonable period, a document made by an appropriately qualified independent person verifying all or any of the following—
 - (a) an assessment of data supplied in the proposed development plan;

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- (b) the source of the data;
 - (c) the work done for the proposed development plan;
 - (d) that, in the person's opinion, the applicant has—
 - (i) the financial and technical resources to carry out authorised activities for the proposed geothermal lease; and
 - (ii) the ability to manage geothermal production.
 - (2) If the applicant does not comply with the requirement, the Minister may refuse to approve the proposed plan.
 - (3) The applicant must bear any costs incurred in complying with the requirement.

Division 4 Requirements for proposed later development plans

93 Operation of div 4

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

Note—

For the requirements to give a proposed later development plan, see sections 125, 187(7) and 320.

94 General requirements

- (1) The proposed development plan must—
 - (a) comply with the initial development plan requirements as if a reference in the requirements to a proposed holder were a reference to the geothermal lease holder; and
 - (b) highlight any significant changes from the geothermal lease's current development plan (the *current plan*); and

[s 95]

- (c) if the current plan has not been complied with—state the details of and reasons for each noncompliance.
- (2) The proposed plan can not be inconsistent with any relevant environmental condition for the lease.
- (3) If the effect of the proposed plan is to significantly change an activity provided for under the current plan, the proposed plan must also state the reasons for the change.
- (4) Also, for a significant change that is a reduction of geothermal production, the proposed plan must include an evaluation of the following in the geothermal lease's area—
 - (a) the potential for geothermal production;
 - (b) the market opportunities for geothermal energy produced.

Division 5 Approval of proposed later development plans

95 Application of div 5

This division applies if—

- (a) under this Act, the Minister is given a proposed later development plan for a geothermal lease for approval; or
- (b) the Minister is considering an application under section 140 for approval of a proposed geothermal coordination arrangement.

96 Geothermal lease taken to have development plan until decision on whether to approve proposed plan

- (1) This section applies until—
 - (a) if the approval is given—the geothermal lease holder is given notice of the approval; or
 - (b) if the approval is refused—the refusal takes effect.

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

97 Deciding whether to approve proposed plan

- (1) The Minister may approve or refuse to approve the proposed development plan.
- (2) In deciding whether to give the approval, the Minister must consider the following—
 - (a) the development plan criteria;
 - (b) the extent to which the current development plan for the geothermal lease has been complied with;
 - (c) if the proposed plan provides for a significant change that is a reduction of geothermal production—
 - (i) whether the reduction is reasonable; and
 - (ii) whether the geothermal lease holder has taken all reasonable steps to prevent the reduction;
 - (d) any amendments made to the geothermal lease or any of the following for the lease, and the reasons for the amendments—
 - (i) the current development plan;
 - (ii) the relevant environmental authority;
 - (iii) any relevant Water Act authorisation.
- (3) Section 92 applies for the proposed plan as if it were an initial development plan and an application for approval of the initial development plan had been made.

[s 98]

98 Steps after, and taking effect of, decision

- (1) If the Minister decides to approve the proposed later development plan, the Minister must give the geothermal lease holder notice of the decision.
- (2) The approval takes effect when the holder is given the notice or, if the notice states a later day of effect, on the later day.
- (3) If the Minister decides to refuse to approve the proposed plan, the Minister must give the holder an information notice about the decision.
- (4) The refusal takes effect at the end of the appeal period for the decision to refuse.
- (5) Subsection (4) applies subject to section 338 and any decision of the Land Court under section 340 relating to the decision to refuse.

Division 6 Amending development plans

99 Restrictions on amendment

- (1) A geothermal lease holder may amend the development plan for the lease.
- (2) However, the amendment is subject to approval under this division.
- (3) Also, a development plan can not be amended—
 - (a) in a way that provides for a cessation of geothermal production under a geothermal lease; or
 - (b) if the plan as amended would be inconsistent with—
 - (i) the mandatory conditions for geothermal leases; or
 - (ii) any relevant environmental condition for the lease.

100 Applying for approval to amend

- (1) A geothermal lease holder may apply for approval to amend the development plan for the lease.
- (2) The application must be—
 - (a) made to the Minister in the approved form; and
 - (b) accompanied by the fee prescribed under a regulation.

101 Verification

Section 92 applies for the application as if—

- (a) the application were a geothermal lease application; and
- (b) a reference in the section to a proposed development plan were a reference to the amendment.

102 Deciding application

In deciding whether to approve the amendment, the Minister must consider the following—

- (a) the development plan criteria;
- (b) the extent to which the current development plan for the geothermal lease has been complied with;
- (c) if the proposed plan provides for a significant change that is a reduction of geothermal production—
 - (i) whether the reduction is reasonable; and
 - (ii) whether the geothermal lease holder has taken all reasonable steps to prevent the reduction;
- (d) any amendments made to the geothermal lease or any of the following for the lease, and the reasons for the amendments—
 - (i) the current development plan;
 - (ii) the relevant environmental authority;
 - (iii) any relevant Water Act authorisation.

[s 103]

103 Steps after, and taking effect of, decision

- (1) If the Minister decides to approve the amendment, the Minister must give the geothermal lease holder notice of the decision.
- (2) The approval takes effect when the holder is given the notice or, if the notice states a later day of effect, on the later day.
- (3) If the Minister decides to refuse to approve the amendment, the Minister must give the holder an information notice about the decision.
- (4) The refusal takes effect when the holder is given the notice or, if the notice states a later day of effect, on the later day.
- (5) Subsection (4) applies subject to section 338 and any decision of the Land Court under section 340 relating to the decision to refuse.

Part 4 Royalty on geothermal production

104 Imposition of geothermal royalty on geothermal producers

- (1) A geothermal lease holder who produces geothermal energy, or for whom geothermal energy is produced (a *geothermal producer*) must pay the State geothermal royalty for the geothermal energy.
- (2) The obligation under subsection (1) is subject to any regulation under section 105.

105 Regulation for geothermal royalty

A regulation may provide for any matter connected with geothermal royalty, including, for example, the following—

-
- (a) when the royalty must be paid;
 - (b) the rate of the royalty;
 - (c) the value of geothermal energy for the royalty;
 - (d) concessions or exemptions from the payment of the royalty;
 - (e) royalty returns;
 - (f) the measurement of, or information about, geothermal energy required for the purpose of a return;
 - (g) interest on unpaid royalty;
 - (h) the recovery of unpaid royalty and interest;
 - (i) monitoring the payment of the royalty, including, for example, by auditors;
 - (j) disclosure by the Minister of personal confidential information about the administration of provisions about the royalty.

106 Obligation to lodge royalty returns

A geothermal producer must, in the way and at the times prescribed under a regulation, give the chief executive returns containing the information prescribed under a regulation about the geothermal energy produced by or for the producer.

Maximum penalty—500 penalty units.

107 Confidentiality

- (1) This section applies to a person who—
 - (a) is or has been a public service officer or engaged to perform functions under this Act; and
 - (b) in that capacity has acquired information or has or had access to, or custody of, a document containing information relating to the administration of this chapter that is not publicly available.

[s 108]

- (2) This section also applies to a person to whom the Minister has disclosed information mentioned in section 105(j), other than the person to whom the information relates.
- (3) The person must not—
 - (a) make a record of the information; or
 - (b) whether directly or indirectly, disclose the information; or
 - (c) use the information to benefit any person.Maximum penalty—200 penalty units or 1 year's imprisonment.
- (4) However, subsection (3) does not apply if the record is made, or the information is disclosed or used—
 - (a) to the extent necessary to perform the person's functions under or relating to this chapter; or
 - (b) with the consent of the person to whom the information relates; or
 - (c) as required or permitted by law.

108 Refusal of disclosure of particular information

- (1) A person engaged in the administration or enforcement of this chapter can not be compelled to disclose to a court in a proceeding, or to a party to the proceeding—
 - (a) information disclosed under or relating to this chapter (*confidential information*); or
 - (b) whether or not the person has received particular confidential information; or
 - (c) the identity of the source of particular confidential information.
- (2) Subsection (1) does not apply for a proceeding for the administration or enforcement of this chapter.

Chapter 4 General mandatory conditions for geothermal tenures

Notes—

- 1 The following provisions also impose mandatory conditions on all geothermal tenures—
 - chapter 2, part 1
 - chapter 3, part 1
 - chapters 5 and 6.
- 2 For what is a mandatory condition, see section 20(2).

Part 1 Geothermal permits

Division 1 Standard relinquishment condition and related provisions

109 Standard relinquishment condition

- (1) It is a condition (the *relinquishment condition*) of each geothermal permit that its holder must relinquish part of its area as provided for under this division—
 - (a) at the end of or before the end of each period of 5 years after the permit originally took effect; and
 - (b) if section 114(4) applies—on the day provided for under that subsection.
- (2) A relinquishment required under the relinquishment condition—
 - (a) must be made by notice to the chief executive (a *relinquishment notice*); and
 - (b) takes effect on the day after the notice is given.

[s 110]

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

110 Consequence of failure to comply with relinquishment condition

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

111 Part usually required to be relinquished

- (1) The relinquishment must have the effect that an area that equates to at least 33.33% of the original sub-blocks of the geothermal permit is relinquished for each 5-year period that has passed since it originally took effect.
- (2) This section is subject to sections 114 and 115.

112 Relinquishment must be by blocks or sub-blocks

- (1) A relinquishment under the relinquishment condition can only be by blocks or sub-blocks.
- (2) However, if a block or sub-block contains an area that, under section 113, can not be counted as a relinquishment, subsection (1) is complied with if all of the rest of the land within the block or sub-block is relinquished.

113 Blocks or sub-blocks that can not be counted towards relinquishment

- (1) The following can not be counted as blocks or sub-blocks relinquished for the relinquishment condition—

- (a) blocks or sub-blocks in an area that, under section 189, have ceased to be included in the geothermal permit's area;
 - (b) blocks or sub-blocks the subject of a geothermal lease application or potential geothermal commercial area;
 - (c) blocks or sub-blocks relinquished under a penalty relinquishment.
- (2) To remove any doubt, it is declared that—
- (a) a potential geothermal commercial area can be relinquished and can be counted as an area relinquished for the relinquishment condition; but
 - (b) the mere fact of the declaration of the blocks or sub-blocks as a potential geothermal commercial area for the geothermal permit is not, of itself, a relinquishment.

114 Adjustments for blocks or sub-blocks that can not be counted

- (1) This section applies if, after taking away all blocks or sub-blocks that, under section 113, can not be counted for the relinquishment condition, the balance of the blocks of the geothermal permit's area is less than the blocks or sub-blocks required to be relinquished under section 111.
- (2) The relinquishment condition is taken to have been complied with if the geothermal permit holder gives a relinquishment notice for all of the balance.
- (3) However, subsection (4) applies if—
 - (a) a block or sub-block not counted for the relinquishment condition was the subject of a geothermal lease application or potential geothermal commercial area; and
 - (b) the application is refused.

[s 115]

- (4) The geothermal permit holder must, within 20 business days after the appeal period for the decision to refuse, give a relinquishment notice to the extent necessary to comply with section 111.

115 Adjustment for particular potential geothermal commercial areas

- (1) This section applies if, apart from this section, the only way to comply with the relinquishment condition would be to relinquish all or part of a potential geothermal commercial area for the geothermal permit.
- (2) The relinquishment condition is taken to be complied with if all remaining original sub-blocks of the permit's area, other than any blocks that consist of the potential geothermal commercial area, are relinquished.

Division 2 Conditions relating to work programs

116 Requirement to have work program

A geothermal permit holder must have a work program for the permit.

117 Compliance with activities in work program

A geothermal permit holder must carry out the geothermal exploration activities proposed in the work program for the permit.

118 Obligation to give proposed later work program

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

Notes—

- 1 For approval of the proposed later work program, see chapter 2, part 3, division 5.
 - 2 If the holder wishes to renew the geothermal permit, a proposed later work program must be included in the renewal application. See section 292.
- (2) The obligation is complied with only if the proposed later work program—
 - (a) complies with the later work program requirements; and
 - (b) is accompanied by the relevant fee.
 - (3) The Minister must be given a proposed later work program at least 40 but no more than 100 business days before the end of the program period for the current work program for the geothermal permit (the *current work program period*).
 - (4) However, if before the end of the current work program period a decision is made to refuse to approve a proposed later work program given under subsection (3), the holder may within the period give another proposed later work program.
 - (5) If the holder does not give the Minister any proposed later work program before the end of the current work program period, or if subsection (4) applies and the holder has not given the Minister another proposed later work program within the current work program period—
 - (a) the Minister must give the holder a notice requiring the holder to give the Minister a proposed later work program for the geothermal permit within 40 business days after the giving of the notice; and
 - (b) the holder must comply with the requirement.
 - (6) In this section—

relevant fee, for the giving of the proposed program, means—

 - (a) if the proposed program is given within the time required under subsection (3)—the fee prescribed under a regulation; or

[s 119]

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

119 Consequence of failure to comply with notice to give proposed later work program

- (1) If a geothermal permit holder does not comply with a requirement under section 118(5)(a), the permit is cancelled.
- (2) However, the cancellation does not take effect until the Minister gives the holder a notice stating that the geothermal permit has been cancelled because of the operation of subsection (1).

Division 3 Conditions relating to production testing

120 Compliance with test plan for production testing

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

- (a) a decision to refuse to approve the proposed test plan;
- (b) a decision to impose conditions on the granting of the approval, other than a condition agreed to or requested by the geothermal permit holder.

121 Requirement of geothermal tenure holder to report outcome of production testing

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

Part 2 Geothermal leases

122 Obligation to commence geothermal production

A geothermal lease holder must start geothermal production under the geothermal lease on or before the later of the following—

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

123 Requirement to have development plan

A geothermal lease holder must have a development plan for the lease.

[s 124]

124 Compliance with development plan

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

125 Obligation to give proposed later development plan

- (1) This section imposes an obligation on a geothermal lease holder to give the Minister a proposed later development plan for the lease.
- (2) The obligation is complied with only if the proposed later development plan—
 - (a) complies with the later development plan requirements; and
 - (b) is accompanied by the relevant fee.
- (3) The Minister must be given a proposed later development plan—
 - (a) at least 40 but no more than 100 business days before the end of the plan period for the current development plan for the lease (the *current plan period*); or
 - (b) as soon as practicable after the holder proposes or becomes aware of a significant change to the nature and extent of an authorised activity that is not already dealt with under the geothermal lease’s current development plan.
- (4) However, if before the end of the current plan period a decision is made to refuse to approve a proposed later development plan given under subsection (3), the holder may within the period give the Minister another proposed later development plan.
- (5) If the holder does not give the Minister any proposed later development plan before the end of the current plan period, or if subsection (4) applies and the holder does not give the Minister another proposed later development plan within the current plan period—

- (a) the Minister must give the holder a notice requiring the holder to give the Minister a proposed later development plan for the geothermal lease within 40 business days after the giving of the notice; and
 - (b) the holder must comply with the requirement.
- (6) In this section—
- relevant fee*, for the giving of the proposed plan, means—
- (a) if the proposed plan is given within the time required under subsection (3)—the fee prescribed under a regulation; or
 - (b) if the proposed plan is given after the time required under subsection (3) and—
 - (i) if it is given under subsection (4)—nil; or
 - (ii) if it is not given under subsection (4)—an amount that is 10 times the prescribed fee.

126 Consequence of failure to comply with notice to give proposed later development plan

- (1) If a geothermal lease holder does not comply with a requirement under section 125(5)(a), the lease is cancelled.
- (2) However, the cancellation does not take effect until the Minister gives the holder a notice stating that the geothermal lease has been cancelled because of the operation of subsection (1).

Part 3 All geothermal tenures

127 Water Act authorisation required for taking or interfering with water

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

128 Obligation to consult with particular owners and occupiers

- (1) A geothermal tenure holder must consult or use reasonable endeavours to consult with each owner and occupier of private or public land on which authorised activities for the tenure are proposed to be carried out or are being carried out.
- (2) The consultation must be about—
 - (a) access; and
 - (b) the carrying out of authorised activities for the geothermal tenure (including, for example, crossing access land for the tenure) to the extent they relate to the owners and occupiers; and
 - (c) the geothermal tenure holder's compensation liability to the owners or occupiers.

129 Compliance with land access code

A geothermal tenure holder must—

- (a) comply with the mandatory provisions of the land access code to the extent it applies to the holder; and
- (b) ensure any other person carrying out an authorised activity for the geothermal tenure complies with the mandatory provisions of the land access code.

130 Annual rent

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

131 Civil penalty for nonpayment of annual rent

- (1) If a geothermal tenure holder does not pay the annual rent as required under section 130, the holder must also pay the State a civil penalty.
- (2) The amount of the penalty is the greater of the following—
 - (a) \$1000;
 - (b) 15% of the rent.
- (3) The penalty—
 - (a) must be paid on the day after the last day for payment of the rent; and
 - (b) is still payable even if the holder later pays the rent.

Note—

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

132 Obligation to comply with Act and prescribed standards

- (1) A geothermal tenure holder must—
 - (a) comply with this Act; and
 - (b) in carrying out an authorised activity for the geothermal tenure, comply with—
 - (i) any standard that the geothermal tenure provides for the activity; and
 - (ii) to the extent that the geothermal tenure does not provide a standard for the activity—any standard

[s 133]

prescribed under a regulation for carrying out the activity.

(2) In this section—

standard includes an Australian Standard, an international standard and a code or protocol.

133 Obligation to survey if Minister requires

- (1) The Minister may, by notice to a geothermal tenure holder, require the holder to survey or resurvey the tenure's area within a stated reasonable period.
- (2) The holder must cause the survey or resurvey to be carried out by a person who is a cadastral surveyor under the *Surveyors Act 2003*.
- (3) The holder must bear any costs incurred in complying with the notice.

Chapter 5 Coordination with particular authorities under other resource Acts

Part 1 Preliminary

134 Relationship with chs 2, 3 and 6

- (1) Requirements and restrictions under this chapter relating to the granting of a geothermal tenure apply as well as any relevant requirements under chapter 2, 3 or 6.
- (2) If this chapter imposes a requirement for or a restriction on the granting of a geothermal tenure, it can not be granted if the

restriction applies or if the requirement has not been complied with.

- (3) If a provision of this chapter conflicts with a provision of chapter 2, 3 or 6, the provision of this chapter prevails to the extent of the inconsistency.
- (4) This chapter does not otherwise limit or affect the requirements of chapter 2, 3 or 6.
- (5) Subsection (6) applies if this chapter imposes a requirement for or a restriction on the carrying out of an authorised activity for a geothermal tenure.
- (6) Despite chapters 2, 3 and 6, the activity is not an authorised activity for the geothermal tenure while the restriction applies or if the requirement has not been complied with.

135 What is an *overlapping resource authority*

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

136 What is an *exploration authority (non-geothermal)*

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

- (a) a GHG permit; or

[s 137]

- (b) an authority to prospect under the 1923 Act or the P&G Act; or
- (c) any of the following under the Mineral Resources Act—
 - (i) a mining claim;
 - (ii) an exploration permit;
 - (iii) a mineral development licence.

137 Relationship with other resource Acts and overlapping resource authorities

Subject to the other provisions of this chapter and chapters 2, 3 and 6, another resource Act, or an authority, tenement or tenure under a resource Act, does not limit or otherwise affect—

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

Part 2 Geothermal coordination arrangements for overlapping resource authorities

Division 1 Making of arrangements

138 Power to make arrangement

- (1) A geothermal tenure holder may make an arrangement with the holder of an overlapping resource authority for the tenure about the carrying out of authorised activities for the tenure.

- (2) An authority of a type mentioned in subsection (1) is a *relevant authority* for a geothermal coordination arrangement.
- (3) A person who proposes to enter into a relevant authority may enter into an arrangement mentioned in subsection (1).
- (4) An arrangement of a type mentioned in subsection (1), that under section 141 has taken effect and has not ceased to operate according to its terms and has not been cancelled under this part, is a *geothermal coordination arrangement*.

139 Other provisions about and effect of geothermal coordination arrangement

- (1) A geothermal coordination arrangement may—
 - (a) be for any term; and
 - (b) have more than 2 relevant authorities; and
 - (c) be included in, or form part of, a coordination arrangement under the P&G Act or a GHG coordination arrangement under the GHG storage Act.
- (2) A person, other than the holder or proposed holder of a relevant authority, may also be a party to the arrangement.
- (3) A proposed geothermal coordination arrangement has no effect unless it is approved by the Minister under section 141.

140 Applying for ministerial approval of proposed geothermal coordination arrangement

- (1) The parties to a proposed geothermal coordination arrangement may jointly apply for approval of the arrangement.
- (2) The application must be—
 - (a) made to the Minister in the approved form; and
 - (b) accompanied by—

[s 141]

- (i) the original or a certified copy of the proposed arrangement; and
 - (ii) the fee prescribed under a regulation.
- (3) If the proposed arrangement is inconsistent with the work program or development plan for the relevant geothermal tenure, the application must be accompanied by the following document so that the Minister may decide whether to approve the document—
 - (a) for a geothermal permit—a proposed later work program complying with the later work program requirements;
 - (b) for a geothermal lease—a proposed later development plan complying with the later development plan requirements.

141 Ministerial approval of proposed geothermal coordination arrangement

- (1) The Minister may approve the proposed arrangement only if—
 - (a) the Minister is satisfied—
 - (i) the arrangement clearly identifies the safety responsibilities of each party to the arrangement for the land the subject of the arrangement; and
 - (ii) the spatial relationship between the relevant authorities for the arrangement is appropriate; and
 - (b) the proposed later work program or proposed later development plan accompanying the application has been approved; and
 - (c) the arrangement is consistent with the purposes of this Act.
- (2) In considering whether to give the approval the Minister may have regard to any—

-
- (a) coordination arrangement or proposed coordination arrangement under the P&G Act; or
 - (b) GHG coordination arrangement or proposed GHG coordination arrangement under the GHG storage Act.
- (3) If a relevant authority has not been granted, the approval does not take effect until the authority takes effect.

142 Approval does not confer right to renew

- (1) This section applies if the term of a geothermal coordination arrangement is longer than the current term of any relevant authority for the arrangement.
- (2) To remove any doubt, it is declared that the approval of the arrangement does not impose an obligation or create a right to renew the relevant authority.

Division 2 Amendment and cancellation

143 Amendment or cancellation by parties to arrangement

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

144 Minister's power to cancel arrangement

- (1) The Minister may, by complying with subsections (2) and (3), cancel a geothermal coordination arrangement.
- (2) If the Minister proposes to cancel the arrangement, the Minister must give each party to the arrangement a notice stating—

[s 145]

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

145 Cancellation does not affect relevant authorities

The cancellation of a former geothermal coordination arrangement does not affect any relevant authority.

Part 3 Obtaining geothermal lease if overlapping resource authority

Division 1 Preliminary

146 Application of pt 3

This part applies if—

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

Division 2 Requirements for application

147 Requirements for making application

- (1) The geothermal lease application must include—
 - (a) a statement complying with section 148 (a *geothermal statement*); and
 - (b) other information addressing the matters mentioned in subsection (2) (the *geothermal assessment criteria*).
- (2) The geothermal assessment criteria are—
 - (a) compliance with the P&G Act safety provisions to the extent they are relevant; and

Note—

The definition of *operating plant* under the P&G Act, section 670 does not include wet geothermal production.

- (b) the additional requirements under part 7 for proposed initial development plans; and

[s 148]

- (c) the potential for the parties to make a geothermal coordination arrangement for the proposed geothermal lease; and
- (d) the economic and technical viability of the concurrent or coordinated carrying out of authorised activities for the proposed geothermal lease and the overlapping resource authority; and
- (e) the public interest.

148 Content requirements for geothermal statement

The geothermal statement must—

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

Division 3 Consultation provisions

149 Applicant's information obligation

- (1) The applicant must, within 10 business days after making the geothermal lease application, give the overlapping resource authority holder a copy of the application, other than any part of the application relating to the capability criteria.

- (2) If the Minister is reasonably satisfied the applicant has not complied with subsection (1), the Minister may refuse the application.

150 Submissions by overlapping resource authority holder

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

[s 151]

Division 4 Resource management decision if overlapping exploration authority (non-geothermal)

151 Application of div 4

- (1) This division applies if—
 - (a) the overlapping resource authority is an exploration authority (non-geothermal); and
 - (b) the overlapping resource authority holder has made holder submissions within 4 months after the holder was given a copy of the application; and
 - (c) the submissions state that the holder wishes overlapping authority priority.
- (2) However, this division does not apply if, under another resource Act, overlapping authority priority has been given for any of the relevant land.

Note—

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

152 Resource management decision

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

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

153 Criteria for decision

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

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

154 Restrictions on giving overlapping authority priority

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

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

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

155 Application of div 5

This division applies only if—

- (a) under division 4, a resource management decision is required for the geothermal lease application; and

[s 156]

- (b) the decision is to give overlapping authority priority for all or part of the relevant land.

156 Notice to applicant and overlapping resource authority holder

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

157 Relevant lease application for all of the land

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

Note—

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

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

158 Relevant lease application for part of the land

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

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

Note—

If the geothermal lease application is not amended, see section 162.

159 No relevant lease application

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

[s 160]

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

160 Lapsing of application

The geothermal lease application is taken to have lapsed if—

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

Division 7 Deciding application

161 Application of div 7

This division applies if—

- (a) the overlapping resource authority holder has not made holder submissions within 4 months after the holder was given a copy of the application (the *submission period*) or at all; or
- (b) the overlapping resource authority holder has made holder submissions within the submission period stating that the holder does not wish any overlapping authority priority; or
- (c) under division 4, a resource management decision is required and—
 - (i) the resource management decision is not to give overlapping authority priority for any of the relevant land; or
 - (ii) the resource management decision is to give overlapping authority priority for all or part of the relevant land and, after division 5 has been

complied with, the Minister decides to grant a geothermal lease for the land.

162 Application may be refused if no reasonable prospects of geothermal coordination arrangement

The Minister may decide to refuse the application if—

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

163 Additional criteria for deciding provisions of geothermal lease

In deciding the provisions of the geothermal lease, the Minister must consider the following—

- (a) the geothermal statement;
- (b) the geothermal assessment criteria;
- (c) any holder submissions;
- (d) the effect of the geothermal lease on safe and efficient use of resources under any overlapping resource authority for the geothermal lease if the overlapping resource authority is a lease;

[s 164]

- (e) the effect on safe and efficient use of resources under any future lease that may arise from the overlapping resource authority.

164 Publication of outcome of application

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

Part 4 **Priority to particular higher tenure applications under other resource Acts**

165 **Earlier GHG, mining or petroleum lease application**

If—

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

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

166 **Proposed GHG, mining or petroleum lease for which EIS approval given**

- (1) This section applies for a geothermal lease application if—
 - (a) before the making of the application, an approval under the Environmental Protection Act, chapter 3, part 2 was granted for the voluntary preparation of an EIS; and
 - (b) the EIS is for a project that is or includes a proposed GHG lease, mining lease or petroleum lease (the *other proposed lease*) for land the subject of the application.
- (2) The application must not be decided until—
 - (a) if no application is made for the other proposed lease within 2 years after the granting of the approval—the end of the 2 years; or

[s 167]

- (b) if an application is made for the other proposed lease within the 2 years—that application is decided.

167 Proposed GHG, mining or petroleum lease declared a coordinated project

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

Part 5 Geothermal lease applications in response to invitation under another resource Act

168 Application of pt 5

This part applies if—

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

169 Additional ground for refusing application

- (1) The Minister may decide to refuse the geothermal lease application if satisfied the applicant has not in a timely manner—
 - (a) taken any step for the application required of the applicant under chapter 3 or this chapter; or
 - (b) satisfied the Minister about a matter that, under chapter 3 or this chapter, is required for the granting of the application.
- (2) Subsection (1) does not limit section 365, 366 or 366A.

Part 6 Additional provisions for geothermal tenures

Division 1 Restrictions on authorised activities other than for geothermal leases

170 Overlapping GHG, mining or petroleum lease

- (1) This section applies if land is in the area of both of the following—
 - (a) a geothermal permit;
 - (b) a GHG lease, mining lease or petroleum lease (a *relevant lease*).
- (2) However, this section does not apply if the same person holds the geothermal permit and the relevant lease.
- (3) An authorised activity for the geothermal permit may be carried out on the land only if—
 - (a) the relevant lease holder has not, in the way required under subsection (4), objected to—

[s 171]

- (i) the carrying out of the activity; or
 - (ii) if the P&G Act safety provisions require a safety management plan for the geothermal permit holder—the safety management plan; or
- (b) if an objection under paragraph (a) has been made—the Minister has, under section 172, decided the authorised activity may be carried out.

Note—

For notice of authorised activities, see section 174.

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

Note—

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

171 Overlapping exploration authority (non-geothermal)

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

172 Resolving disputes

- (1) This section applies if, under section 170, a relevant lease holder has objected to the carrying out of a geothermal activity by a geothermal permit holder.
- (2) This section also applies if there is a dispute between a geothermal permit holder and an exploration authority

- (non-geothermal) holder about whether an authorised activity for the geothermal tenure can be carried out under section 171.
- (3) Either of the parties may by a notice in the approved form ask the Minister to decide—
- (a) for section 170—whether the authorised activity may be carried out under that section; or
 - (b) for section 171—whether the authorised activity may be carried out under that section.
- (4) Before making the decision the Minister must give the parties a reasonable opportunity to make submissions about the request within a reasonable period.
- (5) The Minister must, after complying with subsection (2) and considering any submissions made under that subsection, decide the matter and give the parties notice of the decision.
- (6) The Minister’s decision binds the parties.
- (7) If the request is about a matter mentioned in subsection (1), the Minister may impose conditions on any decision that the authorised activity may be carried out.
- (8) In this section—
- parties* means—
- (a) for a request about a matter mentioned in subsection (1)—the geothermal permit holder and the relevant lease holder; or
 - (b) for a request about a matter mentioned in subsection (2)—the geothermal permit holder and the exploration authority (non-geothermal) holder.

Division 2 Additional conditions

173 Notice of grant by particular geothermal permit holders

- (1) This section applies if land in a geothermal permit's area is in the area of, or in a proposed area under an application for, any of the following other authorities—
 - (a) an exploration authority (non-geothermal);
 - (b) a GHG data acquisition authority under the GHG storage Act;
 - (c) a data acquisition authority under the P&G Act;
 - (d) a water monitoring authority under the P&G Act.
- (2) It is a condition of the permit that its holder must, within 20 business days after the holder receives notice of the grant of the permit, give the holder of or applicant for the other authority a notice stating—
 - (a) the permit has been granted; and
 - (b) the permit holder's name and address; and
 - (c) the permit's term.

174 Condition to notify particular other authority holders of proposed start of particular authorised activities

- (1) This section applies to a geothermal tenure holder if—
 - (a) there is any of the following (the *other authority*) for the geothermal tenure—
 - (i) an overlapping resource authority;
 - (ii) a GHG authority, a mining lease or a petroleum tenure sharing a common boundary with the geothermal tenure; or
 - (b) land in the geothermal tenure's area is in the area of any of the following (also the *other authority*)—

-
- (i) a GHG data acquisition authority under the GHG storage Act;
 - (ii) a data acquisition authority under the P&G Act.
 - (2) Before the geothermal tenure holder first starts a designated activity in the other authority's area, the geothermal tenure holder must give the other authority holder at least 30 business days notice of the activity.
 - (3) A notice under subsection (2) must state—
 - (a) when the designated activity is to start; and
 - (b) where the designated activity is to be carried out; and
 - (c) the nature of the activity.
 - (4) Before changing the land on which the designated activity is being carried out, the geothermal tenure holder must give the other authority holder at least 30 business days notice stating where the activity is to be carried out.
 - (5) Compliance with this section is a condition of the geothermal tenure.
 - (6) In this section—

designated activity means any authorised activity for the geothermal tenure other than—

 - (a) an incidental activity under section 32 or 76; or
 - (b) an activity only involving selecting places where other authorised activities for the geothermal tenure may be carried out.

175 Continuance of geothermal coordination arrangement after transfer

- (1) This section applies if—
 - (a) there is an overlapping resource authority for a geothermal lease; and

[s 176]

- (b) a geothermal coordination arrangement applies to the geothermal lease; and
 - (c) the geothermal lease is transferred.
- (2) It is a condition of the geothermal lease that its holder must continue to be a party to a geothermal coordination arrangement for the lease while the overlapping resource authority continues in force.

Division 3 Restriction on Minister's power to amend geothermal lease if overlapping resource authority

176 Interests of overlapping resource authority holder to be considered

If there is an overlapping resource authority for a geothermal lease, it may be amended under section 353 only if the interests of the overlapping resource authority holder have been considered.

Part 7 Additional provisions for development plans if overlapping resource authority

177 Operation of pt 7

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

- (a) a proposed initial development plan;
- (b) a proposed later development plan;

- (c) an amendment the subject of a development plan amendment application.

178 Statement about interests of overlapping resource authority holder

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

179 Consistency with overlapping resource authority's development plan and with any relevant coordination arrangement

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

180 Additional criteria for approval

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

[s 181]

Part 8 Additional provisions for safety management plans

181 Grant of geothermal lease does not affect obligation to make plan

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

182 Requirements for consultation with particular overlapping resource authority holders

- (1) This section applies if—
 - (a) a person (an *operator*) proposes to be an operator of operating plant under the P&G Act in a geothermal tenure’s area; and
 - (b) the operating plant is used, or is proposed to be used, for geothermal activities (*relevant operating plant*); and
 - (c) activities (*relevant activities*) carried out, or proposed to be carried out, at the plant may adversely affect the safe and efficient use of resources under an overlapping resource authority for the geothermal tenure.
- (2) Before any operator may operate relevant operating plant, each operator must have made reasonable attempts to consult with the overlapping resource authority holder about relevant activities for the plant.

-
- (3) If there is more than 1 operator, the geothermal tenure holder may coordinate the consultation between the operators and the overlapping resource authority holder.
 - (4) For subsection (2), an operator is taken to have made reasonable attempts to consult if—
 - (a) the operator gives the overlapping resource authority holder a copy of the parts of the operator’s proposed safety management plan concerning any relevant operating plant the operator proposes to operate for the relevant activities; and
 - (b) the overlapping resource authority holder has not, within 30 days after the giving of the copy, made any proposal to the operator about provisions for the plan.
 - (5) An operator must, before making or remaking a safety management plan for any relevant operating plant the operator operates or proposes to operate, have regard to any reasonable provisions for the plan proposed by the overlapping resource authority holder concerning relevant activities for the plan.
 - (6) However, the obligation under subsection (5) applies only to the extent the provisions are commercially and technically feasible for the operator or any relevant geothermal tenure holder.
 - (7) If an operator makes a safety management plan for relevant operating plant and the plan includes provisions proposed by the overlapping resource authority holder, the operator must—
 - (a) give the overlapping resource authority holder a copy of the plan; and
 - (b) give the chief inspector under the P&G Act a notice stating any provisions proposed under subsection (5) and whether they were included in the plan.
 - (8) In this section—

remaking, a safety management plan, includes an amendment or remaking of the plan of a type required under the P&G Act, section 678.

[s 183]

183 Application of P&G Act provisions for resolving disputes about reasonableness of proposed provision

- (1) This section applies if a dispute exists between an operator under section 182 and an overlapping resource authority holder about the reasonableness of a provision proposed by the overlapping resource authority holder for the operator's proposed safety management plan.
- (2) The P&G Act, section 387, chapter 12 and schedule 1 apply for the dispute as if it were a dispute to which section 387 of that Act applies.

Editor's note—

P&G Act, section 387 (Resolving disputes about provision proposed by coal or oil shale exploration tenement holder), chapter 12 and schedule 1 (Reviews and appeals)

Chapter 6 General provisions for geothermal tenures

Note—

See also chapter 8, part 1.

Part 1 Area provisions

184 Area of geothermal tenure

- (1) This section provides for the area of a geothermal tenure.
- (2) Subject to section 187, the area does not include excluded land for the geothermal tenure.

Note—

See also section 350B(3) if land in the geothermal tenure's area is taken under a resumption law.

- (3) The area can not include—

-
- (a) land in another geothermal tenure's area, unless—
 - (i) the geothermal tenure is a geothermal lease; and
 - (ii) under section 189, the land will cease to be included in the geothermal permit's area on the grant of the lease; or
 - (b) excluded land for a geothermal tenure.
- (4) Unless the Minister otherwise decides, the area must form a single contiguous parcel of land.
- (5) The area may include a part of a block only if the part consists of all areas within the block that are left after taking away all excluded land within the block (a **residual block**).

Note—

See also section 350B(3) if land in the geothermal tenure's area is taken under a resumption law.

- (6) The area must be no more than the following number of blocks or residual blocks, in any combination, unless the Minister considers there are exceptional circumstances—
- (a) for geothermal permit—50;
 - (b) for a geothermal lease—25.

185 References to blocks of geothermal tenure

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

Note—

See also section 350B(3) if land in the geothermal tenure's area is taken under a resumption law.

- (3) To remove any doubt, it is declared that if land within any of the sub-blocks ceases to be excluded land or land in a

[s 186]

restricted area, the cessation itself does not cause the land to be within the geothermal tenure's area.

186 Minister's power to decide excluded land

- (1) The Minister may decide excluded land for a geothermal tenure or proposed geothermal tenure.
- (2) However, the power under subsection (1) may be exercised only when the Minister is deciding whether to—
 - (a) grant or renew the geothermal tenure; or
 - (b) approve any later work program or development plan for the geothermal tenure.
- (3) Also, excluded land must be within any block that the geothermal tenure states is included in its area.
- (4) Excluded land may be described in a way the Minister considers appropriate, including, for example, by area or by reference to a stated type of land.
- (5) Land ceases to be excluded land for a geothermal tenure if—
 - (a) the block in which the land is located is relinquished or for any other reason ceases to be in the geothermal tenure's area; or
 - (b) the geothermal tenure is a geothermal permit and—
 - (i) a geothermal lease is granted over any of the geothermal permit's area; and
 - (ii) the land is excluded land for the geothermal lease.

187 Minister may add excluded land

- (1) The Minister may amend a geothermal tenure by adding excluded land for the tenure to its area.
- (2) However, the excluded land may be added only if the relevant environmental authority applies to the excluded land.
- (3) The amendment may be made—

-
- (a) on the Minister's initiative with the consent of the holder of the geothermal tenure; or
 - (b) on the holder's application.
- (4) The application must be—
- (a) in the approved form; and
 - (b) accompanied by the fee prescribed under a regulation.
- (5) The Minister must consider the application and decide whether to add or refuse to add the excluded land.
- (6) If the decision on the application is not to add the land, the Minister must as soon as practicable give the applicant notice of the decision.
- (7) The amendment may be made subject to the holder applying to the Minister for approval of an amendment of the geothermal tenure's work program or development plan to reflect the inclusion of the excluded land.
- (8) If the land is added to the geothermal tenure's area it ceases to be excluded land for the tenure.
- (9) The Minister may amend the provisions of the geothermal tenure in a way that reflects the addition of the land and complies with—
- (a) for a geothermal permit—section 40; or
 - (b) for a geothermal lease—section 82.

188 Ending of geothermal permit if all of its area relinquished

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

189 Area of geothermal permit reduced on grant of geothermal lease

- (1) Land ceases to be in a geothermal permit's area if a geothermal lease is granted to the geothermal permit holder over the land.

[s 190]

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

Part 2 Reporting and information provisions

Division 1 General reporting provisions

190 Relinquishment report for partial relinquishment

- (1) This section applies if part of the area of a geothermal tenure is relinquished as required or authorised under this Act and the tenure continues to exist.
- (2) The holder of the geothermal tenure must, within 6 months after the relinquishment, give the chief executive a report—
 - (a) describing—
 - (i) the authorised activities for the geothermal tenure carried out in the part; and
 - (ii) the results of the activities; and
 - (b) including other information prescribed under a regulation.

Maximum penalty—200 penalty units.

- (3) The report must—
 - (a) be—
 - (i) given electronically using the system for submission of reports made or approved by the chief executive; and
 - (ii) in the digital format made or approved by the chief executive; or

-
- (b) if a way of giving the report is prescribed under a regulation—be given in that way.
 - (4) The chief executive must ensure the system and a document detailing the digital format made or approved by the chief executive are available for inspection on the department's website.
 - (5) The requirements under subsection (3) are the *required way* for giving reports to the chief executive.

191 End of tenure report

Within 6 months after a geothermal tenure ends, the person who held the tenure immediately before it ended must give the chief executive a report in the required way that includes all of the following—

- (a) a summary of all authorised activities for the tenure carried out for the tenure since it took effect;
- (b) a summary of the results of the activities;
- (c) an index of all reports given as required under this Act, for the activities;
- (d) a summary of all significant hazards created to future safe and efficient mining that, under the P&G Act safety provisions, are required to be reported by the person;
- (e) for each hazard mentioned in the summary under paragraph (d)—a reference to the report containing details of the hazard;
- (f) any information required to be reported under this Act that has not been previously reported;
- (g) other information prescribed under a regulation.

Maximum penalty—150 penalty units.

[s 192]

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

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

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

Example of a way of keeping information—

in a stated digital format

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

Example of a stated time—

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

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

(a) exploration data; or

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

(3) A requirement by the chief executive under subsection (1)(b) may state—

(a) a format required for giving the information or types of information; and

(b) a degree of precision required for the giving of the information.

(4) A person of whom a requirement under subsection (1) has been made must comply with the requirement.

Maximum penalty—100 penalty units.

- (5) In this section—
information includes documents, records and samples.

Division 2 Records and samples

193 Requirement to keep records and samples

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

Maximum penalty—500 penalty units.

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

194 Requirement to give records and samples

- (1) A person who, under section 193, is required to keep a record or sample must, for the services of the State, give a copy of the record and a part of the sample to the chief executive within 6 months after the earlier of the following (the *required time*)—

- (a) the day the record or sample was acquired or made;
- (b) the day the relevant geothermal tenure ends.

Maximum penalty—500 penalty units.

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

[s 195]

reasonable period stated in the notice (also the *required time*), unless the holder has a reasonable excuse.

Maximum penalty—500 penalty units.

- (4) The chief executive may extend the required time by up to 1 year if—
 - (a) the person asks for the extension before the required time ends; and
 - (b) the chief executive is satisfied the extension is necessary.
- (5) However, the extension must not end later than—
 - (a) for subsection (1)—6 months after the required time ends; or
 - (b) for subsection (3)—1 year after the required time ends.
- (6) Without limiting subsection (1), the uses to which the State may put the copy of the record and the part of the sample may include the building of a publicly available database to facilitate geothermal exploration for the services of the State.

Division 3 Releasing required information

195 Meaning of *required information*

The *required information*, for a geothermal tenure, is any form of information given under this Act by the tenure holder about authorised activities carried out under the tenure, including, for example—

- (a) a sample; and
- (b) data and other matters mentioned in section 192(2).

196 Public release of required information

- (1) The mere fact of the existence of a geothermal tenure is taken to be an authorisation from its holder to the chief executive to

do the following, after the end of any confidentiality period prescribed under a regulation—

- (a) to publish in the way prescribed under a regulation required information for the geothermal tenure for public use;
 - (b) on payment of a fee prescribed under a regulation, to make the required information available to any person.
- (2) Any confidentiality period prescribed under subsection (1) ceases if the information is about an authorised activity carried out only in an area no longer in the geothermal tenure's area.

Example—

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

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

197 Chief executive may use required information

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

Part 3 **General provisions for geothermal wells**

Division 1 **Responsibility for geothermal wells**

198 **Requirements for drilling geothermal well**

A person drilling a geothermal well must comply with—

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

Maximum penalty—500 penalty units.

Note—

If a corporation commits an offence against this provision, an executive officer of the corporation may be taken, under section 333A, to have also committed the offence.

Division 2 **Decommissioning of geothermal wells**

199 **Application of div 2**

This division applies to a geothermal well drilled by or for a geothermal tenure holder.

200 **Obligation to decommission**

- (1) The geothermal tenure holder must ensure the geothermal well is decommissioned from use under this Act before the tenure ends or the land on which the well is located ceases to be in the tenure's area.

Maximum penalty—500 penalty units.

Note—

If a corporation commits an offence against this provision, an executive officer of the corporation may be taken, under section 333A, to have also committed the offence.

- (2) However, subsection (1) does not apply for land that, under section 189(1), ceases to be in a geothermal permit's area.
- (3) For subsection (1), the geothermal well is decommissioned from use under this Act only if—
 - (a) it has been plugged and abandoned in the way prescribed under a regulation; and
 - (b) any relevant requirements under the Water Act for the decommissioning of water wells used for the geothermal well have been complied with; and
 - (c) the geothermal tenure holder has given the Minister of the department in which the Water Act is administered a notice in the approved form about the decommissioning.

201 Right of entry to facilitate decommissioning

- (1) This section applies if—
 - (a) the geothermal tenure has ended or the land on which the geothermal well is located is no longer in the tenure's area; and
 - (b) the geothermal tenure holder or former holder has not carried out decommissioning as required under section 200.
- (2) The holder or former holder may enter the following land to carry out the decommissioning—
 - (a) land (the *primary land*) on which the decommissioning must be or was required to be carried out;
 - (b) any other land (the *access land*) it is reasonably necessary to cross for access to the primary land.

[s 202]

- (3) Parts 5, 6 and 8 apply to the holder or former holder in the following way—
- (a) if the geothermal tenure has ended, as if—
 - (i) it were still in force; and
 - (ii) the former holder were still its holder;
 - (b) as if the primary land and access land is in the geothermal tenure's area;
 - (c) as if the decommissioning is an authorised activity for the geothermal tenure.

Editor's note—

parts 5 (Private land), 6 (Public land) and 8 (Compensation and negotiated access)

202 Responsibility for geothermal well after decommissioning

- (1) This section applies if the geothermal tenure holder has decommissioned a geothermal well under section 200.

Note—

For ownership before decommissioning, see section 271 (Ownership of equipment and improvements).

- (2) Despite the decommissioning, the holder continues to be responsible under this Act for the geothermal well until the earlier of the following times (the *relevant time*)—
- (a) when the geothermal tenure ends;
 - (b) when the land on which the geothermal well is located ceases to be in the geothermal tenure's area.
- (3) The geothermal well is taken to have been transferred to the State at the relevant time.

Note—

However, the holder may still have obligations under the Environmental Protection Act, chapter 5 for the geothermal well.

- (4) Subsection (3) applies despite—

- (a) the geothermal well being on or part of land owned by someone else; or
- (b) the sale or other disposal of the land.

Part 4 Security

203 Operation and purpose of pt 4

- (1) This part empowers the Minister to require, from time to time, a geothermal tenure holder or a person who has applied for a geothermal tenure to give the State security for the tenure or proposed tenure.
- (2) The security may be used to pay—
 - (a) any liability under this Act the State incurs because of an act or omission of the holder; and
 - (b) any unpaid annual rent payable by the holder to the State; and
 - (c) other unpaid amounts payable under this Act by the holder to the State, including, for example, any of the following—
 - (i) an unpaid civil penalty;
 - (ii) unpaid interest on unpaid annual rent;
 - (iii) any debt payable by the holder under section 352; and
 - (d) any compensation the State must pay under section 309 because of the exercise or purported exercise of remedial powers for the geothermal tenure, whether or not the tenure has ended.

[s 204]

204 Power to require security for geothermal tenure

- (1) The Minister may require a geothermal tenure holder or a person who has applied for a geothermal tenure to give the State security for the tenure, or proposed tenure.
- (2) The security must be—
 - (a) in the form prescribed under a regulation; and
 - (b) of at least the amount prescribed under a regulation.
- (3) The requirement may be made at any time.
- (4) However, the requirement does not take effect until the holder or applicant is given—
 - (a) for a requirement to give security in the form and amount prescribed under subsection (2)—notice of the requirement; or
 - (b) otherwise—an information notice about the decision to make the requirement.

205 Minister's power to require additional security

- (1) The Minister may at any time require a geothermal tenure holder to increase the amount of security given for the tenure.
- (2) However—
 - (a) if, because of an increase in the prescribed amount under section 204(2), the requirement is to increase the total security required to no more than the increased prescribed amount—the requirement must be made by notice to the holder; or
 - (b) if the requirement is to increase the total security required to more than the prescribed amount under section 204(2) when the requirement is made—
 - (i) subsections (3) to (5) must be complied with before making the requirement; and

-
- (ii) the requirement does not take effect until the holder is given an information notice about the decision to make the requirement.
- (3) The Minister must give the holder notice—
 - (a) stating the proposed increased amount of the security for the geothermal tenure; and
 - (b) inviting the holder to make submissions about the proposed increased amount to the Minister within a stated reasonable period.
 - (4) The stated period must end at least 20 business days after the holder is given the notice.
 - (5) The Minister must consider any submissions made by the holder within the stated period.
 - (6) In this section—

security given includes security given or increased because of a requirement under subsection (1).

206 Interest on security

The State may keep any interest accruing on security given under this part for a geothermal tenure.

207 Power to use security

The State may use security given under this part for a geothermal tenure and any interest accruing on the security to make a payment mentioned in section 203(2) concerning the tenure.

208 Replenishment of security

- (1) This section applies if—
 - (a) under section 207, all or part of the security for a geothermal tenure has been used; and

[s 209]

- (b) the geothermal tenure is still in force.
- (2) The Minister must give the geothermal tenure holder a notice—
 - (a) stating how much of the security has been used; and
 - (b) directing the holder to replenish the security for the geothermal tenure, within 30 days after the giving of the notice, up to the higher of the following—
 - (i) the amount prescribed under a regulation;
 - (ii) if the notice states that, under section 204, another amount is required—the other amount.

209 Security not affected by change in tenure holder

- (1) This section applies if security for a geothermal tenure has been given under this part for the tenure and its holder changes.
- (2) Despite the change, the security and any interest accruing on it continues in force for the benefit of the State and may be used under section 207.
- (3) If the security is in the form of money, until the security is replaced or refunded it continues in force for the holder from time to time of the geothermal tenure.

210 Retention of security after geothermal tenure ends

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

Part 5 Private land

Division 1 Requirements for entry to private land in geothermal tenure area

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

211 Entry notice requirement

- (1) A person must not—
- (a) enter private land in a geothermal tenure's area to carry out a preliminary activity for the tenure; or
 - (b) enter private land in a geothermal tenure's area to carry out an advanced activity for the tenure if either of the following applies for the entry—
 - (i) the deferral agreement exemption;
 - (ii) the Land Court application exemption;

unless the geothermal tenure's holder has given each owner and occupier of the land a written notice of the entry that complies with section 212 (an *entry notice*).

Maximum penalty—500 penalty units.

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

Maximum penalty—500 penalty units.

[s 212]

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

Maximum penalty—10 penalty units.

- (4) A contravention of subsection (3) does not affect the validity of the notice or the entry.
- (5) This section is subject to section 213.
- (6) In this section—

deferral agreement exemption, for an entry, means that the conduct and compensation agreement requirement does not apply for the entry because of section 217(c)(i).

give, for an entry notice, includes publishing it in a way approved under section 215.

Land Court application exemption, for an entry, means that the conduct and compensation agreement requirement does not apply for the entry because of section 217(c)(ii).

212 Required contents of entry notice

- (1) An entry notice must state the following—
- (a) the land proposed to be entered;
 - (b) the period during which the land will be entered (the *entry period*);
 - (c) the activities proposed to be carried out on the land;
 - (d) when and where the activities are proposed to be carried out;
 - (e) contact details for—
 - (i) the relevant geothermal tenure holder; or
 - (ii) another person the holder has authorised to discuss the matters stated in the notice.

-
- (2) Also, the first entry notice from the geothermal tenure holder to a particular owner or occupier must be accompanied by or include a copy of—
 - (a) the geothermal tenure; and
 - (b) the land access code; and
 - (c) any code of practice made under this Act applying to authorised activities for the geothermal tenure; and
 - (d) the relevant environmental authority.
 - (3) The entry period can not be longer than—
 - (a) generally—
 - (i) for a geothermal permit—6 months; or
 - (ii) for a geothermal lease—1 year; or
 - (b) if the relevant owner or occupier agrees in writing to a longer period—the longer period.
 - (4) Subject to subsections (1) to (3), an entry notice may state an entry period that is different to the entry period stated in another entry notice given by the geothermal tenure holder to another owner or occupier of the land.

213 Exemptions from entry notice requirement

- (1) The requirement under section 211(1) to give an entry notice does not apply for an entry to land to carry out an authorised activity if any of the following apply—
 - (a) the geothermal tenure holder owns the land;
 - (b) the holder has the right other than under this Act to enter the land to carry out the activity;
 - (c) if—
 - (i) there is a conduct and compensation agreement relating to the land; and
 - (ii) each eligible claimant for the land is a party to the agreement; and

[s 214]

- (iii) the agreement includes a waiver of entry notice;
 - (d) the entry is to preserve life or property or because of an emergency that exists or may exist;
 - (e) the relevant owner or occupier has, by signed writing, given a waiver of entry notice.
- (2) A waiver of entry notice mentioned in subsection (1) must comply with section 214(1).

214 Provisions for waiver of entry notice

- (1) A waiver of entry notice mentioned in section 213 must—
- (a) if it does not form part of a conduct and compensation agreement, be written and signed; and
 - (b) state the following—
 - (i) that the relevant owner or occupier has been told they are not required to agree to the waiver of entry notice;
 - (ii) the authorised activities proposed to be carried out on the land;
 - (iii) the period during which the land will be entered;
 - (iv) when and where the activities are proposed to be carried out.
- (2) The relevant owner or occupier can not withdraw the waiver of entry notice during the period.
- (3) The waiver of entry notice ceases to have effect at the end of the period.

215 Giving entry notice by publication

- (1) The chief executive may approve a geothermal tenure holder giving an entry notice for the tenure by publishing it in a stated way.
- (2) The publication may relate to more than 1 entry notice.

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- (3) The chief executive may give the approval only if satisfied—
- (a) for a relevant owner or occupier who is an individual, it is impracticable to give the owner or occupier the notice personally; and
 - (b) the publication will happen at least 20 business days before the entry.

Subdivision 2 Conduct and compensation agreement requirement for particular advanced activities

216 Conduct and compensation agreement requirement

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

Maximum penalty—500 penalty units.

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

Note—

For conduct and compensation agreements, see part 8, division 1.

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

[s 217]

217 Exemptions from conduct and compensation agreement requirement

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

- (a) the geothermal tenure holder owns the land;
- (b) the holder has the right other than under this Act to enter the land to carry out the activity;
- (c) each eligible claimant for the land is—
 - (i) a party to an agreement, complying with section 218, that a conduct and compensation agreement can be entered into after the entry (a *deferral agreement*); or
 - (ii) an applicant or respondent to a Land Court application under section 256 relating to the land;
- (d) the entry is to preserve life or property or because of an emergency that exists or may exist.

218 Requirements for deferral agreement

A deferral agreement must—

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

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

Division 2 Access to private land outside area of geothermal tenure

Subdivision 1 Preliminary

219 Application of div 2

This division applies for a geothermal tenure in relation to all private land outside its area.

Subdivision 2 Access rights and access agreements

220 Access rights of geothermal tenure holder

- (1) Subject to section 221, the geothermal tenure holder has the following rights—
 - (a) to cross the land if it is reasonably necessary to allow the holder to enter the geothermal tenure's area;
 - (b) to carry out activities on the land that are reasonably necessary to allow the crossing of the land.

Example for paragraph (b)—

opening a gate or fence

- (2) The rights under subsection (1) that may, under section 221, be exercised are the ***access rights*** for the geothermal tenure.
- (3) Land to which the access rights apply is ***access land*** for the geothermal tenure.

[s 221]

221 Restriction on exercise of access rights

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

Note—

See also section 330 (Duty to avoid interference in carrying out geothermal activities).

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

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

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

building a road

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

opening or closing a gate

222 Owner or occupier must not unreasonably refuse to make access agreement

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

Note—

Either party may refer a refusal under subsection (1) or (3) to the Land Court to decide whether the refusal is unreasonable. See section 226.

223 Principles for deciding whether access is reasonable

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

[s 224]

- (a) the nature and extent of any impact the exercise of the access rights will have on the land and the owner or occupier's use and enjoyment of it;
 - (b) how, when and where and the period during which the holder proposes to exercise the access rights.
- (4) In this section—
- formed road* means any existing road or track on private land or public land used, or that may reasonably be capable of being used, to drive or ride motor vehicles.

224 Provisions for access and access agreements

- (1) Section 211 applies for any entry to the land by the geothermal tenure holder as if the entry were an entry to carry out authorised activities.

Editor's note—

section 211 (Entry notice requirement)

- (2) However—
- (a) a written access agreement may include a waiver of entry notice for the entry; and
 - (b) if an access agreement provides for alternative conditions to section 211 for the entry—section 211 does not apply for so long as the alternative conditions are in force.
- (3) A written access agreement may include a conduct and compensation agreement for the exercise or future exercise of access rights by the holder.
- (4) This division does not limit or otherwise affect the ability of the owner or occupier to grant the holder a right of access to the land, including, for example, by the grant of an easement.

225 Access agreement binds successors and assigns

Subject to section 227, an access agreement binds the parties to it and each of their personal representatives, successors in title and assigns.

Subdivision 3 Land Court resolution

226 Power of Land Court to decide access agreement

- (1) If a dispute arises between the geothermal tenure holder and an owner or occupier of the land (the *parties*) about a matter mentioned in section 223(1), any party to the dispute may apply to the Land Court for it to decide the matter.
- (2) In deciding the matter, the Land Court may impose conditions it considers appropriate for the exercise of the access rights.
- (3) Conditions imposed under subsection (2) are taken to be—
 - (a) if there is already an access agreement between the parties—conditions of that agreement; or
 - (b) if there is no access agreement between the parties—an access agreement between the parties.

227 Power of Land Court to vary access agreement

- (1) An owner or occupier of the land or the geothermal tenure holder may apply to the Land Court to vary any access agreement between them.
- (2) The Land Court may vary the access agreement only if it considers the change is appropriate because of a material change in circumstances.
- (3) Subsection (2) does not limit section 223.
- (4) This section does not prevent the owner or occupier and the holder from agreeing to vary the access agreement.

[s 228]

228 Criteria for deciding access

In deciding an application under this subdivision, the Land Court must have regard to section 223(2) and (3).

Division 3 Provisions for dealings or change in ownership or occupancy

229 Entry notice or waiver of entry notice or access agreement not affected by a dealing

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

230 Change in ownership or occupancy

- (1) If, after the giving of an entry notice, the ownership or occupancy of the relevant land changes—
 - (a) the holder of the geothermal tenure for which the entry notice was given is taken to have given that notice to each new owner or occupier of the land; and
 - (b) section 211(2) does not apply for the new owner or occupier for the entry period stated in the notice.
- (2) If, after the giving of a waiver of entry notice, the ownership or occupancy of the relevant land changes, each new owner or occupier of the land is taken to have given that waiver of entry notice.
- (3) If the relevant geothermal tenure holder becomes aware of a new owner or occupier mentioned in subsection (1) or (2), the holder must, within 15 business days, give the new owner or occupier a copy of the entry notice or waiver of entry notice.
- (4) If the holder does not comply with subsection (3), subsections (1) and (2) cease to apply for the entry notice or consent.

Division 4 Periodic notice after entry of land

231 Notice to owners and occupiers

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

[s 232]

subsection (2) is the longer of the periods under subsections (3) and (4).

Division 5 Access to carry out rehabilitation and environmental management

232 Right of access for authorised activities includes access for rehabilitation and environmental management

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

Division 6 Miscellaneous provision

233 Direction to ease concerns of owner or occupier

- (1) This section applies if the Minister reasonably believes that, to ease a valid concern of an owner or occupier of land in a geothermal tenure's area, the tenure holder ought reasonably to take action, or cease taking action.
- (2) The Minister may, by notice, direct the holder to take the action, or cease taking the action, within a stated reasonable period.
- (3) However, before deciding to give the notice, the Minister must—
 - (a) give the holder a notice stating—
 - (i) the proposed direction; and
 - (ii) the grounds for giving the proposed direction; and

-
- (iii) the facts and circumstances forming the basis for the grounds; and
 - (iv) that the holder may, within a stated reasonable period, make submissions to the Minister about the proposed direction; and
- (b) consider any submissions made by the holder within the period.
- (4) The decision does not take effect until the holder is given an information notice about the decision.

Note—

For the consequence of noncompliance with the direction, see section 321 (When noncompliance action may be taken).

Part 6 Public land

Division 1 Public roads

Subdivision 1 Preliminary

234 Coordinated projects excluded from div 1

- (1) This division does not apply for a geothermal tenure for a coordinated project.
- (2) Subsection (1) does not limit or otherwise affect conditions the coordinator-general may, under the *State Development and Public Works Organisation Act 1971*, part 4, recommend for the geothermal tenure.

235 What is a *notifiable road use*

- (1) A *notifiable road use*, for a geothermal tenure, is—

[s 236]

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

Subdivision 2 Notifiable road uses

236 Notice of notifiable road use

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

Note—

See also section 268 (Compensation to be addressed before carrying out notifiable road use).

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

(ii) the type of haulage under the use;

Examples of type of haulage—

- vehicle type
- material hauled

(iii) the total weight of material proposed to be hauled;

(iv) when the use is proposed to start and end;

(v) the frequency of vehicle movements;

(vi) contact details for the holder or someone else the holder has authorised to discuss the matters stated in the notice.

237 Directions about notifiable road use

(1) The public road authority for a public road may, by notice, give a geothermal tenure holder a direction (a ***road use direction***) about the way the holder may use the road for notifiable road uses being carried out, or proposed to be carried out, by the holder.

(2) The direction must—

(a) be reasonable; and

(b) only be about—

(i) preserving the condition of the road; or

(ii) the safety of road users or the public; and

(c) be accompanied by or include an information notice about the decision to give the direction.

Examples of what a direction may be about—

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

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

[s 238]

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

238 Obligation to comply with road use directions

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

Division 2 Other public land

Note—

For the ownership of equipment and improvements on public land see part 9.

239 When entry notice has to be given

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

Example—

travelling on a public road in the geothermal tenure's area

- (b) the holder has, at least 30 business days before the entry, given the public land authority notice under this part (an ***entry notice***) of the proposed entry; or
- (c) the public land authority has agreed in writing that an entry notice is not required and the agreement complies with section 240; or
- (d) the entry is needed to preserve life or property because of a dangerous situation or emergency that exists or may exist.

Maximum penalty—100 penalty units.

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

240 Waiver of entry notice

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

241 Required contents of entry notice

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

242 Conditions public land authority may impose

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

-
- (a) notice of proposed entry—
 - (i) generally—at least 2 business days before the proposed entry; or
 - (ii) if the holder and the public land authority have agreed to a longer or shorter period for giving the notice—within the longer or shorter period; or
 - (b) notice at stated intervals of activities carried out by, or for, the holder on the land.
- (2) However, the public land authority can not impose a condition that is any of the following for a condition of the geothermal tenure or the relevant environmental authority (the ***existing condition***)—
- (a) the same as the existing condition;
 - (b) substantially the same as the existing condition;
 - (c) inconsistent with the existing condition.
- (3) Despite subsection (2), if the public land authority is the chief executive of the department in which the *Nature Conservation Act 1992* is administered, that chief executive may impose a condition more stringent than the environmental authority's conditions.
- (4) If the public land authority decides to impose a condition other than a condition agreed to or requested by the holder, it must give the holder an information notice about the decision.
- (5) In carrying out the activity, the holder must comply with the conditions.

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

Note—

If a corporation commits an offence against this provision, an executive officer of the corporation may be taken, under section 333A, to have also committed the offence.

- (b) carry out activities on the land that are reasonably necessary to allow the crossing of the land.
- (2) However, a right under subsection (1) may be exercised only if its exercise does not adversely affect the carrying out of an authorised activity for the second authority.
- (3) Subsection (2) applies whether or not the authorised activity has already started.

Part 8 Compensation and negotiated access

Division 1 Compensation other than for notifiable road uses

Subdivision 1 Preliminary

246 Application of div 1

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

Subdivision 2 General provisions

247 General liability to compensate

- (1) The holder of each geothermal tenure is liable to compensate each owner or occupier of private land or public land that is in the area of, or is access land for, the tenure (an *eligible claimant*) for any compensatable effect the eligible claimant suffers caused by relevant authorised activities.

[s 247]

- (2) A geothermal tenure holder's liability under subsection (1) to an eligible claimant is the holder's **compensation liability** to the claimant.
- (3) This section is subject to section 262.
- (4) In this section—

compensatable effect means all or any of the following—

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

Examples of negotiation—

an ADR or conference

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

relevant authorised activities means authorised activities for the geothermal tenure carried out by the holder or a person authorised by the holder.

Subdivision 3 General provisions for conduct and compensation agreements

248 Conduct and compensation agreement

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

249 Content of conduct and compensation agreement

- (1) A conduct and compensation agreement must—
 - (a) provide for the matters mentioned in section 248(1); and
 - (b) be written and signed by or for the geothermal tenure holder and the eligible claimant; and
 - (c) state whether it is for all or part of the compensation liability; and
 - (d) if it is for only part of the compensation liability, state—

[s 249]

- (i) details of each activity or effect of the activity to which the agreement relates; and
 - (ii) the period for which the agreement has effect; and
 - (e) provide for how and when the compensation liability will be met.
- (2) A conduct and compensation agreement may—
- (a) extend the holder’s compensation liability to the claimant or any future compensation liability that the holder may have to the claimant to any renewal of the geothermal tenure; and
 - (b) provide for—
 - (i) monetary or non-monetary compensation; or
Example of non-monetary compensation—
A conduct and compensation agreement may provide for the construction of a road for the claimant.
 - (ii) a process by which it may be amended or enforced; and
Example of a process for amendment—
A conduct and compensation agreement may provide for compensation under it to be reviewed on the happening of a material change in circumstances for the geothermal tenure, including a change in the extent of activities required under a later development plan for a geothermal lease.
 - (c) provide for any compensation that is or may be payable by the holder to the eligible claimant under the Environmental Protection Act.
- (3) This section does not limit the matters that may be provided for in a conduct and compensation agreement.

Subdivision 4 Negotiation process

Note—

Generally, a geothermal tenure holder can not enter private land to carry out an advanced activity unless the holder complies with this subdivision. See sections 216 and 217.

250 Notice of intent to negotiate

- (1) A geothermal tenure holder may give an eligible claimant to whom the holder has a compensation liability a notice (the *negotiation notice*) that the holder wishes to negotiate a conduct and compensation agreement or a deferral agreement with the eligible claimant.
- (2) The negotiation notice must be accompanied by a copy of the land access code and state all of the following—
 - (a) if the holder wishes to negotiate a conduct and compensation agreement—
 - (i) whether the holder wishes to negotiate all or part of the holder's compensation liability to the eligible claimant; and
 - (ii) if the holder only wishes to negotiate part of the liability—what the part is;
 - (b) if the holder wishes to negotiate a deferral agreement—that wish and the reasons for it;
 - (c) the land the holder proposes to enter;
 - (d) the activities proposed to be carried out on the land;
 - (e) when and where the activities are proposed to be carried out;
 - (f) if the holder is a corporation—contact details for the holder and an individual the holder has authorised to negotiate the agreement.

[s 251]

- (3) The geothermal tenure holder must give the chief executive a copy of the negotiation notice immediately after it is given.

Maximum penalty for subsection (3)—10 penalty units.

251 Negotiations

- (1) On the giving of the negotiation notice, the geothermal tenure holder and the eligible claimant (the *parties*) must use all reasonable endeavours to negotiate a conduct and compensation agreement or a deferral agreement (a *relevant agreement*).
- (2) The period of the negotiations—
 - (a) must be at least for the period provided for under section 252 (the *minimum negotiation period*); but
 - (b) may continue for as long as the parties wish.
- (3) If, during the minimum negotiation period, the parties enter into a relevant agreement, the geothermal tenure holder can not enter the relevant land to carry out advanced activities for the tenure until the period ends.
- (4) Subsection (3) applies despite the terms of the agreement.

252 Provision for the minimum negotiation period

- (1) Generally, the minimum negotiation period is 20 business days from the giving of the negotiation notice (the *usual period*).
- (2) Either party may, within the usual period, ask the other to agree to a longer minimum negotiation period because of stated reasonable or unforeseen circumstances.
- (3) If the other party so agrees, the longer minimum negotiation period is the minimum negotiation period.

253 Cooling-off during minimum negotiation period

- (1) This section applies if the parties enter into a conduct and compensation agreement or a deferral agreement during the minimum negotiation period.
- (2) Either of the parties may, within the minimum negotiation period, terminate the agreement by giving notice to the other party.
- (3) On the giving of a notice under subsection (2), the terminated agreement is taken never to have had any effect.
- (4) To remove any doubt, it is declared that subsection (3) does not change the time when the negotiation notice was given.

254 Parties may seek conference or independent ADR

- (1) This section applies if, at the end of the minimum negotiation period, the parties have not entered into a conduct and compensation agreement or deferral agreement.
- (2) Either party may by a notice (an *election notice*)—
 - (a) to the other party and an authorised officer—ask for an authorised officer to call a conference to negotiate a conduct and compensation agreement; or
 - (b) to the other party—call upon them to agree to an alternative dispute resolution process (an *ADR*) to negotiate a conduct and compensation agreement.
- (3) If the notice calls for an ADR, it must—
 - (a) identify the ADR; and
 - (b) state that the party giving the notice agrees to bear the costs of the person who will facilitate the ADR (the *facilitator*).
- (4) An ADR may be a process of any kind, including, for example, conciliation or mediation.
- (5) However, the facilitator must be independent of either party.

[s 255]

255 Conduct of conference or ADR

- (1) This section applies if an election notice is given.
- (2) If a conference was requested—
 - (a) the authorised officer must take all reasonable steps to ensure the conference is finished within 20 business days after the notice is given (the *usual period*); and
 - (b) chapter 7, part 1 applies for the conference.
- (3) If an ADR was called for, the parties must use reasonable endeavours to finish it within 20 business days after the giving of the notice (also the *usual period*).
- (4) Either party may, within the usual period, ask the other to agree to a longer period to finish the conference or ADR because of stated reasonable or unforeseen circumstances.
- (5) If the parties agree to the longer period, that period applies instead of the usual period.
- (6) If an ADR was called for, section 315 applies to the ADR as if a reference in the section to a conference were a reference to an ADR.

Editor's note—

section 315 (What happens if a party does not attend)

Subdivision 5 Deciding compensation through Land Court

256 Land Court may decide if negotiation process unsuccessful

- (1) This section applies if an election notice is given and—
 - (a) a party asked an authorised officer to call a conference and the authorised officer does not finish it within the period required under section 255 (the *required period*);
or

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- (b) a party called for an ADR and the person facilitating the ADR does not finish it within the period required under section 255 (also the *required period*).
 - (2) This section also applies if an election notice is given and—
 - (a) only 1 party attended the conference requested or ADR called for; or
 - (b) both parties attended the conference or ADR and, at the end of the required period, there is no conduct and compensation agreement between the parties.
 - (3) An eligible party may apply to the Land Court for it to decide the geothermal tenure holder's—
 - (a) compensation liability to the claimant; or
 - (b) future compensation liability to the claimant for an authorised activity for the geothermal tenure proposed to be carried out by or for the holder.
 - (4) However, the Land Court may decide the liability or future liability only to the extent it is not subject to a conduct and compensation agreement.
 - (5) In hearing the application, the Land Court must as much as practicable ensure the hearing happens together with, or as closely as possible to, the hearing of any relevant environmental compensation application.
 - (6) In this section—

eligible party means a party who attended the conference or ADR.

relevant environmental compensation application means an application to the Land Court for compensation that is or may be payable by the geothermal tenure holder to the eligible claimant under the Environmental Protection Act.

257 Land Court review of compensation

- (1) This section applies if—

[s 258]

- (a) the compensation liability or future compensation liability of a geothermal tenure holder to an eligible claimant has been agreed to under a conduct and compensation agreement or decided by the Land Court (the *original compensation*); and
 - (b) there has been a material change in circumstances (the *change*) since the agreement or decision.
- (2) The eligible claimant or the holder may apply to the Land Court for it to review the original compensation.
 - (3) In carrying out the review, the Land Court may review the original compensation only to the extent it is affected by the change.
 - (4) If the Land Court considers the original compensation is not affected by the change, it must not carry out or continue with the review.
 - (5) The Land Court may, after carrying out the review, decide to confirm the original compensation or amend it in a way the court considers appropriate.
 - (6) If the decision is to amend the original compensation, the original compensation as amended under the decision is, for this Act, taken to be the original compensation.

258 Orders Land Court may make

- (1) The Land Court may make any order it considers appropriate to meet or enforce its decision on an application under this part.
- (2) Without limiting subsection (1), the Land Court may order non-monetary compensation as well as monetary compensation.

Subdivision 6 Additional Land Court jurisdiction for compensation and related matters

259 What sdiv 6 is about

- (1) This subdivision provides for additional matters for which the Land Court has jurisdiction.
- (2) The jurisdiction is subject to subdivisions 1 to 5.

260 Additional jurisdiction

- (1) This section applies to a geothermal tenure holder and an eligible claimant (the *parties*) if any of the following apply—
 - (a) the geothermal tenure holder has carried out a preliminary activity;
 - (b) the parties can not reach agreement about a conduct and compensation agreement;
 - (c) there is a conduct and compensation agreement or deferral agreement between the parties.
- (2) The Land Court may do all or any of the following—
 - (a) assess all or part of the relevant geothermal tenure holder's compensation liability to another party;
 - (b) decide a matter related to the compensation liability;
 - (c) declare whether or not a proposed authorised activity for the relevant geothermal tenure would, if carried out, interfere with the carrying out of lawful activities by the eligible claimant;
 - (d) make any order it considers necessary or desirable for a matter mentioned in paragraph (a), (b) or (c).

Example—

The Land Court declares that a particular proposed authorised activity interferes with the carrying out of lawful activities by the

[s 261]

eligible claimant. It may also order that a stated modification of, or reduction in, the activity would remove the interference.

261 Jurisdiction to impose or vary conditions

- (1) In deciding a matter mentioned in section 260(2), the Land Court may—
 - (a) impose any condition it considers appropriate for the exercise of the parties' rights; or
 - (b) vary any existing condition under an agreement between the parties.
- (2) The variation may be made on any ground the Land Court considers appropriate.
- (3) The imposed or varied condition is taken to be—
 - (a) if there is an agreement between the parties—a condition of the agreement; or
 - (b) if there is no agreement between the parties—an agreement between the parties.
- (4) In this section—

agreement means a conduct and compensation agreement.

condition means a condition of or for a conduct and compensation agreement.

Subdivision 7 Miscellaneous provision

262 Compensation not affected by change in ownership or occupancy

- (1) A conduct and compensation agreement or a Land Court decision under this part is for the benefit of, and is taken to have been agreed to or decided for and is binding on, the following—
 - (a) the relevant eligible claimant;

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- (b) the geothermal tenure holder;
 - (c) each of their successors and assigns including successors and assigns for the area of the relevant geothermal tenure.
- (2) Subsection (1) is subject to section 257.

Division 2 Compensation for notifiable road uses

263 Liability to compensate public road authority

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

Examples of a possible cost for subsection (1)—

- repair costs to rectify damage to the road caused or that will be caused by any of the uses
 - capital costs for unplanned upgrades of the road incurred or that will be incurred because of any of the uses
 - bring-forward costs, including interest charges, for a planned upgrade of the road that because of any of the uses is or will be required earlier than planned
- (2) The holder's liability under subsection (1) is the holder's **compensation liability** to the public road authority.
- (3) The compensation liability—
- (a) applies whether or not the holder has, under section 236, given notice of the use; and
 - (b) is subject to section 269; and
 - (c) is in addition to and does not limit or otherwise affect the holder's liability under another provision of this Act about compensating the public road authority or anyone else.

264 Compensation agreement

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

Example for paragraph (b)—

A compensation agreement may provide for compensation under it to be reviewed on the happening of a material change in circumstances for the geothermal tenure, including a significant decrease or increase in the extent of the relevant notifiable road use.
- (5) Subsections (2) to (4) do not limit the matters that may be provided for in a compensation agreement.

265 Deciding compensation through Land Court

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

266 Criteria for decision

- (1) The criteria the Land Court must consider in deciding a compensation application include—
 - (a) the reasonableness of the cost, damage or loss claimed; and
 - (b) if the public road authority is a local government—the extent to which the cost, damage or loss claimed has been, will be or ought reasonably to be or to have been paid from—
 - (i) amounts the geothermal tenure holder has paid or agreed to pay the public road authority for notifiable road uses; or
 - (ii) rates and charges under the *Local Government Act 2009* paid or payable by the geothermal tenure holder to the public road authority; and
 - (c) any other relevant matter.
- (2) In considering the reasonableness of any cost, damage or loss claimed, the Land Court must have regard to—
 - (a) any action taken or proposed by the geothermal tenure holder to, or to attempt to, avoid, minimise or remedy the cost, damage or loss; and
 - (b) any relevant act or omission of the public road authority.

[s 267]

- (3) Subsection (1)(b)(ii) applies whether or not the rates and charges relate to notifiable road uses.

267 Land Court review of compensation

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

Example of a material change in circumstances—

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

- (2) The public road authority or geothermal tenure holder may apply to the Land Court for it to review the original compensation.
- (3) Sections 265 and 266 apply for the review as if the application were a compensation application.
- (4) The Land Court may, after carrying out the review, decide to confirm the original compensation or amend it in a way the court considers appropriate.
- (5) However, before making the decision, the Land Court must have regard to—
 - (a) the original compensation; and
 - (b) whether the applicant has attempted to mediate or negotiate an amendment of the original compensation; and
 - (c) any change in the matters mentioned in section 266(1) since the original compensation was agreed or decided.

- (6) If the decision is to amend the original compensation, the original compensation as amended under the decision is, for this Act, taken to be the original compensation.

268 Compensation to be addressed before carrying out notifiable road use

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

269 Compensation not affected by change in administration or holder

- (1) An agreement or decision under this part about compensation liability is binding on—
- (a) the relevant public road authority; and
 - (b) the relevant geothermal tenure holder; and
 - (c) each of their personal representatives, successors and assigns.
- (2) Subsection (1) is subject to section 267.

Part 9 Ownership of equipment and improvements

270 Application of pt 9

- (1) This part applies if—
 - (a) equipment or improvements are taken onto or constructed or placed on land in a geothermal tenure's area; and
 - (b) the equipment or improvements were taken onto or constructed or placed on the land for use for an authorised activity for the geothermal tenure; and
 - (c) the geothermal tenure continues in force.
- (2) However, this part is subject to part 14.

Editor's note—

part 14 (Enforcement of end of tenure and area reduction obligations)

- (3) In this section—

equipment includes machinery and plant.

improvements—

- (a) does not include a geothermal well; but
- (b) does include any works constructed in connection with a geothermal well.

271 Ownership of equipment and improvements

- (1) While the equipment or improvements are on the land they remain the property of the person who owned them immediately before they were taken onto or constructed or placed on the land, unless that person otherwise agrees.

Note—

See, however, section 361 (Obligation to remove equipment and improvements).

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- (2) However, for a geothermal well, subsection (1) is subject to part 3, division 2.

Editor's note—

part 3, division 2 (Decommissioning of geothermal wells)

- (3) Subsection (1) applies despite—
- (a) the plant or equipment having become part of the land; or
 - (b) the sale or other disposal of the land of which the plant or equipment has become a part.
- (4) The equipment or improvements can not be—
- (a) levied or seized in execution; or
 - (b) sold in exercise of a power of sale or otherwise disposed of by a process under a law of a State taken against the holder or the owner of the land.
- (5) This section applies despite—
- (a) an Act or law of a State; or
 - (b) a contract, covenant or claim of right under a law of a State.

Part 10 Geothermal register

272 Geothermal register

The chief executive must keep a register of details about the following—

- (a) restricted areas;
- (b) excluded land;
- (c) geothermal tenures;

[s 273]

- (d) geothermal coordination arrangements;
- (e) dealings with geothermal tenures;
- (f) acquired land.

273 Keeping of register

- (1) The chief executive must include in the geothermal register the information prescribed under a regulation.
- (2) The chief executive may also keep in the register information the chief executive considers appropriate about matters relating to this Act or another resource Act.
- (3) If under this Act, there is a change relating to information required to be kept in the register or to information that, under subsection (2), the chief executive keeps in the register, the chief executive must—
 - (a) amend the register to reflect the change; and
 - (b) record in the register—
 - (i) when the information was amended; and
 - (ii) for a dealing—when it took effect under section 281(2).
- (4) For subsection (3), if the change requires approval under this Act, the change happens when the approval takes effect.

274 Access to register

- (1) The chief executive must—
 - (a) keep the geothermal register open for inspection by the public during office hours on business days at the places the chief executive considers appropriate; and
 - (b) allow a person, on payment of the fee prescribed under a regulation, to search and take extracts from the register; and

- (c) give a person who asks for a copy of all or part of a document or information held in the register the copy on payment of the fee prescribed under a regulation.
- (2) This section is subject to section 275.

275 Arrangements with other departments for copies from geothermal register

- (1) Despite section 274, the chief executive may enter into an arrangement with another department allowing it to carry out a search of, take extracts from or obtain a copy of particulars recorded in the geothermal register without payment of the fees prescribed under section 274.
- (2) However, the chief executive may enter into an arrangement under subsection (1) only if the chief executive is reasonably satisfied the information obtained from the copy will not be—
 - (a) used for a commercial purpose, including, for example, the marketing or sale of the information or other information; or
 - (b) included in another database of information in any form other than with the chief executive's approval.

276 Supply of statistical data from geothermal register

- (1) The chief executive may enter into an agreement to supply statistical data derived from instruments or information kept in the geothermal register.
- (2) If the chief executive supplies statistical data under subsection (1)—
 - (a) the fees and charges applying for the supply of the data are the fees and charges provided for in the agreement; and
 - (b) without limiting paragraph (a), the agreement may also state—
 - (i) how the fees and charges are to be calculated; and

[s 277]

- (ii) how payment of the fees and charges is to be made.
- (3) Without limiting subsection (1), an agreement for the supply of statistical data may limit the use to which the data supplied may be put.
- (4) An agreement for the supply of statistical data must include—
 - (a) a provision allowing the chief executive to exclude particulars from data supplied under the agreement if the chief executive is satisfied on reasonable grounds that inclusion of the particulars may result in the particulars being inappropriately disclosed or used; and
 - (b) a provision allowing the chief executive to prohibit disclosure or to limit distribution or use of data supplied under the agreement.
- (5) An agreement under this section must not provide for the obtaining of information or anything else that may be obtained under section 274.
- (6) The chief executive must exclude geothermal tenure particulars and personal information from data supplied under the agreement.
- (7) Subsection (6) applies despite anything in the agreement.
- (8) In this section—

geothermal tenure particulars means particulars from any instrument or information kept by the chief executive that may allow a person to identify a geothermal tenure to which the instrument or information relates.

personal information means particulars from any instrument or information kept by the chief executive that may allow a person to identify a person to whom the instrument or information relates.

277 Chief executive may correct register

- (1) The chief executive may correct the geothermal register if satisfied—

- (a) the register is incorrect; and
 - (b) the correction will not prejudice the rights recorded in the register of a geothermal tenure holder, a person who holds an interest in a geothermal tenure or a person who is a party to a geothermal coordination arrangement.
- (2) The power to correct includes power to correct information in the register or a document forming part of the register.
- (3) If the register is corrected, the chief executive must record in it—
- (a) the state of the register before the correction; and
 - (b) the time, date and circumstances of the correction.
- (4) A correction under this section has the same effect as if the relevant error had not been made.
- (5) For subsection (1)(b), a right is not prejudiced if the relevant person acquired or has dealt with the right with actual or constructive knowledge that the register was incorrect and how it was incorrect.

Part 11 Dealings

Division 1 Preliminary

277A Definitions for pt 11

In this part—

assessable transfer see section 280(2).

non-assessable transfer see section 280(1).

[s 278]

278 What is a *dealing* with a geothermal tenure

- (1) Each of the following is a *dealing* with a geothermal tenure—
 - (a) a transfer of the geothermal tenure or of a share in the geothermal tenure;
 - (b) a mortgage over the geothermal tenure or over a share in the geothermal tenure;
 - (c) a release, transfer or surrender of a mortgage mentioned in paragraph (b);
 - (d) a change to the geothermal tenure holder's name even if the holder continues to be the same person after the change;
 - (e) if the geothermal tenure is a geothermal lease—
 - (i) a sublease of the geothermal lease; or
 - (ii) a transfer of a sublease of the geothermal lease or of a share in a sublease of the geothermal lease.
- (2) To remove any doubt, it is declared that any transaction or commercial agreement not mentioned in subsection (1) is not a dealing with a geothermal tenure.

279 Prohibited dealings

A dealing with a geothermal tenure, other than a dealing mentioned in section 278(1)(e), that transfers a divided part of the area of the geothermal tenure is prohibited.

Examples of a divided part of the area of a geothermal tenure—

- a particular part of the surface of the area
- a particular strata beneath the surface of the area

280 Types of transfers

- (1) The following transfers (each a *non-assessable transfer*) do not require assessment before being registered—

-
- (a) a transfer of a geothermal tenure or of a share in a geothermal tenure if—
 - (i) the transferee is an entity having the same Australian Business Number as the entity comprising all or part of the transferor; or
 - (ii) part of one holder's share in the geothermal tenure will be transferred to another holder of the geothermal tenure;
 - (b) a transmission by death of a geothermal tenure or of a share in a geothermal tenure;
 - (c) a transfer of a geothermal tenure or of a share in a geothermal tenure by operation of law;
 - (d) a transfer of a mortgage over a geothermal tenure or over a share in a geothermal tenure;
 - (e) a transfer of a sublease of a geothermal lease or of a share in a sublease of a geothermal lease.
- (2) A transfer of a geothermal tenure or of a share in a geothermal tenure not mentioned in subsection (1) is an *assessable transfer* and must be approved by the Minister under division 3 before it can be registered.

Division 2 Registration of dealings generally

281 Registration required for all dealings

- (1) A dealing with a geothermal tenure has no effect until it is registered.
- (2) A registered dealing takes effect on—
 - (a) for a dealing that is an assessable transfer—the day the transfer was approved under division 3; or
 - (b) for any other dealing—the day notice of the dealing was given to the chief executive under section 282.

[s 282]

282 Obtaining registration

- (1) Registration of a dealing with a geothermal tenure, other than an assessable transfer, may be sought by giving the chief executive a notice of the dealing in the approved form.
- (2) However, a dealing with a geothermal tenure prohibited under section 279 can not be registered and is of no effect.
- (3) The approved form must be accompanied by the fee prescribed under a regulation.
- (4) Registration of an assessable transfer must be carried out by the chief executive.

283 Effect of approval and registration

The registration of a dealing with a geothermal tenure, or an approval of an assessable transfer under division 3, allows the dealing or transfer to have effect according to its terms but does not of itself give the dealing any more effect or validity than it would otherwise have.

Division 3 Approval of assessable transfers

284 Indicative approval

- (1) The holder of a geothermal tenure may, before applying for approval of an assessable transfer relating to the tenure, apply to the Minister—
 - (a) for an indication whether the Minister is likely to approve the transfer (an *indicative approval*); and
 - (b) if the Minister is likely to impose conditions on the giving of the approval—for an indication what the conditions are likely to be.
- (2) The application must be made to the Minister in the approved form and be accompanied by—

-
- (a) the information the Minister requires to make a decision; and
 - (b) the fee prescribed under a regulation.
- (3) In deciding whether or not to give the indicative approval, the Minister must consider the matters mentioned in section 286(2) as if the request were an application for approval of an assessable transfer.
 - (4) The Minister must decide whether or not to give the indicative approval and give the applicant notice of the decision.

285 Applying for approval of assessable transfer

- (1) The holder of a geothermal tenure may apply for approval of an assessable transfer relating to the geothermal tenure.
- (2) However, an application can not be made under subsection (1) if the proposed transferee is not an eligible person.
- (3) The application must be made to the Minister in the approved form and be accompanied by—
 - (a) a written consent to the transfer by the proposed transferee; and
 - (b) if the geothermal tenure or a share in the geothermal tenure is subject to a mortgage—a written consent to the transfer by the mortgagee; and
 - (c) for a transfer of a share in a geothermal tenure—a written consent to the transfer by each person, other than the transferor, who holds a share in the geothermal tenure; and
 - (d) the fee prescribed under a regulation.

286 Deciding application

- (1) The Minister must decide whether or not to give the approval of the assessable transfer.

[s 286]

- (2) In deciding whether or not to give the approval, the Minister must consider—
 - (a) the application and any additional information accompanying the application; and
 - (b) the relevant criteria that apply under chapter 2 or 3 for obtaining the type of geothermal tenure the subject of the transfer; and
 - (c) the public interest.
- (3) Subsection (2) does not apply if, under subsection (6) or (7), the approval is taken to have been given.
- (4) The approval may be given only if—
 - (a) the proposed transferee is—
 - (i) an eligible person; and
 - (ii) a registered suitable operator under the Environmental Protection Act; and
 - (iii) a holder of any relevant Water Act authorisation required for the purposes of the geothermal tenure; and
 - (b) no geothermal royalty payable under this Act by the holder of the geothermal tenure remains unpaid.
- (5) Also, the Minister may refuse to give the approval if the Minister is not satisfied the transferor has substantially complied with the conditions of the geothermal tenure.
- (6) The approval is taken to have been given if—
 - (a) under section 284, an indicative approval has been given for the proposed dealing; and
 - (b) subsection (4) does not prevent the giving of the approval; and
 - (c) within 3 months after the giving of the indicative approval—

- (i) an application for approval of the assessable transfer is made; and
 - (ii) if, under section 284, an indication of likely conditions was given—the conditions are complied with.
- (7) The approval is also taken to have been given if—
 - (a) subsection (6)(a) and (b) is satisfied; and
 - (b) within 10 business days before the expiration of 3 months after the giving of the indicative approval, the applicant gives the chief executive—
 - (i) notice in the approved form that a proposed transferee has given a notice under the *Foreign Acquisitions and Takeovers Act 1975* (Cwlth) about a proposal that relates to the assessable transfer; and
 - (ii) evidence that the proposed transferee has given the notice under that Act; and
 - (iii) a statement from the proposed transferee that the proposed transferee has not received notice about an order or decision made under that Act about the proposal; and
 - (c) within 6 months after the giving of the indicative approval, subsection (6)(c)(i) and (ii) is satisfied.
- (8) Despite subsections (6) and (7), the approval of the assessable transfer is taken not to have been given if—
 - (a) the application for indicative approval contained incorrect material information or omitted material information; and
 - (b) had the Minister been aware of the discrepancy, the Minister would not have given the indicative approval.

[s 287]

287 Security may be required

- (1) The Minister may, as a condition of deciding to give the approval, require the proposed transferee to give, under section 204, security for the geothermal tenure the subject of the transfer as if the proposed transferee were an applicant for the geothermal tenure.
- (2) If the proposed transferee does not comply with the requirement, the application may be refused.
- (3) When the transfer of the geothermal tenure is complete, section 204 applies to the transferee of the geothermal tenure as holder.

288 Notice of decision

- (1) If the Minister decides to give the approval, the Minister must give the applicant notice of the decision.
- (2) If the Minister decides not to give the approval, the Minister must give the applicant an information notice about the decision.

Part 11A Recording associated agreements

289 Definition for pt 11A

In this part—

associated agreement, for a geothermal tenure, means an agreement relating to the geothermal tenure, other than the following—

- (a) a dealing with the geothermal tenure;
- (b) a dealing with the geothermal tenure that is prohibited under section 279;

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- (c) another agreement prescribed under a regulation as unsuitable to be recorded in the geothermal register.

289A Recording associated agreements

- (1) An associated agreement for a geothermal tenure may be recorded in the geothermal register against the geothermal tenure.
- (2) Registration of an associated agreement may be sought by giving the chief executive a notice of the agreement in the approved form.
- (3) An approved form given to the chief executive under this section must be accompanied by the fee prescribed under a regulation.
- (4) The chief executive is not required to examine, or to determine the validity of, an associated agreement recorded in the geothermal register under this section.

289B Effect of recording associated agreements

The recording of an associated agreement under this part does not of itself—

- (a) give the agreement any more effect or validity than it would otherwise have; or
- (b) create an interest in the geothermal tenure against which it is recorded.

Part 11B Caveats

289C Requirements of caveats

- (1) A caveat must—
 - (a) be lodged in the approved form; and

[s 289D]

- (b) be signed by the caveator, the caveator's solicitor or another person authorised in writing by the caveator; and
 - (c) state the name and address for service of 1 person upon whom any notice may be served in order to serve the caveator; and
 - (d) identify the geothermal tenure the subject of the caveat; and
 - (e) state the nature of the right or interest claimed by the caveator; and
 - (f) state the period for which the caveat is to continue in force; and
 - (g) if a person consents to the lodging of the caveat, be endorsed with the person's consent; and
 - (h) be accompanied by the lodgement fee prescribed under a regulation.
- (2) A caveat that does not comply with subsection (1) is of no effect.

289D Lodging of caveat

- (1) A caveat may be lodged by any of the following—
- (a) a person claiming an interest in a geothermal tenure;
 - (b) the registered holder of a geothermal tenure;
 - (c) a person to whom an Australian court has ordered that an interest in a geothermal tenure be transferred;
 - (d) a person who has the benefit of a subsisting order of an Australian court restraining a registered holder of a geothermal tenure from dealing with the geothermal tenure.
- (2) A caveat lodged under this section can not be registered if it applies to any of the following—
- (a) an application for indicative approval;

- (b) an indicative approval given by the Minister;
- (c) an application for approval of an assessable transfer;
- (d) a notice to register a dealing given to the chief executive under section 282.

289E Chief executive's functions on receipt of caveat

- (1) On receipt of a caveat complying with section 289C(1), the chief executive must—
 - (a) notify each holder of the affected geothermal tenure of the receipt of the caveat; and
 - (b) notify all other persons who have an interest in the geothermal tenure as recorded in the geothermal register, including any subsisting prior caveator, of the receipt of the caveat; and
 - (c) record the existence of the caveat in the geothermal register.
- (2) For subsection (1)(b), a person does not have an interest in the geothermal tenure only because the person is a party to an associated agreement recorded in the geothermal register against the geothermal tenure.

289F Effect of lodging caveat

- (1) Until a caveat lapses, or is removed or withdrawn, the caveat prevents registration of a dealing with a geothermal tenure over which the caveat is lodged from the date and time endorsed by the chief executive on the caveat as the caveat's date and time of lodgement.
- (2) However, lodgement of a caveat does not prevent registration of the following—
 - (a) an instrument stated in the caveat as an instrument to which the caveat does not apply;

[s 289G]

- (b) an instrument if the caveator consents, in the approved form, to its registration and the consent is lodged with the chief executive;
 - (c) an instrument executed by a mortgagee whose interest was registered before lodgement of the caveat if—
 - (i) the mortgagee has power under the mortgage to execute the instrument; and
 - (ii) the caveator claims an interest in the geothermal tenure as security for the payment of money or money's worth;
 - (d) an instrument of transfer of mortgage executed by a mortgagee whose interest was registered before lodgement of the caveat;
 - (e) another interest that, if registered, will not affect the interest claimed by the caveator.
- (3) The exception in subsection (2)(d) does not apply to a caveat lodged by the geothermal tenure holder.
- (4) Lodgement of a caveat does not create in the caveator an interest in the geothermal tenure affected by the caveat.

289G Lapsing, withdrawal or removal of caveat

- (1) An agreed caveat lapses at the expiration of the term stated in the caveat but, if no term is stated, the caveat continues until it is withdrawn or removed.
- (2) A caveat that is not an agreed caveat lapses—
 - (a) if an order of the Land Court is in force in relation to the caveat—at the expiration of the order; or
 - (b) otherwise—at the expiration of 3 months after the date of lodgement of the caveat or a shorter term stated in the caveat.
- (3) A caveator may withdraw the caveat by notifying the chief executive in writing.

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- (4) An affected person for a caveat may apply to the Land Court for an order that the caveat be removed.
 - (5) The Land Court may make the order whether or not the caveator has been served with the application, and may make the order on the terms it considers appropriate.
 - (6) If a caveat is withdrawn, lapses or is ordered to be removed, the chief executive must record the withdrawal, lapse or removal in the geothermal register.
 - (7) In this section—

affected person, for a caveat, means a person—

- (a) who has a right or interest (present or prospective) in the geothermal tenure the subject of the caveat; or
- (b) whose right (present or prospective) to deal with the geothermal tenure the subject of the caveat is affected by the caveat.

agreed caveat means a caveat to which each holder of the geothermal tenure the subject of the caveat has consented, if the consent has been lodged with the caveat.

289H Further caveat not available to same person

- (1) This section applies if a caveat (the *original caveat*) is lodged in relation to an interest.
- (2) A further caveat with the same caveator can never be lodged in relation to the interest on the same, or substantially the same, grounds as the grounds stated in the original caveat unless—
 - (a) the consent of each holder of the geothermal tenure the subject of the caveat has been lodged with the caveat; or
 - (b) the leave of a court of competent jurisdiction to lodge the further caveat has been granted.

[s 289I]

289I Compensation for lodging caveat without reasonable cause

A person who lodges a caveat in relation to a geothermal tenure without reasonable cause is liable to compensate anyone else who suffers loss or damage because of the caveat.

Part 12 Renewals

290 General conditions for renewal application

- (1) A geothermal tenure holder may apply to renew the tenure only if none of the following is outstanding by the holder—
 - (a) annual rent for any geothermal tenure;
 - (b) a civil penalty under section 131 for nonpayment of annual rent;
 - (c) security required for any geothermal tenure, as required under section 204;
 - (d) interest payable under section 372 on annual rent or a civil penalty;
 - (e) geothermal royalty.
- (2) Also, the application can not be made—
 - (a) more than 60 business days before the geothermal tenure's term ends; or
 - (b) after the geothermal tenure has ended; or
 - (c) if the area the subject of the application is more than the area of the geothermal tenure sought to be renewed immediately before the renewed geothermal tenure is to take effect.

Note—

See, however, section 350C(3) in relation to acquired land that was previously in the area of the geothermal tenure being renewed.

291 Restriction on applying for renewal of geothermal permit

A geothermal permit holder can not apply to renew the permit for a proposed term ending later than 15 years after the permit originally took effect.

292 Requirements for making application

The application must—

- (a) be made to the Minister in the approved form; and
- (b) include the following for the renewed geothermal tenure—
 - (i) for a geothermal permit—a proposed later work program complying with the later work program requirements;
 - (ii) for a geothermal lease—a proposed later development plan complying with the later development plan requirements; and
- (c) be accompanied by—
 - (i) the application fee prescribed under a regulation; and
 - (ii) if the application is made less than 20 business days before the end of the geothermal tenure's term—an amount that is 10 times the application fee.

293 Continuing effect of geothermal tenure for renewal application

- (1) This section applies if, before the application is decided, the geothermal tenure's term ends.
- (2) Despite the ending of the term, the geothermal tenure continues in force until the earlier of the following happens—
 - (a) any renewed term of the geothermal tenure starts;
 - (b) a refusal of the application takes effect;
 - (c) the application is withdrawn;
 - (d) the geothermal tenure is cancelled under this Act.
- (3) Subsections (4) and (5) also apply if—
 - (a) the geothermal tenure is a geothermal permit; and
 - (b) the applicant has applied for a declaration of a potential geothermal commercial area for the geothermal permit.
- (4) The geothermal permit continues in force until the declaration application is decided but only for the area of the proposed potential geothermal commercial area applied for.
- (5) The evaluation program included in the declaration application is taken to be the work program for the geothermal permit.
- (6) If the geothermal tenure is renewed, subsections (2) and (4) are taken never to have applied for the period from the end of the term of the geothermal tenure being renewed as stated in that tenure.

294 Deciding application

- (1) The Minister may grant or refuse the renewal.
- (2) However—
 - (a) before deciding to grant the renewal, the Minister must decide whether to approve the following for the renewed geothermal tenure—

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- (i) for a renewed geothermal permit—the applicant’s proposed work program;
 - (ii) for a renewed geothermal lease—the applicant’s proposed development plan; and
 - (b) the renewal can not be granted unless—
 - (i) the proposed program or plan has been approved; and
 - (ii) the applicant satisfies the capability criteria; and
 - (iii) the Minister is satisfied the applicant has substantially complied with the geothermal tenure being renewed; and
 - (iv) the relevant environmental authority has been issued; and
 - (v) any relevant Water Act authorisation has been issued.

Note—

If the application relates to acquired land that was previously in the area of the geothermal tenure being renewed, see also section 350C.

- (3) Also, if—
 - (a) the geothermal tenure is a geothermal permit; and
 - (b) the applicant has been given a notice under section 72 to apply for a geothermal lease;the renewal application must not be decided until the issue of whether a geothermal lease will be granted is decided.
- (4) Subsection (3) does not limit the power under section 73 to take a proposed action as stated in the notice.
- (5) The Minister may, as a condition of deciding to grant the application, require the applicant to do either or both of the following within a stated reasonable period—
 - (a) pay the annual rent for the first year of the renewed geothermal tenure;

[s 295]

- (b) give, under section 204, security for the renewed geothermal tenure.
- (6) If the applicant does not comply with the requirement, the Minister may refuse the application.

295 Provisions and term of renewed geothermal permit

- (1) This section, as well as section 297, applies if the Minister decides to grant the renewal and the geothermal tenure is a geothermal permit.
- (2) Subject to this section and section 297, section 40 applies to the renewed geothermal permit as if it were a geothermal permit decided to be granted under chapter 2.
- (3) The renewed geothermal permit's term can not be—
 - (a) more than 5 years; or
 - (b) for a term ending more than 15 years after the permit originally took effect.
- (4) However, if any part of the renewed geothermal permit's area is a potential geothermal commercial area, its term for that part may be for a longer period that—
 - (a) ends no later than when the declaration of the potential geothermal commercial area ends; and
 - (b) is no more than the last term of the geothermal permit being renewed.
- (5) To remove any doubt, it is declared that subsection (4)(b) does not prevent a renewal of the renewed geothermal tenure.

296 Provisions of renewed geothermal lease

- (1) This section, as well as section 297, applies if the Minister decides to grant the renewal and the geothermal tenure is a geothermal lease.

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- (2) Subject to this section and section 297, section 82 applies to the renewed geothermal tenure as if it were a geothermal lease decided to be granted under chapter 3.
 - (3) The renewed lease's term must not be more than 20 years.

297 Additional provisions for term of any renewed geothermal tenure

- (1) The renewed geothermal tenure's conditions may be different from the conditions or other provisions of the geothermal tenure being renewed.
- (2) If the renewed geothermal tenure is decided before the end of the term of the geothermal tenure being renewed as stated in that tenure (the *previous term*), the term of the renewed geothermal tenure is taken to start from the end of the previous term.
- (3) If the renewed geothermal tenure is decided after the previous term, the term of the renewed geothermal tenure starts immediately after the end of the previous term, but—
 - (a) the renewed geothermal tenure's conditions do not start until its holder is given notice of them; and
 - (b) until the notice is given, the conditions of the geothermal tenure being renewed apply to the renewed geothermal tenure as if they were its conditions.

298 Criteria for decisions

In deciding whether to grant the renewal, or deciding the provisions of the renewed geothermal tenure, the Minister must consider—

- (a) for a renewed geothermal permit—the work program criteria; and
- (b) for a renewed geothermal lease—the development plan criteria; and

[s 299]

- (c) whether the applicant continues to satisfy the capability criteria.

299 Information notice about refusal

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

300 When refusal takes effect

- (1) A refusal of the application takes effect at the end of the appeal period for the decision to refuse.
- (2) Subsection (1) applies subject to section 338 and any decision of the Land Court under section 340 relating to the decision to refuse.

Part 13 Surrenders

301 Requirements for surrender

- (1) A geothermal tenure holder may surrender all or part of the tenure's area only if, under this part—
 - (a) an application (a *surrender application*) has been made for approval of the surrender; and
 - (b) the surrender has been approved.
- (2) In this section—

surrender does not include a relinquishment of an area if the relinquishment is required or authorised under—

 - (a) the relinquishment condition; or
 - (b) a penalty relinquishment.

302 Requirements for making surrender application

- (1) A surrender application must be—
 - (a) made to the Minister in the approved form; and
 - (b) accompanied by the fee prescribed under a regulation.
- (2) A surrender application must also be accompanied by a report by the applicant about—
 - (a) the authorised activities for the geothermal tenure carried out on the area the subject of the application; and
 - (b) the results of the activities; and
 - (c) any other information prescribed under a regulation.

Maximum penalty for subsection (2)—150 penalty units.

303 Deciding application

- (1) The Minister may approve a surrender only if—
 - (a) up to the day the application was made, the holder had submitted all reports required to be submitted under this Act; and
 - (b) for a surrender of all of the area of the geothermal tenure—all of the relevant environmental authority has been cancelled or surrendered; and
 - (c) for a surrender of part of the area of the geothermal tenure—the relevant environmental authority has been amended or partially surrendered in a way that reflects the partial surrender of the tenure; and
 - (d) all geothermal wells in the geothermal tenure's area have been decommissioned in the way required under section 200.
- (2) In deciding whether to give the approval, the Minister must consider the extent to which the applicant has complied with the geothermal tenure's conditions.

[s 304]

- (3) If the application is for part of the area of the geothermal tenure, the surrender may be approved subject to the applicant's written agreement to the Minister amending the conditions applying to the rest of the area of the tenure in a stated way the Minister considers appropriate.

304 Notice and taking effect of decision

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

Part 14 Enforcement of end of tenure and area reduction obligations

305 Power of authorised person to ensure compliance

- (1) This section applies if the holder, or former holder, of a geothermal tenure has not complied with any of the following relating to land that was in the former tenure's area (the *primary land*)—
 - (a) a requirement under section 200 or 361 relating to the land;
 - (b) a requirement under an environmental requirement under the Environmental Protection Act to conduct work on the land.

Editor's note—

section 200 (Obligation to decommission) or 361 (Obligation to remove equipment and improvements)

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- (2) A person authorised (the *authorised person*) by the chief executive may, by complying with section 306, exercise the following powers (*remedial powers*)—
- (a) enter the primary land and do all things necessary to ensure the requirement is complied with;
 - (b) enter any other land (*secondary land*) necessary or desirable to cross for access to the primary land.
- (3) However, remedial powers do not include power to enter a structure or a part of a structure used for residential purposes without the consent of the occupier of the structure or part of the structure.
- (4) The authorisation under subsection (2)—
- (a) must be written; and
 - (b) may be given on conditions the chief executive considers appropriate.

306 Requirements for entry to ensure compliance

- (1) Remedial powers may be exercised for the primary or secondary land under section 305 only if a following person is given notice of the proposed entry at least 10 business days before the proposed entry—
- (a) if the land has an occupier—any occupier of the land;
 - (b) if the land does not have an occupier—its owner.
- (2) The notice must—
- (a) identify the authorised person; and
 - (b) describe the land; and
 - (c) state—
 - (i) that the authorised person has under this section, been authorised to enter the land; and
 - (ii) the purpose of the entry; and
 - (iii) the period of the entry.

[s 307]

- (3) The chief executive may approve the giving of the notice by publishing it in a stated way.
- (4) The chief executive may give the approval only if satisfied the publication is reasonably likely to adequately inform the person to whom the notice is required to be given of the proposed entry.
- (5) If the authorised person intends to enter the land and any occupier of the land is present at the land, the person also must show or make a reasonable attempt to show the occupier the person's authorisation under this section.

307 Duty to avoid damage in exercising remedial powers

In exercising remedial powers, a person must take all reasonable steps to ensure the person causes as little inconvenience, and does as little damage, as is practicable.

308 Notice of damage because of exercise of remedial powers

- (1) If a person exercising remedial powers damages land or something on it, the person must give the owner and any occupier of the land notice of the damage.
- (2) If for any reason it is not practicable to comply with subsection (1), the person must—
 - (a) leave the notice at the place where the damage happened; and
 - (b) ensure it is left in a conspicuous place and in a reasonably secure way.
- (3) The notice must state—
 - (a) particulars of the damage; and
 - (b) that the owner or occupier may claim compensation under section 309 from the State.

309 Compensation for exercise of remedial powers

- (1) This section applies if an owner or occupier of land (the *claimant*) suffers a cost, damage or loss because of the exercise or purported exercise of remedial powers.
- (2) Compensation is payable to the claimant by the State for the cost, damage or loss.
- (3) The compensation may be claimed and ordered in a proceeding brought in a court with jurisdiction for the recovery of the amount of compensation claimed.
- (4) The court may order the compensation only if it is satisfied it is just to make the order in the circumstances of the particular case.

310 Ownership of thing removed in exercise of remedial powers

- (1) This section applies if—
 - (a) remedial powers are exercised for land; and
 - (b) in the exercise of the powers a thing is removed from the land; and
 - (c) immediately before the removal, the thing was the property of—
 - (i) the holder or former holder of a geothermal tenure about whom the powers were exercised; or
 - (ii) an agent of or contractor for the holder.
- (2) On the removal, the thing becomes the property of the State.
- (3) The State may deal with the thing as it considers appropriate, including, for example, by destroying it or giving it away.
- (4) The chief executive may deal with the thing for the State.
- (5) If the State sells the thing, the State may, after deducting the costs of the sale, return the net proceeds of the sale to the former owner of the thing.

[s 311]

311 Recovery of costs of and compensation for exercise of remedial power

- (1) The State may recover from the responsible person as a debt any—
 - (a) reasonable costs the State or an authorised person under section 305 incurs in exercising a remedial power; and
 - (b) compensation payable by the State under section 309 for the exercise of the remedial power.
- (2) However, in any proceeding to recover the costs, any relevant net proceeds of sale mentioned in section 310 must be deducted from the amount claimed for the costs.
- (3) In this section—

relevant net proceeds of sale means the net proceeds of sale under which the thing sold was the property of the responsible person immediately before its removal under section 310.

responsible person means the holder or former holder of the geothermal tenure about whom the remedial powers were exercised.

[s 313]

- (b) a geothermal tenure holder who is concerned about something relevant to the tenure involving the holder and the owner or occupier of land gives an authorised officer notice of the concerns; or
- (c) for another reason, an authorised officer considers it desirable to call a conference to discuss concerns about a geothermal tenure.

Division 2 Calling conference and attendance

313 Calling conference

- (1) If this part applies because of the giving of an election notice, the authorised officer must, by notice, ask the geothermal tenure holder and the eligible claimant (the *parties*) to attend a conference by the authorised officer about negotiating a conduct and compensation agreement.
- (2) If this part applies under section 312(2), the authorised officer may, by notice, ask the geothermal tenure holder and the owner or occupier or other person with an interest in the concerns (also the *parties*) to attend a conference by the authorised officer about the concerns.
- (3) The notice must state when and where the conference will be held and what is to be discussed at the conference.

314 Who may attend conference

- (1) Apart from the authorised officer, anyone given notice of the conference may attend and take part in the conference.
- (2) Also, with the authorised officer's approval, someone else may be present to help a person attending the conference.
- (3) However, a party can not be represented by a lawyer unless the parties agree and the authorised officer is satisfied there is no disadvantage to a party.

315 What happens if a party does not attend

- (1) This section applies if a party given notice of the conference does not attend.
- (2) The authorised officer may hold the conference even though someone given notice of it does not attend.

Note—

If the conference was called because of an election notice and only 1 party attends, the Land Court may decide the issue of compensation. See section 256.

- (3) A party who attended the conference may apply to the Land Court for an order requiring the party who did not attend to pay the attending party's reasonable costs of attending.
- (4) The Land Court must not order the party who did not attend to pay costs if it is satisfied the party had a reasonable excuse for not attending.
- (5) If the Land Court makes the order, it must decide the amount of the costs.

Division 3 Conduct of conference

316 Authorised officer's role

- (1) In conducting the conference, the authorised officer must endeavour to help those attending to reach an early and inexpensive settlement of the subject of the conference.
- (2) Subject to section 255, the authorised officer is to decide how the conference is to be conducted.

317 Statements made at conference

Nothing said by a person at the conference is admissible in evidence in a proceeding without the person's consent.

[s 318]

318 Agreement made at conference

- (1) If, at the conference, the parties negotiate an agreement about the concerns the subject of the conference, the agreement must be written and signed by or for the parties.
- (2) The agreement—
 - (a) may, if appropriate, be a conduct and compensation agreement or an amendment of an existing conduct and compensation agreement between the parties; and
 - (b) has the same effect as any other compromise.

Part 2 Noncompliance action for geothermal tenures

Division 1 Preliminary

319 Operation of div 1

- (1) This division provides a process for noncompliance action against a geothermal tenure holder.
- (2) The power to take noncompliance action under this part does not limit a power as follows (the *other power*)—
 - (a) the power under chapter 6, part 4 to require new or additional security;
 - (b) a power under another provision of this Act to amend the geothermal tenure;
 - (c) the power under the P&G Act to give compliance direction.
- (3) The other power does not limit the power to take noncompliance action.
- (4) Noncompliance action may be taken when the other power is exercised.

Note—

The P&G Act, chapter 10 includes provisions about investigating geothermal activities and for the giving of compliance and dangerous situation directions as defined under that Act concerning those activities.

Division 2 Noncompliance action by Minister

320 Types of noncompliance action that may be taken

(1) The noncompliance action the Minister may take under this division is all or any of the following—

(a) amending the geothermal tenure by doing all or any of the following—

(i) reducing its term;

(ii) reducing its area;

Example of a possible reduction—

A geothermal permit holder has not, in contravention of section 117, carried out work required under the work program for the permit. Noncompliance action may include amending the permit to reduce its area to reflect the work not carried out.

(iii) amending a condition of the geothermal tenure;

(iv) imposing a new condition;

(b) requiring the holder of the geothermal tenure to relinquish a stated part of its area on or before a stated time;

(c) cancelling the geothermal tenure, immediately or on a stated day;

(d) withdrawing from a stated day, the approval of the work program or development plan for the tenure and directing its holder to, on or before that day, give the Minister the following document so the Minister may decide whether to approve the document—

[s 321]

- (i) for a geothermal permit—a proposed later work program complying with the later work program requirements;
 - (ii) for a geothermal lease—a proposed later development plan complying with the later development plan requirements;
- (e) requiring the geothermal tenure holder to pay the State a penalty of an amount no more than the monetary value of 2000 penalty units.
- (2) However, a requirement under subsection (1)(e) may be made only if the holder has agreed to the requirement being made instead of the taking of other noncompliance action under subsection (1).
- (3) A condition or amendment under subsection (1) may restrict the authorised activities for the geothermal tenure.
- (4) If, under subsection (1)(c), the geothermal tenure is cancelled on a stated day, a condition may be imposed under subsection (1)(a) restricting the authorised activities for the tenure until the cancellation.
- (5) Noncompliance action may be taken despite the mandatory conditions for the geothermal tenure.

321 When noncompliance action may be taken

- (1) Noncompliance action may be taken if—
 - (a) an event mentioned in subsection (2) or (3) has happened; and
 - (b) the procedure under division 3 for taking the action has been followed; and
 - (c) the geothermal tenure for which the noncompliance action is taken relates to the event for which the action is taken.
- (2) For subsection (1), the event is that the holder—

[s 323]

- (a) that the Minister proposes to take noncompliance action against the holder;
 - (b) the types of noncompliance action that may be taken against the holder and the type likely to be taken;
 - (c) the grounds for taking noncompliance action against the holder;
 - (d) the facts and circumstances that are the basis for the grounds;
 - (e) that the holder may, within a stated period, make submissions to the Minister about the proposal to take noncompliance action.
- (2) The notice may state—
- (a) if the noncompliance action is likely to include amending the geothermal tenure—the likely amendment; and
 - (b) the amount of any likely reduction of the tenure’s area.

323 Considering submissions

- (1) The Minister must consider any submissions made by the holder within the period stated in the notice given under section 322.
- (2) If the Minister decides not to take noncompliance action, the Minister must, as soon as practicable, give the holder notice of the decision.

324 Decision on proposed noncompliance action

- (1) If, after complying with section 323, the Minister still believes a ground exists to take noncompliance action, the Minister may decide to take noncompliance action for the geothermal tenure relating to a ground stated in the notice given under section 322.

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- (2) The Minister must, in deciding whether to take the action, have regard to whether the holder is a suitable person to hold or continue to hold the geothermal tenure.
 - (3) In considering whether the holder is a suitable person to hold or to continue to hold the geothermal tenure, the Minister must consider the criteria under the following for granting that type of geothermal tenure, to the extent the criteria are relevant—
 - (a) for a geothermal permit—sections 39 and 41;
 - (b) for a geothermal lease—section 91.

325 Notice and taking effect of decision

- (1) The Minister must, after making a decision under section 324, give an information notice about the decision to—
 - (a) the geothermal tenure holder; and
 - (b) any other person who holds an interest in the geothermal tenure recorded in the geothermal register.
- (2) Generally, the decision takes effect on the later of the following—
 - (a) the day the holder is given the information notice;
 - (b) a later day of effect stated in the notice.
- (3) However, if the decision was to cancel the geothermal tenure the decision takes effect at the end of the appeal period for the decision.
- (4) Subsection (3) applies subject to section 338 and any decision of the Land Court under section 340 relating to the decision to refuse.

326 Consequence of failure to comply with relinquishment requirement

- (1) This section applies if—

[s 327]

- (a) noncompliance action taken is a requirement under section 320(1)(b) of a geothermal tenure holder; and
 - (b) the requirement is not complied with.
- (2) The Minister must give the holder a notice requiring the holder to comply with the requirement under section 320(1)(b) within 20 business days after the giving of the notice.
- (3) If the holder does not comply with the requirement under the notice, the geothermal tenure is cancelled.
- (4) However, the cancellation does not take effect until the Minister gives the holder a notice stating that the geothermal tenure has been cancelled because of the operation of subsection (3).

Part 3 General offences

327 Restriction on carrying out geothermal activities

A person must not carry out a geothermal activity in relation to land unless—

- (a) the activity is carried out under a geothermal tenure or a direction under this Act; or
- (b) the carrying out of the activity is necessary to preserve life or property because of a dangerous situation or emergency that exists or may exist; or
- (c) the person—
 - (i) is carrying out the activity for the State; and
 - (ii) has, under section 375, been authorised for that purpose; and
 - (iii) is acting within the scope of that authority; or

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- (d) the activity is exempt heat pump production or the installation of a geothermal heat pump for exempt heat pump production; or
 - (e) the activity is geothermal production and it is not of a large-scale; or
 - (f) the activity is geothermal exploration for exempt heat pump production.

Maximum penalty—2000 penalty units.

Note—

- 1 Other legislation may regulate geothermal production that is not of a large-scale and activities relating to geothermal heat pumps. See the *Sustainable Planning Act 2009* and the *Plumbing and Drainage Act 2002*.
- 2 If a corporation commits an offence against this provision, an executive officer of the corporation may commit an offence against section 333.

328 Defence if geothermal activity is for GHG storage injection

- (1) This section applies to a geothermal activity consisting of the injection into an underground reservoir of a GHG stream.
- (2) It is a defence to a proceeding for an offence against section 327 for the defendant to prove the injection—
 - (a) was for the purpose of GHG storage injection testing or GHG stream storage as defined under the GHG storage Act; and
 - (b) was authorised under that Act.

329 Geothermal tenure holder's measurement obligations

A geothermal tenure holder must—

- (a) ensure geothermal energy produced from the geothermal tenure's area is measured; and

[s 330]

- (b) give the chief executive details of the measurement at the times and in the way prescribed under a regulation.

Maximum penalty—500 penalty units.

Note—

If a corporation commits an offence against this provision, an executive officer of the corporation may be taken, under section 333A, to have also committed the offence.

330 Duty to avoid interference in carrying out geothermal activities

A person who carries out an authorised activity for a geothermal tenure must carry out the activity in a way that does not unreasonably interfere with anyone else carrying out a lawful activity.

Maximum penalty—500 penalty units.

Note—

If a corporation commits an offence against this provision, an executive officer of the corporation may be taken, under section 333A, to have also committed the offence.

331 Obstruction of geothermal tenure holder

- (1) A person must not, without reasonable excuse, obstruct a geothermal tenure holder from—
- (a) entering or crossing land to carry out an authorised activity for the geothermal tenure if chapter 6, part 5, 6 or 7 to the extent the part is relevant, has been complied with for the entry; or
- (b) carrying out an authorised activity for the geothermal tenure on the land.

Maximum penalty—500 penalty units.

Note—

If a corporation commits an offence against this provision, an executive officer of the corporation may be taken, under section 333A, to have also committed the offence.

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

obstruct includes assault, hinder, resist and attempt or threaten to assault, hinder or resist.

332 False or misleading information

- (1) A person must not make an entry in a document required to be kept under this Act knowing the entry is false or misleading in a material particular.

Maximum penalty—500 penalty units.

Note—

If a corporation commits an offence against this provision, an executive officer of the corporation may be taken, under section 333A, to have also committed the offence.

- (2) A person of whom a direction or requirement under this Act has been made must not state anything or give a document or thing in response to the direction or requirement that the person knows is false or misleading in a material particular.

Maximum penalty—500 penalty units.

Note—

If a corporation commits an offence against this provision, an executive officer of the corporation may be taken, under section 333A, to have also committed the offence.

[s 333]

333 Liability of executive officer—offence committed by corporation against s 327

- (1) An executive officer of a corporation commits an offence if—
- (a) the corporation commits an offence against section 327; and
 - (b) the officer did not take all reasonable steps to ensure the corporation did not engage in the conduct constituting the offence.

Maximum penalty—the penalty for a contravention of section 327 by an individual.

- (2) In deciding whether things done or omitted to be done by the executive officer constitute reasonable steps for subsection (1)(b), a court must have regard to—
- (a) whether the officer knew, or ought reasonably to have known, of the corporation's conduct constituting the offence against section 327; and
 - (b) whether the officer was in a position to influence the corporation's conduct in relation to the offence against section 327; and
 - (c) any other relevant matter.
- (3) The executive officer may be proceeded against for, and convicted of, an offence against subsection (1) whether or not the corporation has been proceeded against for, or convicted of, the offence against section 327.
- (4) This section does not affect—
- (a) the liability of the corporation for the offence against section 327; or
 - (b) the liability, under the Criminal Code, chapter 2, of any person, whether or not the person is an executive officer of the corporation, for the offence against section 327.

333A Executive officer may be taken to have committed offence

- (1) If a corporation commits an offence against a deemed executive liability provision, each executive officer of the corporation is taken to have also committed the offence if—
 - (a) the officer authorised or permitted the corporation's conduct constituting the offence; or
 - (b) the officer was, directly or indirectly, knowingly concerned in the corporation's conduct.
- (2) The executive officer may be proceeded against for, and convicted of, the offence against the deemed executive liability provision whether or not the corporation has been proceeded against for, or convicted of, the offence.
- (3) This section does not affect either of the following—
 - (a) the liability of the corporation for the offence against the deemed executive liability provision;
 - (b) the liability, under the Criminal Code, chapter 2, of any person, whether or not the person is an executive officer of the corporation, for the offence against the deemed executive liability provision.
- (4) In this section—

deemed executive liability provision means any of the following provisions—

 - section 198
 - section 200(1)
 - section 242(5)
 - section 329
 - section 330
 - section 331(1)
 - section 332(1)
 - section 332(2).

[s 334]

334 Attempts to commit offences

- (1) A person who attempts to commit an offence against this Act commits an offence.

Maximum penalty for an attempt—half the maximum penalty for the completed offence.

- (2) The Criminal Code, section 4 applies to subsection (1).

Part 4 Appeals

335 Who may appeal

- (1) A person whose interests are affected by a decision identified in schedule 1 may appeal against the decision to the Land Court.
- (2) For this section, a person who has been given or is entitled to be given an information notice about a decision is taken to be a person whose interests are affected by the decision.

336 Period to appeal

- (1) The appeal must be started within 20 business days after—
 - (a) if the person has been given an information notice about the decision—the day the person is given the notice; or
 - (b) if paragraph (a) does not apply—the day the person otherwise becomes aware of the decision.
- (2) However, the Land Court may at any time within the 20 business days extend the period for making an appeal.

337 Starting appeal

- (1) The appeal is started by filing a written notice of appeal with the Land Court.

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- (2) The appellant must give the chief executive a copy of the notice.

338 Stay of operation of decision

- (1) The Land Court may grant a stay of the decision to secure the effectiveness of the appeal.
- (2) A stay—
- (a) may be given on the conditions the Land Court considers appropriate; and
 - (b) operates for the period fixed by the Land Court; and
 - (c) may be amended or cancelled by the Land Court.
- (3) The period of a stay under this section must not extend past the time when the Land Court decides the appeal.
- (4) The appeal affects the decision or carrying out of the decision only if it is stayed.

339 Hearing procedures

- (1) In deciding an appeal, the Land Court—
- (a) has the same powers as the Minister; and
 - (b) is not bound by the rules of evidence; and
 - (c) must comply with natural justice; and
 - (d) may hear the appeal in court or in chambers.
- (2) An appeal is by way of rehearing unaffected by the decision.
- (3) Subject to subsections (1) and (2), the procedure for the appeal is—
- (a) in accordance with the rules for the Land Court; or
 - (b) in the absence of relevant rules, as directed by the Land Court.
- (4) A power under an Act to make rules for the Land Court includes power to make rules for appeals under this part.

[s 340]

340 Land Court's powers on appeal

- (1) Subject to section 341, in deciding an appeal, the Land Court may—
 - (a) confirm the decision; or
 - (b) set aside the decision and substitute another decision; or
 - (c) set aside the decision and return the issue to the Minister with the directions the court considers appropriate.
- (2) If the Land Court substitutes another decision, the substituted decision is for this Act other than this part taken to be the decision of the Minister.

341 Restriction on Land Court's powers for decision not to grant geothermal lease

- (1) This section applies if the Land Court is deciding an appeal against a decision not to grant a geothermal lease.
- (2) The Land Court can not exercise a power mentioned in section 340(1)(b) or (c) in relation to the decision on the ground that any resource management decision for the application for the geothermal lease was to give overlapping authority priority, in whole or part.

Part 5 Evidence and legal proceedings

Division 1 Evidentiary provisions

342 Application of div 1

This division applies to a proceeding under or in relation to this Act.

343 Authority

The power of the Minister, chief executive or an auditor appointed for the geothermal royalty to do anything under this Act must be presumed unless a party to the proceeding, by reasonable notice, requires proof of it.

344 Signatures

A signature purporting to be the signature of the Minister or the chief executive is evidence of the signature it purports to be.

345 Other evidentiary aids

A certificate purporting to be signed by the chief executive stating any of the following matters is evidence of the matter—

- (a) that a stated document of any of the following types is a document given, issued, kept or made under this Act—
 - (i) an appointment, approval or decision;
 - (ii) a direction, notice or requirement;
 - (iii) a geothermal tenure;
 - (iv) the geothermal register;
 - (v) a report;
 - (vi) another record;
- (b) that a stated document is another document kept under this Act;
- (c) that a stated document is a copy of, or an extract from or part of, a thing mentioned in paragraph (a) or (b);
- (d) that on a stated day—
 - (i) a stated person was given a stated decision, direction or notice under this Act; or

[s 346]

- (ii) a stated requirement under this Act was made of a stated person;
- (e) that on a stated day or during a stated period a geothermal tenure—
 - (i) was or was not in force; or
 - (ii) was or was not subject to a stated condition; or
 - (iii) was or was not cancelled;
- (f) that a stated amount is payable under this Act by a stated person and has not been paid;
- (g) that a stated address for a geothermal tenure holder is the last address of the holder known to the Minister or the chief executive.

Division 2 Offence proceedings

346 Offences under Act are summary

- (1) An offence against this Act is a summary offence.
- (2) A proceeding for an offence against this Act must start within the later of the following periods to end—
 - (a) 1 year after the commission of the offence;
 - (b) 6 months after the offence comes to the complainant's knowledge but within 2 years after the commission of the offence.

347 Statement of complainant's knowledge

In a complaint starting a proceeding for an offence against this Act, a statement that the matter of the complaint came to the complainant's knowledge on a stated day is evidence the

matter came to the complainant's knowledge on that day.

348 Conduct of representatives

- (1) This section applies to a proceeding for an offence against this Act if it is relevant to prove a person's state of mind about particular conduct.
- (2) It is enough to show—
 - (a) the conduct was engaged in by a representative of the person within the scope of the representative's actual or apparent authority; and
 - (b) the representative had the state of mind.
- (3) Conduct engaged in for a person by a representative of the person within the scope of the representative's actual or apparent authority is taken to have been engaged in also by the person unless the person proves—
 - (a) if the person was in a position to influence the representative in relation to the conduct—the person took reasonable steps to prevent the conduct; or
 - (b) the person was not in a position to influence the representative in relation to the conduct.
- (4) In this section—

engaging, in conduct, includes failing to engage in conduct.

representative means—
 - (a) for a corporation—an agent, employee or executive officer of the corporation; or
 - (b) for an individual—an agent or employee of the individual.

state of mind, of a person, includes the person's—
 - (a) belief, intention, knowledge, opinion or purpose; and
 - (b) reasons for the belief, intention, opinion or purpose.

349 Additional orders that may be made on conviction

- (1) If a court convicts a person for an offence against this Act, it may—
 - (a) order the forfeiture to the State of—
 - (i) anything used to commit the offence; or
 - (ii) anything else the subject of the offence; and
 - (b) make any order to enforce the forfeiture it considers appropriate; and
 - (c) order the person to pay the State the amount of costs it incurred for remedial work that was necessary or desirable because of the commission of the offence.
- (2) Forfeiture of a thing may be ordered—
 - (a) whether or not it has been seized under this Act; and
 - (b) if it has been seized under this Act, whether or not it has been returned to its owner.

Chapter 8 Miscellaneous provisions

Part 1 Provisions about geothermal tenures

Division 1 General provisions

350 Geothermal tenure does not create an interest in land

The granting of a geothermal tenure does not create an interest in any land.

350A Extinguishing geothermal interests on the taking of land in a geothermal tenure's area (other than by an easement)

- (1) This section applies to the taking of land, other than by taking or otherwise creating an easement, under a resumption law.
- (2) Despite any other Act, the taking of land does not extinguish geothermal interests other than to the extent, if any, provided for in the resumption notice for the taking of the land.
- (3) The resumption notice for the taking of land may provide for the extinguishment of a geothermal interest on the taking only to the extent the relevant Minister for the taking is satisfied the interest is incompatible with the purpose for which the land is taken.
- (4) Without limiting the application of subsection (3), the relevant Minister may be satisfied a geothermal interest is incompatible with the purpose for which the land is taken if, for that purpose, it is necessary to extinguish all interests in the land, including native title rights and interests.
- (5) A geothermal interest may be—
 - (a) wholly extinguished; or
 - (b) partially extinguished by—
 - (i) excluding land from the land the subject of the interest; or
 - (ii) prohibiting the carrying out of activities by the holder of the interest.
- (6) The resumption notice for the taking of land may provide for the extinguishment of geothermal interests by reference to either or both of the following—
 - (a) stated land, which—
 - (i) may be all or part of the land that is taken; and
 - (ii) if the stated land is only part of the land that is taken—may be described in the resumption notice in any way, including, for example—

[s 350A]

- (A) as a shape that does not constitute a block or sub-block; or
 - (B) by using 3 dimensionally located points to identify the position, shape and dimensions of each boundary;
- (b) stated geothermal interests, which may be all geothermal interests or geothermal interests of a particular type.
- (7) For the taking of land for which geothermal interests are extinguished as provided by this section—
- (a) each person’s interest in an extinguished geothermal interest is converted into a right to claim compensation under the resumption law; and
 - (b) the resumption law applies with necessary and convenient changes and with the changes mentioned in subsections (8) and (9) and section 350D.
- (8) The notice of intention to resume for the proposed taking of the land must state the extent to which the geothermal interests are proposed to be extinguished.
- (9) The entity taking the land must give the chief executive a notice that—
- (a) states the details of the extinguishment; and
 - (b) asks for the extinguishment to be recorded in the geothermal register; and
 - (c) is accompanied by a certified copy of the resumption notice.
- (10) In this section—
- certified copy***, of the resumption notice, means a copy of the original of the notice that has been certified by a justice of the peace as being a correct copy of the original notice.
- relevant Minister***, for the taking of land under a resumption law, means—

- (a) if the land is taken under the process stated in the ALA (whether the land is taken under the ALA or another resumption law)—the Minister to whom the application that the land be taken is made under section 9 of that Act; or
- (b) otherwise—the Minister administering the resumption law under which the land is, or is to be, taken.

350B Effect of extinguishment of geothermal interests on the taking of land in a geothermal tenure’s area (other than by an easement)

- (1) This section applies if, under section 350A, the resumption notice for the taking of land (other than by taking or otherwise creating an easement) under a resumption law provides for the extinguishment of geothermal interests for stated land.
- (2) If the resumption notice states that all geothermal interests relating to the stated land are extinguished and a geothermal interest relates only to the stated land, the interest is wholly extinguished.
- (3) If the resumption notice states that all geothermal interests relating to the stated land are extinguished and a geothermal interest relates to the stated land and other land—
 - (a) the stated land is no longer the subject of the interest; and
 - (b) without limiting paragraph (a)—
 - (i) the stated land is excluded from the area of the geothermal tenure comprising the interest, or under or in relation to which the interest exists; and
 - (ii) this Act applies in relation to the area of the geothermal tenure with necessary and convenient changes to allow for the exclusion of the stated land, including, for example—

[s 350C]

- (A) to allow the area to include a part of a block or sub-block if the part is what is left after the stated land is excluded from the area; and
 - (B) if the stated land, or a part of it, is within a potential geothermal commercial area for a geothermal permit—to exclude the stated land or part from the potential geothermal commercial area.
- (4) If the resumption notice states that the carrying out of stated activities on the stated land by holders of stated geothermal interests is prohibited, the holder of a stated geothermal interest is not, or is no longer, authorised to carry out the stated activities on the stated land.
- (5) However, subsections (3) and (4) do not apply in relation to a geothermal interest that comprises, or exists under or in relation to, a new or renewed geothermal tenure granted after the land is taken.

350C Applications relating to land taken under a resumption law for which geothermal interests were extinguished

- (1) The Minister may, under a grant provision, grant a new geothermal tenure for an area that includes acquired land only if the Minister, after consulting the entity that took the land, is satisfied the grant of the tenure is compatible with the purpose for which the land is being or is to be used.
- (2) If there are 2 or more applications under this Act for the grant, under a grant provision, of a new geothermal tenure for an area that includes the same acquired land, the applications are to be dealt with as follows—
- (a) the applications must be considered and decided according to the day on which they are made;
 - (b) if the applications were made on the same day—
 - (i) they take the priority the Minister decides, after considering the relative merits of each application; and

-
- (ii) the Minister must give each applicant a notice stating there is competition for priority between the applicant's application and another application, or other applications, made on the same day as the day on which the applicant's application was made.
- (3) If a grant provision provides for the grant of a new geothermal tenure (the *new tenure*) over land in the area of an existing geothermal tenure (the *existing tenure*)—
- (a) the application under this Act for the new tenure may include acquired land that was, immediately before the taking of the land, in the existing tenure's area; and
- (b) subject to subsections (1) and (2), the Minister may grant the new tenure for an area that includes the acquired land as if the acquired land were in the existing tenure's area.
- (4) To remove any doubt, it is declared that this section does not affect the operation of the provisions of this Act about the application for, and grant of, a new geothermal tenure other than to the extent provided for in subsections (1) to (3).
- (5) In this section—

grant provision means a provision of this Act providing for the grant of a new geothermal tenure.

new geothermal tenure includes a renewed geothermal tenure.

350D Compensation for effect of taking of land in a geothermal tenure's area on geothermal interests

- (1) This section applies if land in a geothermal tenure's area is taken under a resumption law (including by taking or otherwise creating an easement).
- (2) In assessing any compensation to be paid to the holder of a geothermal interest in relation to the taking of the land, allowance can not be made for the value of geothermal energy,

[s 351]

or geothermal resources from which geothermal energy may be extracted, known or supposed to be on or below the surface of the land.

351 Joint holders of a geothermal tenure

- (1) A geothermal tenure may be held by 2 or more persons as joint tenants or as tenants in common.
- (2) If, under this Act—
 - (a) an application is made for a geothermal tenure, or for approval of an assessable transfer relating to a geothermal tenure, for more than 1 proposed holder or transferee; and
 - (b) the application does not show whether the proposed holders or transferees are to hold as joint tenants or as tenants in common; and
 - (c) the application is granted;the chief executive must record in the geothermal register that the applicants hold the geothermal tenure as tenants in common.
- (3) In this section—

geothermal tenure includes a share in a geothermal tenure.

352 Minister's power to ensure compliance by geothermal tenure holder

- (1) This section applies if—
 - (a) a geothermal tenure holder has not complied with a requirement under this Act of the holder; and
 - (b) no other provision of this Act allows someone other than the holder to ensure compliance with the requirement.
- (2) The Minister may take any action the Minister considers appropriate to ensure all or part of the requirement is complied with if—

- (a) subsections (3) and (4) have been complied with; or
 - (b) the holder has agreed to the Minister taking the action.
- (3) The Minister must give the holder notice—
- (a) stating the requirement and the action the Minister proposes to take; and
 - (b) inviting the holder to, within a stated reasonable period, make submissions to the Minister about the proposed action.
- (4) The Minister must consider any submissions made by the holder within the stated period.
- (5) A decision to take the action does not take effect until the holder is given an information notice about the decision.
- (6) The State may recover from the holder as a debt any reasonable costs it incurs in the exercise of the power under subsection (2).

353 Power to correct or amend tenure

- (1) The Minister may amend a geothermal tenure at any time by giving its holder a notice of the amendment and recording particulars in the relevant register if the amendment—
- (a) is to correct a clerical error; or
 - (b) is to state, or more accurately state, the boundaries of the area of the geothermal tenure because of a survey carried out under section 133.
- (2) The Minister may at any time amend a condition of the geothermal tenure if its holder agrees in writing.
- (3) Despite subsections (1) and (2), the following can not be amended under this section—
- (a) the mandatory conditions for that type of geothermal tenure;
 - (b) the geothermal tenure's term;

[s 354]

- (c) any work program or development plan for the geothermal tenure.
- (4) Also, the Minister can not amend the geothermal tenure in a way that would make a provision of the tenure—
 - (a) inconsistent with the mandatory conditions for that type of geothermal tenure; or
 - (b) the same as, or substantially the same as, or inconsistent with, any relevant environmental condition for the tenure.

354 Replacement of instrument for geothermal tenure

- (1) If the instrument for a geothermal tenure has been lost, stolen or destroyed, its holder may apply to replace it.
- (2) The application must be made to the Minister in the approved form.
- (3) If the Minister is reasonably satisfied the instrument has been lost, stolen or destroyed, the Minister must replace it.
- (4) If the Minister decides to refuse to replace the instrument, the Minister must give the holder an information notice about the decision.

355 Joint and several liability for conditions and for debts to State

If more than 1 person holds a geothermal tenure, each holder is jointly and severally—

- (a) responsible for complying with its conditions; and
- (b) liable for all debts payable under this Act and unpaid by the geothermal tenure holder to the State.

Division 2 General provisions about authorised activities

356 Authorised activities may be carried out despite rights of owner or occupier

- (1) The authorised activities for a geothermal tenure may be carried out despite the rights of an owner or occupier of land on which the activities are carried out.
- (2) However, subsection (1) applies for an authorised activity only if section 357 does not prevent it from being carried out.

357 General restrictions on right to carry out authorised activity

- (1) The right under this Act to carry out an authorised activity for a geothermal tenure is subject to the following—
 - (a) chapter 5 and this chapter;
 - (b) compliance with the tenure holder's rights and obligations under—
 - (i) chapters 2 to 6; and
 - (ii) this chapter; and
 - (iii) sections 329 and 330;

Editor's note—

sections 329 (Geothermal tenure holder's measurement obligations) and 330 (Duty to avoid interference in carrying out geothermal activities)

- (c) the mandatory conditions and the other conditions and provisions of the geothermal tenure;
- (d) any exclusion or restriction provided for in the geothermal tenure on the carrying out of the activities;
- (e) the P&G Act safety provisions;
- (f) the Environmental Protection Act;

[s 358]

- (g) the Water Act;
 - (h) any other relevant Act or law.
- (2) Also, the right may be exercised only by the holder or someone that the holder has authorised under section 359.

358 Restrictions on carrying out authorised activities on particular land

- (1) Geothermal exploration or geothermal production can not be carried out within 300m of any boundary of a geothermal tenure.
- (2) An authorised activity for a geothermal tenure may be carried out within 300m laterally of any of the following buildings only if its owner or occupier has given written consent to the carrying out of the activity—
- (a) a permanent building used mainly for accommodation or for a business purpose;
 - (b) a permanent building used for sporting, community or recreational purposes or as a place of worship.
- (3) An authorised activity for a geothermal tenure can not be carried out within 50m laterally of any of the following things unless its owner or occupier has given written consent to the carrying out of the activity—
- (a) a principal stockyard;
 - (b) a bore or artesian well;
 - (c) a dam;
 - (d) another artificial water storage connected to a water supply;
 - (e) a cemetery or burial place.

359 Who may carry out authorised activity for geothermal tenure holder

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

Example—

A geothermal lease holder may also enter into a geothermal coordination arrangement under which another party to the arrangement may carry out an authorised activity for the geothermal lease. See section 138(1).

- (2) The authority may be express, or implied from—
 - (a) the nature of the relationship between the person and the holder; or
 - (b) the duties the person performs for the holder; or
 - (c) the duties a person mentioned in subsection (1) customarily performs.
- (3) If a geothermal lease is subject to a registered sublease, the sublessee may, subject to the terms of the sublease, carry out authorised activities for the lease stated in the relevant application for approval of the sublease.

360 Limitation of owner's or occupier's tortious liability for authorised activities

- (1) This section applies to an owner or occupier of land in the area of a geothermal tenure if—
 - (a) someone else carries out an authorised activity for a geothermal tenure on the land; or

[s 361]

- (b) someone else carries out an activity on the land and, in doing so, purports to be carrying out an authorised activity for a geothermal tenure.
- (2) The owner or occupier is not civilly liable to anyone else for a claim based in tort for damages relating to the carrying out of the activity.
- (3) However, subsection (2) does not apply to the extent the owner or occupier, or someone else authorised by the owner or occupier, caused, or contributed to, the harm the subject of the claim.
- (4) This section applies—
 - (a) despite any other Act or law; and
 - (b) even though this Act or the geothermal tenure prevents or restricts the carrying out of the activity as an authorised activity for the tenure.
- (5) Subject to subsection (2), in this section, the terms *claim*, *damages* and *harm* have the same meaning that they have under the *Civil Liability Act 2003*.

Division 3 Provisions for when geothermal tenure ends or area reduced

361 Obligation to remove equipment and improvements

- (1) This section applies for equipment or improvements in a geothermal tenure's area or on access land for a geothermal tenure that are being, or have been, used for an authorised activity for the tenure.
- (2) However, this section does not apply for—
 - (a) a geothermal well; or

Note—

For a geothermal well, see chapter 6, part 3, division 2 (Decommissioning of geothermal wells).

-
- (b) equipment or improvements on land that, under section 189, ceases to be in a geothermal permit's area.
- (3) The holder of the geothermal tenure must, before the removal day, remove the equipment or improvements from the land unless the owner of the land otherwise agrees.

Maximum penalty—1000 penalty units.

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

equipment includes machinery and plant.

removal day means the latest of the following days—

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

362 Authorisation to enter to facilitate compliance

- (1) The Minister may, by notice, authorise a former holder of a geothermal tenure to enter any of the following land to comply with, or remedy a contravention of, section 129 or this division—
- (a) the land to which section 129 or this division applies (*primary land*);

Editor's note—

section 129 (Compliance with land access code)

-
- (a) the making of an application;
 - (b) the giving of a document to the Minister or the chief executive;
 - (c) the making of a submission.
- (2) The application, document or submission may be made or given only—
- (a) at the following place—
 - (i) the office of the department provided for under the relevant approved form for that purpose;
 - (ii) if the relevant approved form does not make provision as mentioned in subparagraph (i) or if there is no relevant approved form—the office of the department notified on the department’s website; or
 - (b) in the way prescribed under a regulation.
- (3) Without limiting subsection (2)(b), the way prescribed under a regulation may include making or giving the application, document or submission at another place.
- (4) This section does not apply to the following—
- (a) the making of an application to the Land Court;
 - (b) the giving of a royalty return under section 106 to the chief executive;
 - (c) the giving of a document that, under this Act, must be given in the required way for giving reports to the chief executive.

364 Requirements for making an application

- (1) The Minister must refuse to receive or process a purported application, other than to the Land Court, not made under the requirements under this Act for making the application.
- (2) However, the Minister may decide to allow the application to proceed and be decided as if it did comply with the

[s 365]

requirements if the Minister is satisfied the application substantially complies with the requirements.

- (3) If the Minister decides to refuse to receive or process the purported application—
 - (a) the Minister must give the applicant notice of the decision and the reasons for it; and
 - (b) the chief executive must refund the application fee to the applicant.

365 Request to applicant about application

- (1) For an application under this Act, the chief executive may, by notice, require the applicant to do all or any of the following within a stated reasonable period—
 - (a) complete or correct the application if it appears to the chief executive to be incorrect, incomplete or defective;
 - (b) give the chief executive or a stated officer of the department additional information about, or relevant to, the application;

Example—

The application is for a geothermal tenure. The chief executive may require a document, prepared by an appropriately qualified person, independently verifying geological or predictive migration data given in the proposed work program or development plan for the tenure.

- (c) give the chief executive or a stated officer of the department an independent report by an appropriately qualified person or a statement or statutory declaration verifying all or any of the following—
 - (i) any information included in the application;
 - (ii) any additional information required under paragraph (b);
 - (iii) if the application is for a geothermal tenure—that the applicant meets the capability criteria.

-
- (2) For subsection (1)(b), if the application is for a geothermal tenure, a required document may include a survey or resurvey of the area of the proposed tenure carried out by a person who is a cadastral surveyor under the *Surveyors Act 2003*.
 - (3) For subsection (1)(c), the notice may require the statement or statutory declaration—
 - (a) to be made by an appropriately qualified independent person or by the applicant; and
 - (b) if the applicant is a corporation—to be made for the applicant by an executive officer of the applicant.
 - (4) The giving of a statement for subsection (1)(c) does not prevent the chief executive from also requiring a statutory declaration for the subsection.
 - (5) The applicant must bear any costs incurred in complying with the notice.
 - (6) The chief executive may extend the period for complying with the notice.
 - (7) In this section—

application does not include an application to the Land Court.
information includes a document.

366 Refusing application for failure to comply with request

The Minister may refuse an application if—

- (a) a notice under section 365 has been given for the application; and
- (b) the period stated in the notice for complying with it has ended; and
- (c) the request has not been complied with to the chief executive's satisfaction.

[s 366A]

366A Notice to progress geothermal tenure or renewal application

- (1) The Minister may by notice require an applicant for, or to renew, a geothermal tenure to, within a stated reasonable period, do any thing required of the applicant under this Act or another Act to allow the application to be decided or the tenure to be granted or renewed.
- (2) However, the period for complying with the notice must be at least 20 business days after the notice is given.
- (3) The Minister may extend the period for complying with the notice.
- (4) The Minister may refuse the application if the applicant does not comply with the requirement.

367 Particular criteria generally not exhaustive

- (1) This section applies if another provision of this Act permits or requires the Minister to consider particular criteria in deciding an application.
- (2) To remove any doubt, it is declared that the Minister may in making the decision consider any other criteria the Minister considers relevant.
- (3) However, subsection (2) does not apply if the provision otherwise provides.
- (4) In this section—
criteria includes issues and matters.

368 Particular grounds for refusal generally not exhaustive

- (1) This section applies if another provision of this Act provides for particular grounds on which the Minister may refuse an application.
- (2) To remove any doubt, unless the other provision otherwise provides, the Minister may refuse the application on another reasonable and relevant ground.

- (3) In this section—
refuse, an application, includes refuse the thing the subject of the application.

369 Amending applications

- (1) If a person has made an application under this Act, the person may amend the application or a document accompanying the application only if—
- (a) the application has not been decided; and
 - (b) the Minister has agreed to the making of the amendment; and
 - (c) if the amendment is to change the applicant—each applicant and proposed applicant has agreed to the change.
- (2) If, under subsection (1), the application is amended to change the applicant, for the deciding of the application the applicant as changed is taken to have been the applicant from the making of the application.

370 Withdrawal of application

- (1) A person who has made an application under this Act may give the chief executive a notice withdrawing the application at any time before any decision about the application takes effect.
- (2) The withdrawal takes effect when the notice is given.

371 Minister's power to refund application fee

If an application under this Act is withdrawn, the Minister may refund all or part of any fee paid for the application.

Part 3 Other miscellaneous provisions

372 Interest on amounts owing to the State

- (1) Interest is payable to the State on any amount owing under this Act by anyone to the State and unpaid from time to time after the relevant day.

Examples of an amount that may be owing under this Act—

- annual or other rent
 - a civil penalty for nonpayment of annual rent
- (2) The interest accrues daily at the rate prescribed under a regulation on the unpaid amount for the period starting on the day immediately after the amount became payable and ending on the day the amount owing on which interest is payable is paid in full, both days inclusive.
- (3) Any amount received in payment of the unpaid amount or the interest must first be applied in payment of the interest.
- (4) Subsection (3) applies despite any order or direction of the payer.
- (5) In this section—
relevant day means the following—
- (a) for an amount for annual or other rent or a civil penalty for nonpayment of annual rent—the day that is 3 months after the last day for payment of the rent or civil penalty;
 - (b) for another amount—the day the amount becomes owing.

373 Recovery of unpaid amounts

- (1) If a provision of this Act requires a geothermal tenure holder to pay the State an amount (including interest) the State may recover the amount from the holder as a debt.

(2) In this section—

holder includes a former holder of the geothermal tenure about whom the remedial powers were exercised.

374 General public interest criteria for particular Ministerial decisions

(1) This section does not apply to an application for or about a geothermal permit.

(2) The Minister must consider the public interest in making a decision under this Act about an application or the granting of an approval by the Minister.

(3) If—

(a) another provision of this Act permits or requires the Minister to make a decision; and

(b) the other provision does not require the Minister to consider the public interest;

the Minister may still consider the public interest in making the decision.

375 Provision for entry by State to carry out geothermal activity

(1) If the State proposes to exercise a right under section 29(3)(b)(i), the right may be exercised by anyone authorised by the chief executive.

(2) However, a person authorised under subsection (1) may enter the land only if the person has given the owner of the land at least 5 business days notice of the proposed entry.

(3) To remove any doubt, it is declared that subsection (2) does not apply to an inspector or authorised officer performing functions under the P&G Act relating to this Act.

[s 376]

376 Name and address for service

- (1) A person (the *first person*) may by a signed notice given to the chief executive nominate another person (a *nominated person*) at a stated address as the first person's address for service for this Act.
- (2) If this Act requires or permits the Minister or chief executive to serve a notice or other document on the first person, it may be served on the first person by serving it on the last nominated person at the stated address for that person.
- (3) In this section—
serve includes give.

377 Notice of agents

A person carrying out functions under this Act (the *first person*) may refuse to deal with a person who claims to be acting as the agent of a geothermal tenure holder unless the holder has given the first person notice of the agency.

378 Additional information about reports and other matters

- (1) This section applies if—
 - (a) a person is required under this Act to give a notice or copy of a document, report or information (the *advice*) to the Minister or the chief executive; and
 - (b) the person gives the advice.
- (2) The Minister or chief executive may by notice require the person to give, within the reasonable time stated in the notice, written information about the matter for which the advice was given.
- (3) The person must comply with the notice.
Maximum penalty for subsection (3)—500 penalty units.

379 References to right to enter

A right under this Act to enter a place includes the right to—

- (a) leave and re-enter the place from time to time; and
- (b) remain on the place for the time necessary to achieve the purpose of the entry; and
- (c) take on the place equipment, materials, vehicles or other things reasonably necessary to exercise a power under this Act.

380 Application of provisions

If a provision of this Act applies any of the following (the *applied law*) for a purpose—

- (a) another provision of this Act;
- (b) another law;
- (c) a provision of another law;

for that purpose the applied law and any definition relevant to it apply with necessary changes.

381 Protection from liability for particular persons

- (1) A person as follows (a *designated person*) does not incur civil liability for an act done, or omission made, honestly and without negligence under this Act—
 - (a) the Minister;
 - (b) a public service officer or public service employee;
 - (c) a person if—
 - (i) the person has, under section 375, been authorised to carry out an activity for the State; and
 - (ii) the act or omission happened while the person was acting within the scope of that authority;

[s 382]

- (d) a geothermal tenure holder given a direction under this Act who is complying with the direction.
- (2) For subsection (1)(b), it does not matter what is the form of appointment or employment of the person.
- (3) If subsection (1) prevents a civil liability attaching to a designated person, the liability attaches instead to the State.
- (4) In this section—
civil liability includes liability for the payment of costs ordered to be paid in a proceeding for an offence against this Act.

382 Delegation by Minister or chief executive

- (1) The Minister may delegate the Minister's functions under this Act to an appropriately qualified public service officer or public service employee.
- (2) The chief executive may delegate the chief executive's functions under this Act to an appropriately qualified public service officer or employee.
- (3) In this section—
functions includes powers.

383 Practice manual

- (1) The chief executive may keep, in the way the chief executive considers appropriate, a manual (however called) about geothermal tenure administration practice to guide and inform persons dealing with the department.
- (2) The manual may include—
 - (a) directions about—
 - (i) what information, documents or instruments (*material*) a person may or must give; and
 - (ii) how or when requested material must be given; and

-
- (iii) the format of requested material; and
 - (b) practices to ensure there is consistency and efficiency in geothermal tenure administration processes.
 - (3) If—
 - (a) a person is required or permitted to give the Minister or the chief executive (the *official*) information for a particular purpose relating to this Act; and
 - (b) the person gives the information—
 - (i) at the place or in the way permitted under the manual; or
 - (ii) at the place or in the way the information would be required to be given under section 363 if the information were a document;

the person is taken to have given the official the information for the purpose.
 - (4) The chief executive must—
 - (a) keep a copy of the manual and a record (however called) of each part of the manual, including the dates when each part was published or superseded; and
 - (b) make the manual and the record available to the public in the way the chief executive considers appropriate.
 - (5) Without limiting subsection (4), the chief executive must ensure an up-to-date copy of the manual and the record are available to be read free of charge—
 - (a) on the department’s website; and
 - (b) if information relates to a particular application—at the department’s office where the application was made.

384 Approved forms

- (1) The chief executive may approve forms for use under this Act.

[s 385]

- (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.

385 Regulation-making power

- (1) The Governor in Council may make regulations under this Act.
- (2) A regulation may be made about the following—
- (a) assessing the viability of geothermal production under geothermal tenures, including, for example—
 - (i) requiring geothermal tenure holders to give reports about the viability of geothermal production under their tenure (a *geothermal viability report*); and
 - (ii) empowering the Minister to make an independent assessment of the viability of carrying out geothermal production in all or part of a geothermal tenure's area (an *independent viability assessment*); and
 - (iii) providing for who must pay the cost of an independent viability assessment;
 - (b) the way an application, document or submission must be made or given for section 363(2)(b), or the way a report must be given for section 190(3)(b), including, for example—
 - (i) practices and procedures for lodgement of applications and other documents; and
 - (ii) methods for acknowledging receipt of documents; and
 - (iii) methods for acceptance of the lodgement of documents; and
 - (iv) the time at which a document is taken to have been lodged, but only to the extent that this Act does not provide otherwise;

- (c) requiring lodgement of a hard copy of the application, document or submission;
- (d) the fees payable under this Act including late payment fees;
- (e) the conditions of geothermal tenures;
- (f) imposing a penalty, of no more than 20 penalty units, for a contravention of a regulation.

Chapter 9 Repeal and transitional provisions

Part 1 Repeal provisions

386 Repeal of Geothermal Exploration Act 2004

The Geothermal Exploration Act 2004, No. 12 is repealed.

387 Repeal of Timber Utilisation and Marketing Act 1987

The Timber Utilisation and Marketing Act 1987, No. 30 is repealed.

[s 388]

Part 2 **Transitional provisions for Act No. 31 of 2010**

Division 1 **Preliminary**

388 **Definitions for pt 2**

In this part—

2004 Act means the *Geothermal Exploration Act 2004*, to be repealed under section 386.

2004 Act permit means a geothermal exploration permit under the 2004 Act.

2010 Act permit means a geothermal permit under this Act.

2010 Act start day means the day section 386 commences.

assent means the date of assent of this Act.

Birdsville lease see section 389(1).

Ergon Energy means—

- (a) Ergon Energy Corporation Limited ACN 087 646 062;
or
- (b) if, after assent, anyone else becomes a holder of the Birdsville lease—the holder of that lease.

new land access provisions start day means the day section 480 commences.

Division 2 Provisions for Ergon Energy geothermal production near Birdsville

Subdivision 1 Grant of and provisions about Birdsville lease

389 Geothermal lease for Ergon Energy

- (1) On assent, Ergon Energy is taken to have been granted a geothermal lease (the *Birdsville lease*) for the following sub-blocks—

Cooper Creek block identification map

| Block | Sub-blocks |
|-------|------------------------------------|
| 1600 | P, T, U, Y, Z |
| 1601 | L, M, N, O, Q, R, S, T, V, W, X, Y |
| 1672 | D, E |
| 1673 | A, B, C, F, G, H |

- (2) The term of the Birdsville lease is 5 years from assent.
- (3) This Act applies to the Birdsville lease as if all of this Act, other than chapters 2 and 3, had commenced on assent.
- (4) In this section—

block identification map means a map that forms part of the series of maps known as the 'Block Identification Map—Series B' held by the department.

390 Authorised activities

From assent, Ergon Energy may, subject to this Act, carry out for the Birdsville lease any authorised activity for a geothermal lease.

[s 391]

391 Conditions

- (1) The mandatory conditions for geothermal leases apply for the Birdsville lease.
- (2) However, sections 130 and 131 do not apply for the Birdsville lease until the third anniversary of assent.

Editor's note—

sections 130 (Annual rent) and 131 (Civil penalty for nonpayment of annual rent)

- (3) Subsection (1) is subject to sections 392 and 393.

392 Land access provisions until the new land access provisions start day

- (1) This section applies only until the new land access provisions start day.
- (2) The following provisions of this Act do not apply for the Birdsville lease—
 - (a) section 129;
 - (b) the following provisions of chapter 6—
 - part 5
 - part 6, division 2
 - part 8, division 1;
 - (c) chapter 7, part 1.
- (3) The 2004 Act, sections 90 to 96 and 98 to 101, and any definitions under that Act to the extent they are relevant to the sections, apply for the Birdsville lease as if—
 - (a) the lease were a permit under that Act; and
 - (b) a reference in the provisions to a permit included a reference to the lease.

Subdivision 2 Development plan provisions

393 Deferral of development plan requirement

Section 123 does not apply for the Birdsville lease until the later of the following—

- (a) 12 months after the Environmental Protection Act, section 665 commences;

Editor's note—

Environmental Protection Act, section 665 (Deferral of requirement for environmental authority for Birdsville geothermal lease)

- (b) if, within the 12 months, Ergon Energy applies under section 394 for approval of a development plan for the lease—the day the application is decided.

394 Provisions for approval of development plan

- (1) Ergon Energy may at any time apply to the Minister for approval of a proposed development plan for the Birdsville lease.
- (2) Chapter 3, part 3, divisions 1 to 3 apply for the application as if Ergon Energy had applied for a geothermal lease and did not hold one.
- (3) If the Minister approves the proposed development plan, it becomes the development plan for the Birdsville lease.

395 Exemption from geothermal royalty

Section 104 does not apply for the Birdsville lease.

[s 396]

Division 3 **New land access provisions for 2004 Act permits until 2010 Act start day**

396 Application of div 3

This division applies for a 2004 Act permit from the new land access provisions start day to the 2010 Act start day.

Note—

See also section 399 (Conversion of 2004 Act permits on 2010 Act start day).

397 Compliance with land access code

- (1) Section 129 applies to the holder of the permit as if it were a 2010 Act permit and compliance with that section were a mandatory condition of the permit under the 2004 Act.
- (2) If a mandatory or tenure condition of the permit under the 2004 Act is inconsistent with a mandatory provision of the land access code, the mandatory provision prevails to the extent of the inconsistency.

398 Application of particular provisions of this Act

- (1) The 2004 Act, sections 90 to 96 and 98 to 101 cease to apply for the permit.
- (2) The following provisions of this Act apply for the permit—
 - (a) section 129;
 - (b) the following provisions of chapter 6—
 - part 5
 - part 6, division 2
 - part 8, division 1;
 - (c) chapter 7, part 1;

-
- (d) any definitions under schedule 2 to the extent they are relevant to the provisions mentioned in paragraphs (a) to (c).
 - (3) The provisions applied under subsection (2) apply as if—
 - (a) the permit were a 2010 Act permit; and
 - (b) a reference in the provisions to a geothermal tenure included a reference to the permit; and
 - (c) the provisions were in force.
 - (4) Despite the provisions applied under subsection (2), a proceeding for compensation started under the 2004 Act, section 101 before the new land access provisions start day may be finished as if the provisions did not apply.

Division 4 General provisions

399 Conversion of 2004 Act permits on 2010 Act start day

- (1) This section applies to a 2004 Act permit (the *old permit*) in force immediately before the 2010 Act start day.
- (2) On the 2010 Act start day, the permit becomes a 2010 Act permit (the *converted permit*).
- (3) The converted permit continues in force subject to this Act for the rest of the old permit's term.
- (4) However, the old permit's conditions immediately before the 2010 Act start day, as amended from time to time under this Act, continue in force for the converted permit.
- (5) If a condition of the old permit mentioned in subsection (4) conflicts with a mandatory condition for geothermal permits, or a mandatory provision of the land access code, the mandatory condition or mandatory provision prevails to the extent of the inconsistency.

[s 400]

- (6) The work program for the converted permit is the proposed work program included in the tender for the old permit made under section 21 of the 2004 Act.

400 Outstanding tenders under 2004 Act

- (1) This section applies to a tender for a proposed 2004 Act permit made but not decided before the 2010 Act start day.
- (2) On the 2010 Act start day, the tender becomes an application for a 2010 Act permit.
- (3) The tender is taken to comply with the requirements under this Act for making the application.
- (4) To remove any doubt, subsection (2) does not prevent the application of sections 92 and 365 to the application.

401 Other undecided applications

- (1) An application under the 2004 Act about a 2004 Act permit becomes an application for any corresponding matter under this Act.
- (2) The application is taken to comply with the requirements under this Act for making an application of that type under this Act.
- (3) To remove any doubt, subsection (2) does not prevent the application of section 365 to the application.

402 Decisions or documents under 2004 Act

- (1) This section applies to a decision or document under the 2004 Act in force immediately before the 2010 Act start day about a matter under that Act.
- (2) On the 2010 Act start day, the decision or document is taken to have been given under this Act about any corresponding matter under this Act.

- (3) However, subsection (2) does not change the time when the decision or document was given or made.

403 Outstanding appeals

If, immediately before the 2010 Act start day, an appeal about a matter under the 2004 Act had not been decided, on the 2010 Act start day the appeal is taken to be an appeal about any corresponding matter under this Act.

Part 3 Transitional provisions for Mines Legislation (Streamlining) Amendment Act 2012

Division 1 Preliminary

404 Definitions for pt 3

In this part—

amending Act means the *Mines Legislation (Streamlining) Amendment Act 2012*.

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

former, in relation to a provision, means the provision as in force before the commencement of the section in which the term is used.

[s 405]

Division 2 **Transitional provisions for amendments in amending Act commencing on assent**

405 Land in a geothermal tenure's area taken before the commencement

- (1) This section applies if—
- (a) land in a geothermal tenure's area was taken under a resumption law before the commencement; and
 - (b) at the commencement, the entity taking the land has not taken action indicating the geothermal tenure was extinguished (wholly or partly) when the land was taken.

Examples of action for paragraph (b)—

- serving a copy of the resumption notice for the taking of the land on the geothermal tenure holder (in the holder's capacity as the holder of the tenure)
 - entering into a resumption agreement under the ALA with the geothermal tenure holder for the taking of the land
 - negotiating, or taking other action relating to, the compensation payable to the geothermal tenure holder for the taking of the land
 - paying compensation to the geothermal tenure holder for the taking of the land
 - arranging for the taking of the land to be recorded in the geothermal register against the geothermal tenure
- (2) The taking of the land did not extinguish (wholly or partly) the geothermal tenure or any other geothermal interest relating to the tenure.
- (3) Subsection (2) does not affect the ending of a geothermal interest (wholly or partly) in any other way, including, for example—
- (a) by the entity taking the land acquiring the geothermal interest (wholly or partly) under a separate commercial

agreement or other arrangement with the holder of the interest; or

- (b) by the geothermal interest holder surrendering the interest (wholly or partly) under this Act.

406 Land in a geothermal tenure’s area for which notice of intention to resume given before the commencement

- (1) This section applies if—
 - (a) before the commencement, an entity gave a notice of intention to resume for the proposed taking, under a resumption law, of land in a geothermal tenure’s area; and
 - (b) at the commencement, the land had not been taken under the resumption law.
- (2) If the land is taken other than by taking or otherwise creating an easement, sections 350A to 350D apply in relation to the taking, except that the resumption notice for the taking may provide for the extinguishment of a geothermal interest on the taking even if the notice of intention to resume does not comply with section 350A(8).
- (3) If the land is taken by taking or otherwise creating an easement, section 350D applies in relation to the taking.

Division 3 Transitional provisions for amendments in amending Act commencing by proclamation

407 Undecided applications for approval of particular dealing

- (1) This section applies to an application for approval of a third party transfer or sublease—
 - (a) made, before the commencement, under former chapter 6, part 11, division 3; and

[s 408]

- (b) not decided before the commencement.
- (2) The Minister may continue to deal with the application under former chapter 6, part 11, division 3 as if the division had not been repealed under the amending Act.
- (3) In this section—
third party transfer has the meaning given by former section 280.

408 Deciding applications for approval of assessable transfers until commencement of particular provisions

- (1) This section applies until the commencement of the *Environmental Protection Act 1994*, chapter 5A, part 4 as inserted by the *Environmental Protection (Greentape Reduction) and Other Legislation Amendment Act 2012*.
- (2) Former section 287(2)(a)(ii) continues in force instead of section 286(4)(a)(ii) and (iii), as inserted by the amending Act, for deciding whether to give an approval of an assessable transfer.

409 Uncommenced appeals about refusal to approve particular dealing

- (1) This section applies to a person if—
 - (a) before the commencement, the person could appeal to the Land Court under section 335 in relation to a refusal to approve and register a third party transfer or sublease under former section 287; but
 - (b) the person had not started the appeal before the commencement.
- (2) Despite the amendment of schedule 1 by the amending Act, the person continues to be a person who may start an appeal under section 335, subject to sections 336 and 337.

410 Unfinished appeals about refusal to approve particular dealing

- (1) This section applies if, before the commencement—
 - (a) a person started an appeal under section 337 in relation to a refusal to approve and register a third party transfer or sublease under former section 287; and
 - (b) the Land Court had not yet decided the appeal.
- (2) The Land Court may continue, under chapter 7, part 4, to grant a stay of the decision being appealed, and hear and decide the appeal.

Schedule 1 Decisions subject to appeal

section 335(1)

| Section reference | Description of decision |
|---|---|
| Geothermal permits | |
| 57 | refusal to approve proposed later work program |
| 62 | refusal to approve work program amendment |
| 66 | refusal of application for declaration of potential geothermal commercial area |
| 73 | decision to take proposed action under section 72 for geothermal permit |
| 120 | refusal to approve proposed test plan for production testing |
| 120 | imposition of condition on approval of proposed test plan, other than a condition agreed to or requested by the relevant geothermal permit holder |
| Geothermal leases | |
| 80 | decision not to grant a geothermal lease |
| 97 | refusal to approve proposed later development plan |
| 102 | refusal to approve development plan amendment |
| Geothermal coordination arrangements | |
| 144 | cancellation of geothermal coordination arrangement |

| Section reference | Description of decision |
|----------------------------------|---|
| Decisions under chapter 6 | |
| 204 | decision to require security for geothermal tenure other than security in the form and amount prescribed under section 204(2) |
| 205 | decision to require increase in total security required to more than the prescribed amount under section 204(2) when the requirement is made |
| 233 | decision to give direction to ease concerns of owner or occupier |
| 237 | decision to give road use direction |
| 242 | imposition of condition on entry on public land, other than a condition agreed to or requested by the relevant geothermal tenure holder |
| 286 | refusal to approve an assessable transfer |
| 294 | refusal to renew geothermal tenure |
| 303 | refusal to approve surrender of geothermal tenure |
| 303 | decision to approve partial surrender of geothermal tenure subject to the applicant's written agreement to the Minister amending the conditions applying to the rest of the tenure in a stated way, if the applicant has not agreed in writing to the amendment |
| 352 | decision to take action to ensure compliance with a requirement under this Act of a geothermal tenure holder other than action to which the holder has agreed |
| 354 | refusal to replace instrument for geothermal tenure |

**Section
reference**

Description of decision

Miscellaneous

324

decision to take noncompliance action for geothermal
tenure

Schedule 2 Dictionary

section 10

1923 Act see section 8(c).

1923 Act petroleum tenure see the 1923 Act, section 2.

access agreement see section 221(2).

access land, for a geothermal tenure, see section 220(3).

access rights see section 220(2).

acquired land—

- 1 Land is *acquired land* if—
 - (a) it was taken under a resumption law, other than by taking or otherwise creating an easement; and
 - (b) under section 350A, all geothermal interests relating to the land were extinguished on the taking.
- 2 However, land mentioned in paragraph 1 stops being *acquired land* if it is included in the area of a new or renewed geothermal tenure granted under this Act.

ADR see section 254(2)(b).

advanced activity, for a provision about a geothermal tenure, means an authorised activity for the tenure other than a preliminary activity for the tenure.

Examples—

- levelling of drilling pads and digging sumps
- earthworks associated with pipeline installation
- vegetation clear-felling
- constructing an exploration camp, concrete pad, sewage or water treatment facility or fuel dump
- geophysical surveying with physical clearing
- carrying out a seismic survey using explosives

- constructing a track or access road
- changing a fence line

ALA means the *Acquisition of Land Act 1967*.

appeal period, for a decision, means the period provided for under section 336 for starting an appeal against the decision.

applicant, for chapter 5, part 3, see section 146(a).

application period, for a released area, see section 34(4).

apply, in relation to making an application, has the meaning affected by section 363.

appropriately qualified, for the performance of a function or exercise of a power, includes having the qualifications, experience and competence to perform the function or exercise the power.

approved form means the form approved under section 384.

area—

- 1 The *area*, of a geothermal tenure, is the land to which the tenure is subject as recorded in the geothermal register.
- 2 The *area* of an authority, tenement or tenure granted under another resource Act is its area as defined under that Act or the area to which the authority, tenement or tenure is subject under that Act.

assessable transfer, for chapter 6, part 11, see section 280(2).

associated agreement, for chapter 6, part 11A, see section 289.

authorised activity, for a geothermal tenure, see section 22.

authorised officer means an authorised officer under the P&G Act.

authorised person, for chapter 6, part 14, see section 305(2).

authority to prospect means an authority to prospect under the 1923 Act or the P&G Act.

block see section 26(1).

capability criteria—

- (a) for a geothermal permit or proposed geothermal permit—see section 41(b); or
- (b) for a geothermal lease or proposed geothermal lease—see section 81(j).

compensation agreement, for chapter 6, part 8, division 2, see section 264(1).

compensation application, for chapter 6, part 8, division 2, means an application made under section 265(1).

compensation liability—

- (a) for chapter 6, part 8, division 1—see section 247(2); or
- (b) for chapter 6, part 8, division 2—see section 263(2).

conditions, of a geothermal tenure, see section 20.

conduct and compensation agreement see section 248(1).

conduct and compensation agreement requirement see section 216(2).

construct, a structure, includes placing the structure.

conviction includes a finding of guilt or the acceptance of a plea of guilty by a court, whether or not a conviction is recorded.

coordinated project means a project declared under the *State Development and Public Works Organisation Act 1971*, section 26, to be a coordinated project.

costs, incurred by the State, includes the cost of services the State provides for itself.

dangerous situation means a situation relating to a geothermal activity, a GHG stream or petroleum or fuel gas in which an inspector reasonably believes an imminent risk of material harm to persons or property is likely if action is not taken to avoid, eliminate or minimise the risk.

dealing, with a geothermal tenure, see section 278.

deferral agreement see section 217(c)(i).

development plan, for a geothermal lease, see section 25(1).

development plan criteria see section 91(2).

drill includes to bore.

election notice see section 254(2).

eligible claimant, for compensation, see section 247(1).

eligible person see section 23.

enter, a place, includes to exercise, in relation to the place, access rights or the rights under section 379.

entry notice—

(a) for chapter 6, part 5—see section 211(1); or

(b) for chapter 6, part 6—see section 239(2)(b).

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

excluded land—

(a) for a particular geothermal tenure—means excluded land for the tenure decided under section 186; or

(b) generally—means any excluded land mentioned in paragraph (a).

executive officer, of a corporation, means a person who is concerned with or takes part in its management, whether or not the person is a director or the person's position is given the name of executive officer.

exempt heat pump production see section 15.

exploration authority (non-geothermal) see section 136.

fee includes tax.

first authority, for chapter 6, part 7, see section 243(1).

geothermal activity see section 18.

geothermal assessment criteria see section 147(1)(b).

geothermal coordination arrangement see section 138(4).

geothermal energy see section 11.

geothermal exploration see section 13.

geothermal exploration permit (also called a ***geothermal permit***) see section 19(1)(a).

geothermal heat pump means a system for central heating or air conditioning that actively pumps heat to or from below ground of no more than 200m, using a fluid circulation medium.

Example of a fluid circulation medium—

water

Note—

Geothermal heat pumps are known by a variety of other names, including geexchange heat pumps, earth-coupled heat pumps, earth energy heart pumps, ground-source heat pumps and water-source heat pumps.

geothermal interest means—

- (a) a geothermal tenure; or
- (b) a right existing under, or in relation to, a geothermal tenure.

geothermal lease means a geothermal production lease.

geothermal permit means a geothermal exploration permit.

geothermal producer see section 104(1).

geothermal production see section 14.

geothermal production lease (also called a ***geothermal lease***) see section 19(1)(b).

geothermal register means the register the chief executive keeps under section 272.

geothermal resources see section 12.

geothermal royalty means the geothermal royalty mentioned in section 104(1).

geothermal statement see section 147(1)(a).

geothermal tenure see section 19(2).

geothermal viability report see section 385(2)(a)(i).

geothermal well—

- 1 A *geothermal well* is a hole in the ground made or being made by drilling or any other means to carry out geothermal exploration or geothermal production.
- 2 A *geothermal well* includes the casing for the well and any of the following attached to the well—
 - the casing head
 - a casing hanger or spool or tubing hanger
 - flow control equipment up to and including the wing valves.
- 3 To remove any doubt, it is declared that a *geothermal well* does not include a seismic shot hole or shallow hole drilled to work out a geological structure.

GHG means greenhouse gas.

GHG authority see the GHG storage Act, section 18(3).

GHG lease see the GHG storage Act, section 18(1)(b).

GHG permit see the GHG storage Act, section 18(1)(a).

GHG storage see the GHG storage Act, section 3(2).

GHG storage Act see section 8(a).

GHG stream see the GHG storage Act, section 12.

give, a document to the Minister or the chief executive, has the meaning affected by section 363.

holder, of a geothermal tenure, means each person recorded as its holder in the geothermal register.

holder submissions see section 150(1).

independent viability assessment see section 385(2)(a)(ii).

indicative approval, of an assessable transfer, see section 284(1)(a).

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

- (a) the decision, and the reasons for it;

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

initial development plan requirements see section 87.

initial work program requirements see section 45.

inspector means an inspector under the P&G Act.

land includes—

- (a) land covered by Queensland waters; and
- (b) subterranean land.

land access code see the P&G Act, section 24A.

large-scale, for geothermal production, means geothermal production that is of a large-scale as that term is affected by section 16.

later development plan requirements see section 93.

later work program requirements see section 51.

made, for an application, means made at the place or in the way provided for under section 363.

make submissions has the meaning affected by section 363.

mandatory condition, of a geothermal tenure, see section 20(2).

mandatory provision, of the land access code, means a provision of that code that the code requires compliance with.

Mineral Resources Act see section 8(b).

minimum negotiation period see section 251(2)(a).

mining interest means—

- (a) a mining tenement under the Mineral Resources Act; or
- (b) a tenure held from the State under another Act about mining under which tenure the holder is authorised to

carry out mining under the Mineral Resources Act or a related mineral or energy resources activity.

mining lease see the Mineral Resources Act, schedule 2.

negotiation notice see section 250(1).

non-assessable transfer, for chapter 6, part 11, see section 280(1).

noncompliance action means action of a type mentioned in section 320.

notice means a written notice.

notice of intention to resume, for the proposed taking of land under a resumption law, means—

- (a) if the land is taken under the process stated in the ALA (whether the land is taken under the ALA or another resumption law)—the notice of intention to resume under the ALA; or
- (b) otherwise—the notice, however named, required to be given under the resumption law to notify persons of the proposed taking.

notifiable road use, for a geothermal tenure, see section 235(1).

occupier, of a place, means—

- (a) a person who, under an Act or a lease registered under the *Land Title Act 1994*, has a right to occupy the place other than under a mining interest, petroleum authority, 1923 Act petroleum tenure, GHG authority or geothermal tenure; or
- (b) a person who has been given a right to occupy the place by an owner of the place or another person mentioned in paragraph (a).

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

operating plant see the P&G Act, section 670.

operator, of an operating plant, see the P&G Act, section 673.

overlapping authority application period see section 156(2).

overlapping authority priority see section 150(3)(b).

overlapping resource authority see section 135.

owner—

- 1 An *owner*, of land, means each person as follows in relation to the land—
- (a) for freehold land—a registered owner;
 - (b) for land for which a person is, or will be on performing conditions, entitled to a deed of grant in fee simple—the person;
 - (c) if an estate in fee simple of land is being purchased from the State—the purchaser;
 - (d) for a public road—the public road authority for the road;
 - (e) for land that is busway land, light rail land, rail corridor land or a cane railway or other railway—the public land authority for the land;
 - (f) for required land under the *Transport Infrastructure Act 1994*, section 436—the chief executive of the department in which that Act is administered;
 - (g) for a forest entitlement area, State forest or timber reserve under the *Forestry Act 1959*—the chief executive of the department in which that Act is administered;
 - (h) for a regional park under the *Nature Conservation Act 1992* (the *NCA*) for which there are trustees—
 - (i) if, under the *NCA*, the regional 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;

- (i) for DOGIT land under the *Aboriginal Land Act 1991* or the *Torres Strait Islander Land Act 1991*—a trustee for the land;
- (j) for land held under a lease under the *Aurukun and Mornington Shire Leases Act 1978*, section 3—a local government in whose area the land is situated;
- (k) for Torres Strait Islander land under the *Torres Strait Islander Land Act 1991* that is taken to be a reserve because of section 84(2) or 84(4)(b) of that Act—each grantee of the land;
- (l) for land under the *Land Act 1994* for which there are trustees—a trustee;
- (m) for transport land under the *Transport Planning and Coordination Act 1994*—the chief executive of the department in which that Act is administered;
- (n) for land vested in the Minister administering the *Education (General Provisions) Act 2006*—that Minister;
- (o) for land vested in the Queensland Housing Commission or another Minister or a chief executive responsible for constructing public buildings—the Minister administering the relevant Act;
- (p) for land held from the State under another Act under an interest that is less than fee simple (other than occupation rights under a permit under the *Land Act 1994*)—the person who holds the interest;
- (q) for any of the following land under the NCA—the State—
 - (i) a national park;
 - (ii) a national park (Aboriginal land);
 - (iii) a national park (Torres Strait Islander land);
 - (iv) a forest reserve.

- 2 Also, a mortgagee of land is the *owner* of land if—
- (a) the mortgagee is acting as mortgagee in possession of the land and has the exclusive management and control of the land; or
 - (b) the mortgagee or a person appointed by the mortgagee is in possession of the land and has the exclusive management and control of the land.
- 3 If land or another thing has more than 1 owner, a reference in this Act to the owner of the land or thing is a reference to each of its owners.

P&G Act see section 4.

P&G Act safety provisions see section 4(a).

parties—

- (a) for chapter 6, part 8, division 1, subdivision 4, see section 251(1); or
- (b) for chapter 7, part 1, see section 313.

penalty relinquishment means a relinquishment that is—

- (a) made under a requirement under section 320(1)(b); and
- (b) more than the blocks or sub-blocks required to be relinquished under the relinquishment condition.

petroleum authority see the P&G Act, section 18(2).

petroleum lease means a petroleum lease under the P&G Act or a lease under the 1923 Act.

petroleum tenure means any authority to prospect or any petroleum lease.

place includes land.

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

potential geothermal commercial area, for a geothermal permit, means an area declared under section 66 to be a potential geothermal commercial area for the permit.

preliminary activity—

- 1 Subject to paragraphs 2 to 4, a *preliminary activity*, for a provision about a geothermal tenure, means an authorised activity for the tenure that will have no impact, or only a minor impact, on the business or land use activities of any owner or occupier of the land on which the activity is to be carried out.

Examples—

- walking the area of the permit or licence
 - driving along an existing road or track in the area
 - taking soil or water samples
 - geophysical surveying not involving site preparation
 - aerial, electrical or environmental surveying
 - survey pegging
- 2 An authorised activity for the geothermal tenure mentioned in paragraph 1 ceases to be a preliminary activity if it is carried out by or for the tenure holder for a continuous period of 6 months.
- 3 However, if after the 6 month period mentioned in paragraph 2 the authorised activity ceases and is resumed, on the resumption it becomes a preliminary activity.
- 4 The following are not preliminary activities—

- (a) an authorised activity carried out on land that—

- (i) is less than 100ha; and
- (ii) is being used for intensive farming or broadacre agriculture;

Examples—

- land used for dryland or irrigated cropping, plantation forestry or horticulture
 - a dairy, cattle or sheep feedlot, piggery or poultry farm
- (b) an authorised activity carried out within 600m of a school or an occupied residence;

- (c) an authorised activity that affects the lawful carrying out of an organic or bio-organic farming system.

private land—

- 1 *Private land* is—
 - (a) freehold land; or
 - (b) an interest in land less than fee simple held from the State under another Act.
- 2 However, land is not private land to the extent of an interest in any of the following relating to the land—
 - (a) a mining interest;
 - (b) a petroleum authority or 1923 Act petroleum tenure;
 - (c) a GHG authority;
 - (d) a geothermal tenure;
 - (e) an occupation right under a permit under the *Land Act 1994*.
- 3 Also, land owned by a public land authority is not private land.

production commencement day, for a geothermal lease, see section 82(5)(c).

production testing see section 17.

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

proposed action see section 72(1)(a).

proposed activities for—

- (a) a proposed initial work program—see section 47(1)(b);
or
- (b) a proposed initial development program—see section 89(1)(a).

provision, of a geothermal tenure, means a provision of the tenure as that term is affected by section 21.

public land means land other than—

- (a) private land; or
- (b) to the extent an interest in any of the following relates to the land—
 - (i) a mining interest;
 - (ii) a petroleum authority or 1923 Act petroleum tenure;
 - (iii) a GHG authority;
 - (iv) a geothermal tenure;
 - (v) an occupation right under a permit under the *Land Act 1994*.

public land authority means—

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

public road means an area of land that—

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

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

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

public road authority, for a public road, means—

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

publish, a notice, means to publish it in any of the following ways—

- (a) in a journal published by the department or under the Minister's authority;
- (b) in another publication the Minister considers appropriate;
- (c) on the department's website;
- (d) by placing it on a public notice board, established and maintained by the department at—
 - (i) the department's head office; and
 - (ii) other places the chief executive considers appropriate.

reasonably believes means to believe on grounds that are reasonable in the circumstances.

reasonably considers means to consider on grounds that are reasonable in the circumstances.

reasonably satisfied means to be satisfied on grounds that are reasonable in the circumstances.

registration, for a dealing, means recorded in the geothermal register.

released area see section 34(3).

relevant authority, for a geothermal coordination arrangement, see section 138(2).

relevant environmental authority, for a geothermal tenure or proposed geothermal tenure, means the environmental authority required under the Environmental Protection Act issued for all of the authorised activities for the tenure or proposed tenure that are environmentally relevant activities under that Act.

relevant environmental condition, for a provision about a geothermal tenure or proposed geothermal tenure, means a condition of the relevant environmental authority for the tenure or proposed tenure.

relevant land, for a geothermal lease application, means the land the subject of the application.

relevant lease, for a geothermal lease application, see section 156(2).

relevant owner or occupier, for a provision about entry notices, means the owner or occupier to whom the entry notice is to be given, or would be given, other than for an exemption from the requirement to give an entry notice.

relevant Water Act authorisation, for a provision about a geothermal tenure or proposed geothermal tenure, means any authorisation required under the Water Act to take or interfere with water needed for activities carried out or proposed to be carried out under the tenure.

relinquishment condition, for a geothermal permit, is the relinquishment condition under section 109(1).

relinquishment notice see section 109(2)(a).

remedial powers see section 305(2).

report means a written report.

required information, for chapter 6, part 2, division 3, see section 195.

required way, for giving reports to the chief executive, see section 190(5).

resource Act see section 27.

resource management decision see section 152.

restricted area see section 33(1).

resumption law—

- (a) means a law that provides for the compulsory acquisition of land, including, for example, the following—

- (i) the ALA, including as applied by another law providing for an entity to take land under the ALA as if the entity were a constructing authority under the ALA;

Examples of other laws for subparagraph (i)—

- *Electricity Act 1994*, section 116
- *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009*, section 53AY

- (ii) the *Land Act 1994*, chapter 5, part 3, division 3;
- (iii) the *Petroleum and Gas (Production and Safety) Act 2004*, sections 456 to 458;
- (iv) the *Queensland Reconstruction Authority Act 2011*, section 99;
- (v) the *State Development and Public Works Organisation Act 1971*, section 82 or 125;
- (vi) the *Transport Planning and Coordination Act 1994*, section 25 or 26; but
- (b) does not include the *Land Act 1994*, chapter 5, part 3, divisions 1 and 2.

resumption notice, for the taking of land under a resumption law, means—

- (a) if the land is taken under the process stated in the ALA (whether the land is taken under the ALA or another resumption law)—the gazette resumption notice under the ALA for the taking; or
- (b) otherwise—the instrument giving effect to the taking.

road use direction see section 237(1).

safety management plan see the P&G Act, schedule 2.

second authority, for chapter 6, part 7, see section 243(1).

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

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

share, of a geothermal tenure, means any interest held by a person as a holder of the tenure in all of the tenure's area.

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

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

sub-block see section 26(2).

sublease, for chapter 6, part 11, means a sublease of a geothermal lease.

submission means a written submission.

surrender, for chapter 6, part 13, see section 301(2).

surrender application see section 301(1)(a).

take, in relation to land, includes acquire.

waiver of entry notice—

- (a) for chapter 6, part 5—means a waiver of entry notice mentioned in section 213 that complies with section 214(1); or
- (b) for chapter 6, part 6—see section 239(3).

Water Act means the *Water Act 2000*.

wet geothermal production means geothermal production by the extraction of hot water from a subartesian basin.

work program, for a geothermal permit, see section 24.

work program criteria see section 49(2).

Endnotes

1 Index to endnotes

| | Page |
|-----------------------------|------|
| 2 Key | .283 |
| 3 Table of reprints | .283 |
| 4 List of legislation | .284 |
| 5 List of annotations | .286 |

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

Endnotes

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 included | Effective | Notes |
|-------------|---------------------|------------------|-------------------------|
| 0A | none | 1 September 2010 | certain provs commenced |
| 0B | none | 1 October 2010 | certain provs commenced |
| 0C | none | 29 October 2010 | certain provs commenced |
| 0CA | none | 10 December 2010 | certain provs commenced |
| 0D rv | 2011 Act No. 2 | 17 March 2011 | |
| 1 | 2010 Act No. 31 | 2 March 2012 | |
| 1A | 2012 Act No. 20 | 29 August 2012 | |
| 1B | 2012 Act No. 20 | 19 October 2012 | |
| 1C | 2012 Act No. 20 | 7 December 2012 | |

| Current as at | Amendments included | Notes |
|-----------------|---|-------|
| 1 February 2013 | 2012 Act No. 43 | |
| 22 March 2013 | 2013 Act No. 10 | |
| 31 March 2013 | 2012 Act No. 16 (amd 2013 Act No. 6) 2012 Act No. 20 (amd 2013 Act No. 10) | |
| 14 May 2013 | 2013 Act No. 23 | |
| 1 November 2013 | 2013 Act No. 51 | |
| 28 March 2014 | 2013 Act No. 55 | |

4 List of legislation

Geothermal Energy Act 2010 No. 31

date of assent 1 September 2010

ss 1–2, ch 9 pt 2, ch 10 pt 1, sch 2 pt 1 commenced on date of assent (see s 2(2)(a)–(c))

ch 10 pt 2 div 2 commenced 10 December 2010 (2010 SL No. 353)

s 387, ch 10 pt 3 div 6, sch 2 pt 4 amds 1–4 of the Land Protection (Pest and Stock Route Management) Act 2002 commenced 1 October 2010 (2010 SL No. 267)

s 129, ch 6 pt 5 div 1, pt 6 div 2, pt 8, ch 7 pt 1, ch 10 pt 2 divs 1, 3–4, sch 3 commenced 29 October 2010 (2010 SL No. 296)

remaining provisions commenced 2 March 2012 (automatic commencement under AIA s 15DA(2) (2011 SL No. 156 s 2))

amending legislation—

Geothermal Energy Act 2010 No. 31 ss 1, 2(1), (3), s 585 sch 2 pt 3

date of assent 1 September 2010

ss 1–2 commenced on date of assent

remaining provisions commenced 2 March 2012 immediately after ch 10 and sch 2 commenced (see s 2(1), (3)) (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, 5

date of assent 1 December 2010

commenced on date of assent (see s 2)

Mines and Energy Legislation Amendment Act 2011 No. 2 s 1, pt 5

date of assent 17 March 2011

commenced on date of assent

Community Ambulance Cover Levy Repeal and Revenue and Other Legislation Amendment Act 2011 No. 20 s 1, pt 8

date of assent 27 June 2011

commenced on date of assent

Environmental Protection (Greentape Reduction) and Other Legislation Amendment Act 2012 No. 16 pt 1, 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

s 78 sch amdt 4 never proclaimed into force and om 2013 No. 6 s 50 sch amdt 24

remaining provisions commenced 31 March 2013 (2013 SL No. 24)

amending legislation—

Waste Reduction and Recycling and Other Legislation Amendment Act 2013 No. 6 ss 1, 50 sch amdt 24 (amends 2012 No. 16 above)

date of assent 14 March 2013

commenced on date of assent

Mines Legislation (Streamlining) Amendment Act 2012 No. 20 chs 1, 2 pt 2, ch 3 pt 2, s 125 sch 1, s 281 sch 2, s 323 sch 3 (this Act is amended, see amending legislation below)

date of assent 29 August 2012

ss 1–2, ch 2 pt 2, s 125 sch 1 commenced on date of assent

ss 128, 129, 138, 281 sch 2 amdt 5 commenced 19 October 2012 (2012 SL No. 181)

ss 130–131, 134–137, 139–140, 143(2) (to the extent it ins defs apply, give and make submissions), (3), 281 sch 2 amdt 1–4, 6 commenced 7 December 2012 (2012 SL No. 225)

s 143(2) (to the extent it ins def *dealing*) never proclaimed into force and om 2013 No. 10 s 146

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)

amending legislation—

**Mining and Other Legislation Amendment Act 2013 No. 10 ss 1, 145–146
(amends 2012 No. 20 above)**

date of assent 22 March 2013

commenced on date of assent

Economic Development Act 2012 No. 43 ss 1, 2(c), 325 sch 2

date of assent 11 December 2012

ss 1–2 commenced on date of assent

s 325 commenced on date of assent (see s 2(c))

remaining provisions commenced 1 February 2013 (2013 SL No. 1)

Mining and Other Legislation Amendment Act 2013 No. 10 s 1, pt 5

date of assent 22 March 2013

commenced on date of assent

Land, Water and Other Legislation Amendment Act 2013 No. 23 ss 1, 352 sch 1 pt 1

date of assent 14 May 2013

commenced on date of assent

Directors' Liability Reform Amendment Act 2013 No. 51 ss 1–2(1), pt 23, s 229 sch 1

date of assent 29 October 2013

ss 1–2 commenced on date of assent

remaining provisions commenced 1 November 2013 (see s 2(1))

**Nature Conservation and Other Legislation Amendment Act (No. 2) 2013 No. 55 pts
1, 3 div 3, s 175 sch 1 pt 3**

date of assent 7 November 2013

ss 1–2 commenced on date of assent

pt 3 div 3 commenced 28 March 2014 (2014 SL No. 34)

remaining provisions not yet proclaimed into force (see s 2)

5 List of annotations

Long title amd 2010 No. 31 s 585 sch 2 pt 3

Relationship with GHG storage Act and principal mining and petroleum Acts
s 8 amd 2012 No. 20 s 323 sch 3

Declaration for Commonwealth Act
s 8A ins 2012 No. 20 s 9

Definitions
s 10 amd 2010 No. 31 s 585 sch 2 pt 3

What is an *authorised activity* for a geothermal tenure
s 22 amd 2012 No. 20 s 10

Operation of pt 1
s 30 amd 2012 No. 20 s 11

Who may apply

s 35 amd 2012 No. 20 ss 129

Requirements for making application

s 36 amd 2012 No. 20 s 281 sch 2

Deciding whether to grant geothermal permit

s 39 amd 2012 No. 20 ss 12, 130

Provisions and granting of geothermal permit

s 40 amd 2011 No. 2 s 48

Verification may be required

s 50 amd 2012 No. 20 s 281 sch 2

Deciding application

s 62 amd 2011 No. 2 s 49

Term of declaration

s 68 amd 2012 No. 20 s 281 sch 2

Ministerial direction to apply for geothermal lease

s 72 amd 2012 No. 20 s 281 sch 2

Operation of pt 1

s 74 amd 2011 No. 2 s 50; 2012 No. 20 s 13

Who may apply

s 77 amd 2012 No. 20 s 14

Deciding whether to grant geothermal lease

s 80 amd 2012 No. 20 s 15

Provisions about grant and conditions of geothermal lease for coordinated project

prov hdg amd 2012 No. 43 s 325 sch 2

s 83 amd 2012 No. 43 s 325 sch 2

Deciding whether to approve proposed plan

s 97 amd 2011 No. 2 s 51

Ministerial approval of proposed geothermal coordination arrangement

s 141 amd 2011 No. 2 s 52

Proposed GHG, mining or petroleum lease declared a coordinated project

prov hdg amd 2012 No. 43 s 325 sch 2

s 167 amd 2012 No. 43 s 325 sch 2

Additional ground for refusing application

s 169 amd 2012 No. 20 s 281 sch 2

CHAPTER 6—GENERAL PROVISIONS FOR GEOTHERMAL TENURES**Area of geothermal tenure**

s 184 amd 2012 No. 20 s 16

References to blocks of geothermal tenure

s 185 amd 2012 No. 20 s 17

Relinquishment report for partial relinquishment

s 190 amd 2012 No. 20 s 131

End of tenure report

s 191 amd 2012 No. 20 s 125 sch 1

Requirements for drilling geothermal well

s 198 amd 2013 No. 51 s 229 sch 1

Obligation to decommission

s 200 amd 2013 No. 51 s 229 sch 1

Responsibility for geothermal well after decommissioning

s 202 amd 2012 No. 16 s 78 sch

Minister's power to require additional security

s 205 amd 2012 No. 20 s 125 sch 1

Required contents of entry notice

s 212 amd 2012 No. 16 s 78 sch

Coordinated projects excluded from div 1

prov hdg amd 2012 No. 43 s 325 sch 2

s 234 amd 2012 No. 43 s 325 sch 2

Conditions public land authority may impose

s 242 amd 2013 No. 51 s 229 sch 1

Parties may seek conference or independent ADR

s 254 amd 2012 No. 20 s 125 sch 1

Geothermal register

s 272 amd 2012 No. 20 s 18

Arrangements with other departments for copies from geothermal register

s 275 amd 2011 No. 2 s 53

PART 11—DEALINGS

pt hdg sub 2012 No. 20 s 132

Division 1—Preliminary

div hdg sub 2012 No. 20 s 132

Definitions for pt 11

s 277A ins 2012 No. 20 s 132 (amd 2013 No. 10 s 145(1))

What is a *dealing* with a geothermal tenure

s 278 sub 2012 No. 20 s 132

Prohibited dealings

s 279 sub 2012 No. 20 s 132 (amd 2013 No. 10 s 145(2))

Types of transfers

s 280 sub 2012 No. 20 s 132

Division 2—Registration of dealings generally**div hdg** sub 2012 No. 20 s 132**Registration required for all dealings****s 281** sub 2012 No. 20 s 132**Obtaining registration****s 282** sub 2012 No. 20 s 132**Effect of approval and registration****s 283** sub 2012 No. 20 s 132**Division 3—Approval of assessable transfers****div hdg** sub 2012 No. 20 s 132**Indicative approval****s 284** sub 2012 No. 20 s 132**Applying for approval of assessable transfer****s 285** sub 2012 No. 20 s 132**Deciding application****s 286** sub 2012 No. 20 s 132**Security may be required****s 287** sub 2012 No. 20 s 132**Notice of decision****s 288** sub 2012 No. 20 s 132**PART 11A—RECORDING ASSOCIATED AGREEMENTS****pt hdg** ins 2012 No. 20 s 132**Definition for pt 11A****s 289** sub 2012 No. 20 s 132**Recording associated agreements****s 289A** ins 2012 No. 20 s 132**Effect of recording associated agreements****s 289B** ins 2012 No. 20 s 132**PART 11B—CAVEATS****pt 11B (ss 289C–289I)** ins 2012 No. 20 s 132**General conditions for renewal application****s 290** amd 2012 No. 20 s 19**Deciding application****s 294** amd 2012 No. 20 s 20**When noncompliance action may be taken****s 321** amd 2012 No. 20 s 323 sch 3**Restriction on carrying out geothermal activities****s 327** amd 2013 No. 51 s 229 sch 1

Geothermal tenure holder's measurement obligations

s 329 amd 2013 No. 51 s 229 sch 1

Duty to avoid interference in carrying out geothermal activities

s 330 amd 2013 No. 51 s 229 sch 1

Obstruction of geothermal tenure holder

s 331 amd 2013 No. 51 s 229 sch 1

False or misleading information

s 332 amd 2013 No. 51 s 229 sch 1

Liability of executive officer—offence committed by corporation against s 327

s 333 sub 2013 No. 51 s 58

Executive officer may be taken to have committed offence

s 333A ins 2013 No. 51 s 58

Extinguishing geothermal interests on the taking of land in a geothermal tenure's area (other than by easement)

s 350A ins 2012 No. 20 s 21

Effect of extinguishment of geothermal interests on the taking of land in a geothermal tenure's area (other than by easement)

s 350B ins 2012 No. 20 s 21

Applications relating to land taken under a resumption law for which geothermal interests were extinguished

s 350C ins 2012 No. 20 s 21

Compensation for effect of taking of land in a geothermal tenure's area on geothermal interests

s 350D ins 2012 No. 20 s 21

Joint holders of a geothermal tenure

s 351 amd 2012 No. 20 s 133

General restrictions on right to carry out authorised activity

s 357 amd 2012 No. 20 s 125 sch 1

Restrictions on carrying out authorised activities on particular land

s 358 amd 2012 No. 20 s 281 sch 2

Place or way for making applications, lodging documents or making submissions

s 363 amd 2012 No. 20 s 134

Requirements for making an application

s 364 amd 2012 No. 20 s 135

Request to applicant about application

s 365 sub 2012 No. 20 s 136

Refusing application for failure to comply with request

s 366 amd 2012 No. 20 s 137

Notice to progress geothermal tenure or renewal application

s 366A ins 2012 No. 20 s 138

Practice manual

s 383 amd 2012 No. 20 s 139

Regulation-making power

s 385 amd 2012 No. 20 s 140; 2013 No. 10 s 41

CHAPTER 9—REPEAL AND TRANSITIONAL PROVISIONS**PART 2—TRANSITIONAL PROVISIONS FOR ACT No. 31 OF 2010**

pt hdg amd 2012 No. 20 s 22

Compliance with land access code

s 397 amd 2011 No. 2 s 54

Application of particular provisions of this Act

s 398 amd 2012 No. 20 s 125 sch 1

**PART 3—TRANSITIONAL PROVISIONS FOR MINES LEGISLATION
(STREAMLINING) AMENDMENT ACT 2012**

pt hdg ins 2012 No. 20 s 23

Division 1—Preliminary

div hdg ins 2012 No. 20 s 23

Definitions for pt 3s 404 prev s 404 om R0A (see RA s 40)
pres s 404 ins 2012 No. 20 s 23**Division 2—Transitional provisions for amendments in amending Act commencing
on assent**

div hdg ins 2012 No. 20 s 23

Land in a geothermal tenure's area taken before the commencements 405 prev s 405 om R0A (see RA s 40)
pres s 405 ins 2012 No. 20 s 23
amd 2013 No. 23 s 352 sch 1 pt 1**Land in a geothermal tenure's area for which notice of intention to resume given
before the commencement**s 406 prev s 406 om R0A (see RA s 40)
pres s 406 ins 2012 No. 20 s 23**Division 3—Transitional provisions for amendments in amending Act commencing
by proclamation**

div hdg ins 2012 No. 20 s 141

Undecided applications for approval of particular dealings 407 prev s 407 om R0A (see RA s 40)
pres s 407 ins 2012 No. 20 s 141**Deciding applications for approval of assessable transfers until commencement of
particular provisions**

s 408 prev s 408 om R0A (see RA s 40)

pres s 408 ins 2012 No. 20 s 141

Uncommenced appeals about refusal to approve particular dealing

s 409 prev s 409 om R0A (see RA s 40)
pres s 409 ins 2012 No. 20 s 141

Unfinished appeals about refusal to approve particular dealing

s 410 prev s 410 om R0A (see RA s 40)
pres s 410 ins 2012 No. 20 s 141

CHAPTER 10—AMENDMENT OF ACTS

ch hdg om R1 (see RA s 7(1)(k))

PART 1—AMENDMENTS COMMENCING ON DATE OF ASSENT

pt hdg om R0A (see RA s 7(1)(k))

Division 1—Amendment of Electricity Act 1994

div hdg om R0A (see RA s 7(1)(k))

Division 2—Amendment of Geothermal Exploration Act 2004

div hdg om R0A (see RA s 7(1)(k))

Division 3—Amendment of Greenhouse Gas Storage Act 2009

div hdg om R0A (see RA ss 7(1)(k))

Amendment of s 28 (Reservation in land grants)

s 411 om R0A (see RA s 40)

Amendment of s 35 (Requirements for making tender)

s 412 om R0A (see RA s 40)

Omission of s 36 (Requirements for verification statement)

s 413 om R0A (see RA s 40)

Amendment of s 56 (Verification may be required)

s 414 om R0A (see RA s 40)

Amendment of s 114 (Requirements for making permit-related application)

s 415 om R0A (see RA s 40)

Omission of s 115 (Requirements for verification statement)

s 416 om R0A (see RA s 40)

Amendment of s 125 (Call for tenders)

s 417 om R0A (see RA s 40)

Amendment of s 148 (Verification may be required)

s 418 om R0A (see RA s 40)

Replacement of s 427 (Ministerial directions about the giving of information)

s 419 om R0A (see RA s 40)

Division 4—Amendment of Mineral Resources Act 1989

div 4 (ss 420–424) om R0A (see RA ss 7(1)(k) and 40)

Division 5—Amendment of Petroleum Act 1923**div 5** (ss 425–426) om ROA (see RA ss 7(1)(k) and 40)**Division 6—Amendment of Petroleum and Gas (Production and Safety) Act 2004****div 6** (ss 427–436) om ROA (see RA ss 7(1)(k) and 40)**PART 2—AMENDMENTS RELATING TO LAND ACCESS AND OWNERS AND OCCUPIERS****pt hdg** om ROCA (see RA s 7(1)(k))**Division 1—Amendment of Greenhouse Gas Storage Act 2009****div 1** (ss 437–449) om ROC (see RA ss 7(1)(k) and 40)**Division 2—Amendment of Mineral Resources Act 1989****div 2** (ss 450–466) om ROCA (see RA s 7(1)(k) and 40)**Division 3—Amendment of Petroleum Act 1923****div 3** (ss 467–477) om ROC (see RA ss 7(1)(k) and 40)**Division 4—Amendment of Petroleum and Gas (Production and Safety) Act 2004****div 4** (ss 478–492) om ROC (see RA ss 7(1)(k) and 40)**PART 3—OTHER AMENDMENTS****pt hdg** om R1 (see RA s 7(1)(k))**Division 1—Amendment of Aboriginal Land Act 1991****div 1** (ss 493–495) om R1 (see RA ss 7(1)(k) and 40)**Division 2—Amendment of Environmental Protection Act 1994****div 2** (ss 496–501) om R1 (see RA ss 7(1)(k) and 40)**Division 3—Amendment of Greenhouse Gas Storage Act 2009****div 3** (ss 502–517) om R1 (see RA ss 7(1)(k) and 40)**Division 4—Amendment of Land Title Act 1994****div 4** (ss 518–519) om R1 (see RA ss 7(1)(k) and 40)**Division 5—Amendment of Mineral Resources Act 1989****div 5** (ss 520–528) om R1 (see RA ss 7(1)(k) and 40)**Division 6—Amendment of Pest Management Act 2001****div 6** (ss 529–532) om ROB (see RA ss 7(1)(k) and 40)**Division 7—Amendment of Petroleum Act 1923****div 7** (ss 533–543) om R1 (see RA ss 7(1)(k) and 40)**Division 8—Amendment of Petroleum and Gas (Production and Safety) Act 2004****div 8** (ss 544–574) om R1 (see RA ss 7(1)(k) and 40)**Division 9—Amendment of Torres Strait Islander Land Act 1991****div 9** (ss 575–577) om R1 (see RA ss 7(1)(k) and 40)**Division 10—Amendment of Valuation of Land Act 1944****div 10** (ss 578–579) om R1 (see RA ss 7(1)(k) and 40)

Division 11—Amendment of Water Act 2000

div 11 (ss 580–582) om R1 (see RA ss 7(1)(k) and 40)

Division 12—Amendment of Workplace Health and Safety Act 1995

div 12 (ss 583–584) om R1 (see RA ss 7(1)(k) and 40)

Division 13—Amendment of other Acts

div 13 (s 585) om R1 (see RA ss 7(1)(k) and 40)

SCHEDULE 1—DECISIONS SUBJECT TO APPEAL

amd 2012 No. 20 s 142

SCHEDULE 2—DICTIONARY

prev sch 2 amd ROA, ROB (see RA s 40)

om R1 (see RA s 40)

pres sch 2 (prev sch 3) renum 2010 No. 31 s 585 sch 2 pt 3

def *acquired land* ins 2012 No. 20 s 24

def *ALA* ins 2012 No. 20 s 24

def *apply* ins 2012 No. 20 s 143(2)

def *assessable transfer* ins 2012 No. 20 s 143(2)

def *associated agreement* ins 2012 No. 20 s 143(2)

def *coordinated project* (prev def *significant project*) amd 2012 No. 43 s 325
sch 2

def *geothermal interest* ins 2012 No. 20 s 24

def *give* ins 2012 No. 20 s 143(2)

def *indicative approval* ins 2012 No. 20 s 143(2)

def *made* amd 2012 No. 20 s 143(3)

def *make submissions* ins 2012 No. 20 s 143(2)

def *non-assessable transfer* ins 2012 No. 20 s 143(2)

def *notice of intention to resume* ins 2012 No. 20 s 24

def *occupier* amd 2013 No. 10 s 42

def *owner* amd 2012 No. 20 s 125 sch 1; 2013 No. 55 s 104

def *pipeline licence* om 2012 No. 20 s 125 sch 1

def *resumption law* ins 2012 No. 20 s 24

def *resumption notice* ins 2012 No. 20 s 24

def *take* ins 2012 No. 20 s 24

def *third party transfer* om 2012 No. 20 s 143(1)

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