



# **Resources Safety and Health Queensland Act 2020**

**Current as at 1 March 2023**

© State of Queensland 2023



This work is licensed under a Creative Commons Attribution 4.0 International License.



Queensland

# Resources Safety and Health Queensland Act 2020

## Contents

---

		Page
<b>Part 1</b>	<b>Preliminary</b>	
1	Short title . . . . .	5
2	Commencement . . . . .	5
3	Definitions . . . . .	5
4	Main purposes . . . . .	5
<b>Part 2</b>	<b>Resources Safety and Health Queensland</b>	
<b>Division 1</b>	<b>Establishment</b>	
5	Establishment of RSHQ . . . . .	6
6	Legal status . . . . .	6
7	Membership . . . . .	6
8	RSHQ represents the State . . . . .	6
9	Application of other Acts . . . . .	7
<b>Division 2</b>	<b>Functions and powers</b>	
10	Functions . . . . .	7
11	Powers . . . . .	7
12	Performing functions and exercising powers inside and outside Queensland . . . . .	8
13	Ministerial direction . . . . .	8
<b>Division 3</b>	<b>Chief executive officer</b>	
14	Appointment . . . . .	9
15	Disqualification as CEO . . . . .	9
16	Criminal history report . . . . .	9
17	Term . . . . .	10
18	Remuneration and conditions . . . . .	10
19	Removal by Governor in Council . . . . .	10
20	Vacancy in office . . . . .	11

Contents

---

21	CEO not to engage in other paid employment .....	11
22	Conflicts of interest .....	11
23	Functions .....	12
24	Powers .....	12
25	Delegation .....	12
26	Acting CEO .....	12
27	Preservation of rights .....	13
<b>Division 4</b>	<b>Other matters</b>	
28	Annual report .....	14
<b>Part 3</b>	<b>Employing office</b>	
<b>Division 1</b>	<b>Establishment</b>	
29	Establishment of employing office .....	14
30	Employing office represents the State .....	15
31	Application of other Acts .....	15
32	Functions .....	16
33	Powers .....	16
34	Staff .....	16
<b>Division 2</b>	<b>Executive officer</b>	
35	Appointment .....	16
36	Disqualification as executive officer .....	17
37	Term .....	17
38	Remuneration and conditions .....	17
39	Removal by Governor in Council .....	18
40	Vacancy in office .....	18
41	Executive officer not to engage in other paid employment .....	18
42	Conflicts of interest .....	19
43	Functions .....	19
44	Powers .....	19
45	Delegation .....	19
46	Acting executive officer .....	20
47	Preservation of rights .....	20
<b>Part 4</b>	<b>Commissioner for Resources Safety and Health</b>	
48	Appointment .....	21
49	Qualifications for appointment .....	21
50	Disqualification as commissioner .....	21
51	Criminal history report .....	22

---

52	Term .....	22
53	Remuneration and conditions .....	22
54	Removal by Governor in Council .....	23
55	Vacancy in office .....	23
56	Commissioner not to engage in other paid employment .....	24
57	Conflicts of interest .....	24
58	Functions .....	24
59	Powers .....	25
60	Acting commissioner .....	25
61	Preservation of rights .....	25
62	Staff services from government agency .....	26
63	Ministerial direction .....	27
64	Annual report .....	28
65	Annual budget .....	29
<b>Part 5</b>	<b>General</b>	
66	Disclosure of information .....	30
67	CEO may disclose information to particular entities .....	30
68	Regulation-making power .....	31
<b>Part 6</b>	<b>Transfer notices</b>	
69	Definitions for part .....	31
70	Minister may make transfer notice .....	32
71	Application of instruments .....	33
<b>Schedule 1</b>	<b>Dictionary</b> .....	35



---

# Resources Safety and Health Queensland Act 2020

**An Act to establish a statutory body called Resources Safety and Health Queensland to regulate safety and health in the resources sector, establish an employing office and provide for the Commissioner for Resources Safety and Health**

## Part 1 Preliminary

### 1 Short title

This Act may be cited as the *Resources Safety and Health Queensland Act 2020*.

### 2 Commencement

This Act, other than sections 120 and 122, commences on a day to be fixed by proclamation.

### 3 Definitions

The dictionary in schedule 1 defines particular words used in this Act.

### 4 Main purposes

The main purposes of this Act are—

- (a) to establish an independent statutory body called Resources Safety and Health Queensland to regulate safety and health in the resources sector; and

- (b) to establish the Resources Safety and Health Queensland employing office; and
- (c) to provide for the Commissioner for Resources Safety and Health.

## **Part 2                      Resources Safety and Health    Queensland**

### **Division 1                      Establishment**

#### **5                      Establishment of RSHQ**

Resources Safety and Health Queensland (*RSHQ*) is established.

#### **6                      Legal status**

RSHQ—

- (a) is a body corporate; and
- (b) may sue and be sued in its corporate name.

#### **7                      Membership**

RSHQ consists of—

- (a) the CEO; and
- (b) the organisational unit under the control of the CEO.

#### **8                      RSHQ represents the State**

- (1) RSHQ represents the State.
- (2) Without limiting subsection (1), RSHQ has the privileges and immunities of the State.



## **9 Application of other Acts**

- (1) RSHQ is—
  - (a) a unit of public administration under the *Crime and Corruption Act 2001*; and
  - (b) a statutory body under—
    - (i) the *Financial Accountability Act 2009*; and
    - (ii) the *Statutory Bodies Financial Arrangements Act 1982*.
- (2) The *Statutory Bodies Financial Arrangements Act 1982*, part 2B sets out the way that Act affects RSHQ's powers.

## **Division 2 Functions and powers**

### **10 Functions**

- (1) The main function of RSHQ is to administer the Resources Safety Acts and to further their purposes.
- (2) Without limiting subsection (1), RSHQ has the following functions—
  - (a) protecting the safety and health of persons in the resources industry;
  - (b) regulating safety and health in the resources industry;
  - (c) monitoring compliance with, and the effectiveness of, the Resources Safety Acts;
  - (d) carrying out commercial activities incidental to RSHQ's main function.
- (3) RSHQ also has the functions given to it under this Act or another Act.

### **11 Powers**

- (1) RSHQ has all the powers of an individual and may, for example—

[s 12]

---

- (a) enter into contracts or agreements; and
  - (b) deal in land or other property; and
  - (c) appoint agents and attorneys; and
  - (d) engage consultants or contractors; and
  - (e) establish funds and accounts with any financial institution in Australia; and
  - (f) charge an entity a fee for services or facilities it supplies; and
  - (g) do anything else necessary or convenient to be done in the performance of RSHQ's functions.
- (2) RSHQ also has the powers given to it under this Act or another Act.

## **12 Performing functions and exercising powers inside and outside Queensland**

RSHQ may perform its functions, or exercise its powers, inside or outside Queensland.

## **13 Ministerial direction**

- (1) The Minister may give a written direction to RSHQ about the performance of RSHQ's functions under this Act or the exercise of RSHQ's powers under this Act if the Minister is satisfied it is necessary to give the direction in the public interest.
- (2) Without limiting subsection (1), the direction may be to give reports and information to the Minister.
- (3) RSHQ must—
  - (a) comply with a direction given under subsection (1); and
  - (b) publish a copy of the direction on a Queensland government website.
- (4) To remove any doubt, it is declared that a direction under subsection (1) must not be about the performance of RSHQ's

---

functions under a Resources Safety Act or the exercise of RSHQ's powers under a Resources Safety Act.

## **Division 3                    Chief executive officer**

### **14            Appointment**

- (1) The Governor in Council must appoint a chief executive officer of RSHQ (the *CEO*).
- (2) The CEO is appointed under this Act and not the *Public Sector Act 2022*.
- (3) To be appointed as the CEO, a person must have a professional qualification relevant to the resources industry, and professional experience in the resources sector.

### **15            Disqualification as CEO**

A person is disqualified from being appointed, or continuing as, the CEO if the person—

- (a) has a conviction, other than a spent conviction, for an indictable offence; or
- (b) is an insolvent under administration; or
- (c) is disqualified from managing corporations because of the Corporations Act, part 2D.6; or
- (d) contravenes section 21 or 22.

### **16            Criminal history report**

- (1) To decide if a person is disqualified from becoming or continuing as the CEO, the Minister may ask the commissioner of the police service for—
  - (a) a written report about the criminal history of the person; and

- (b) a brief description of the circumstances of a conviction mentioned in the criminal history.
- (2) However, the Minister may make the request only if the person has given the Minister written consent for the request.
- (3) The commissioner of the police service must comply with the request.
- (4) However, the duty to comply applies only to information in the possession of the commissioner of the police service or to which the commissioner of the police service has access.
- (5) The Minister must ensure the report is destroyed as soon as practicable after it is no longer needed for the purpose for which it was requested.

## **17 Term**

- (1) The CEO holds office for the term stated in the CEO's instrument of appointment.
- (2) The stated term must not be more than 5 years.
- (3) The CEO may be reappointed.

## **18 Remuneration and conditions**

- (1) The CEO is to be paid the remuneration and other allowances decided by the Governor in Council.
- (2) The remuneration must not be reduced during the CEO's term of office without the CEO's written consent.
- (3) The CEO holds office on the terms and conditions, not provided for by this Act, that are decided by the Governor in Council.

## **19 Removal by Governor in Council**

The Governor in Council may, on the Minister's recommendation, remove the CEO from office if the Minister is satisfied the CEO—

- (a) has engaged in—
  - (i) inappropriate or improper conduct in an official capacity; or
  - (ii) inappropriate or improper conduct in a private capacity that reflects seriously and adversely on the office; or
- (b) has become incapable of performing the CEO's functions; or
- (c) has neglected the CEO's duties or performed the CEO's functions incompetently.

## **20 Vacancy in office**

The office of the CEO becomes vacant if the CEO—

- (a) completes a term of office and is not reappointed; or
- (b) resigns office by signed notice given to the Minister; or
- (c) becomes disqualified under section 15 from continuing as CEO; or
- (d) is removed under section 19 as CEO.

## **21 CEO not to engage in other paid employment**

The CEO must not, without the Minister's prior written approval—

- (a) engage in paid employment outside the responsibilities of the office of the CEO; or
- (b) actively take part in the activities of a business, or in the management of a corporation carrying on a business, outside the responsibilities of the office of the CEO.

## **22 Conflicts of interest**

If the CEO has an interest that conflicts, or may conflict, with the discharge of the CEO's responsibilities, the CEO—

- (a) must disclose the nature of the interest and conflict to the Minister as soon as practicable after the relevant facts come to the CEO's knowledge; and
- (b) must not take action or further action concerning a matter that is, or may be, affected by the conflict unless authorised by the Minister.

## **23 Functions**

- (1) The CEO has the following functions—
  - (a) ensuring the effective and efficient administration and operation of RSHQ and the performance of its functions; and
  - (b) managing the organisational unit under the control of the CEO.
- (2) The CEO also has the functions given to the CEO under this Act or another Act.

## **24 Powers**

- (1) The CEO has the power to do anything necessary or convenient to be done for the performance of the CEO's functions.
- (2) The CEO also has the powers given to the CEO under this Act or another Act.

## **25 Delegation**

- (1) The CEO may delegate the CEO's functions under this Act to an appropriately qualified person.
- (2) In this section—  
*functions* includes powers.

## **26 Acting CEO**

- (1) The Minister may appoint a person to act as CEO—

- 
- (a) during a vacancy in the office; or
  - (b) during any period, or during all periods, when the CEO is absent from duty or from the State or is, for another reason, unable to perform the duties of the office.
- (2) The acting CEO is appointed under this Act and not the *Public Sector Act 2022*.

## **27 Preservation of rights**

- (1) This section applies if a public service officer is appointed as the CEO.
- (2) The person keeps all rights accrued or accruing to the person as a public service officer as if service as the CEO were a continuation of service as a public service officer.
- (3) Without limiting subsection (2), the person's appointment does not—
  - (a) prejudice the person's existing or accruing rights to superannuation or recreation, sick, long service or other leave; or
  - (b) interrupt continuity of service, except that the employee is not entitled to claim the benefit of a right or entitlement more than once in relation to the same period of service; or
  - (c) entitle the person to a payment or other benefit because the person is no longer a public service officer.
- (4) At the completion of the person's term of office under section 20(a) or resignation as the CEO under section 20(b)—
  - (a) the person has the right to be appointed to an office in the public service at a salary level no less than the current salary level of an office equivalent to the office the person held before being appointed as the CEO; and
  - (b) the person's service as the CEO is taken to be service of a like nature in the public service for deciding the person's rights as an officer of the public service.

## **Division 4                    Other matters**

### **28            Annual report**

- (1) RSHQ must include in its annual report prepared under the *Financial Accountability Act 2009*, section 63—
  - (a) details of the functions performed by RSHQ during the year; and
  - (b) information about how efficiently and effectively RSHQ has performed its functions, including, for example, identifying key achievements and financial and non-financial performance; and
  - (c) details of—
    - (i) any interest disclosed by the CEO under section 22(a); and
    - (ii) any action authorised by the Minister under section 22(b); and
  - (d) details of—
    - (i) each direction given by the Minister under section 13 during the financial year to which the report relates; and
    - (ii) action taken by RSHQ because of the direction.
- (2) The report must not be prepared in a way that discloses confidential information.

## **Part 3                            Employing office**

### **Division 1                    Establishment**

#### **29            Establishment of employing office**

- (1) The Resources Safety and Health Queensland employing office (the *employing office*) is established.



- 
- (2) The employing office consists of—
    - (a) the executive officer; and
    - (b) the staff of the employing office.
  - (3) The employing office is a separate entity from RSHQ.

### **30 Employing office represents the State**

- (1) The employing office represents the State.
- (2) Without limiting subsection (1), the employing office has the status, privileges and immunities of the State.

### **31 Application of other Acts**

- (1) The employing office is—
  - (a) a unit of public administration under the *Crime and Corruption Act 2001*; and
  - (b) a statutory body under—
    - (i) the *Financial Accountability Act 2009*; and
    - (ii) the *Statutory Bodies Financial Arrangements Act 1982*.
- (2) For applying the *Financial Accountability Act 2009* to the employing office as a statutory body—
  - (a) the executive officer is taken to be the chairperson of the employing office; and
  - (b) the *Financial Accountability Act 2009* is taken to require the executive officer to consider the annual financial statements and the auditor-general's report as soon as practicable after they are received by the employing office; and
  - (c) the *Financial Accountability Act 2009* is taken to require the executive officer to consider any observations, suggestions or comments given to the executive officer by the auditor-general as soon as practicable after the executive officer receives them.

### **32 Functions**

- (1) The main functions of the employing office are—
  - (a) entering into, for the State, a work performance arrangement with RSHQ under which employees of the employing office perform work for RSHQ; and
  - (b) employing, for the State, staff to perform work for RSHQ under the work performance arrangement; and
  - (c) doing anything incidental to the discharge of the functions mentioned in paragraphs (a) and (b).
- (2) Also, the employing office has any other function conferred on the employing office under this Act or another Act.
- (3) This section does not limit the employing office's power to enter into and give effect to a work performance arrangement with a government entity other than RSHQ.

### **33 Powers**

- (1) The employing office has the power to do anything necessary or convenient to be done for the performance of the employing office's functions.
- (2) The employing office also has the powers given to it under this Act or another Act.

### **34 Staff**

The staff of the employing office are to be employed under the *Public Sector Act 2022*.

## **Division 2 Executive officer**

### **35 Appointment**

- (1) There is to be an executive officer of the employing office.

- (2) The executive officer is to be appointed by the Governor in Council.
- (3) The executive officer is appointed under this Act and not the *Public Sector Act 2022*.

### **36 Disqualification as executive officer**

A person is disqualified from being appointed, or continuing as, the executive officer if the person—

- (a) has a conviction, other than a spent conviction, for an indictable offence; or
- (b) is an insolvent under administration; or
- (c) is disqualified from managing corporations because of the Corporations Act, part 2D.6; or
- (d) contravenes section 41 or 42.

### **37 Term**

- (1) The executive officer holds office for the term stated in the executive officer's instrument of appointment.
- (2) The stated term must not be more than 5 years.
- (3) The executive officer may be reappointed.

### **38 Remuneration and conditions**

- (1) The executive officer is to be paid the remuneration and other allowances decided by the Governor in Council.
- (2) The remuneration must not be reduced during the executive officer's term of office without the executive officer's written consent.
- (3) The executive officer holds office on the terms and conditions, not provided for by this Act, that are decided by the Governor in Council.

### **39 Removal by Governor in Council**

The Governor in Council may, on the Minister's recommendation, remove the executive officer from office if the Minister is satisfied the executive officer—

- (a) has engaged in—
  - (i) inappropriate or improper conduct in an official capacity; or
  - (ii) inappropriate or improper conduct in a private capacity that reflects seriously and adversely on the office; or
- (b) has become incapable of performing the executive officer's functions; or
- (c) has neglected the executive officer's duties or performed the executive officer's functions incompetently.

### **40 Vacancy in office**

The office of the executive officer becomes vacant if the executive officer—

- (a) completes a term of office and is not reappointed; or
- (b) resigns office by signed notice given to the Minister; or
- (c) becomes disqualified under section 36 from continuing as executive officer; or
- (d) is removed under section 39 as executive officer.

### **41 Executive officer not to engage in other paid employment**

The executive officer must not, without the Minister's prior written approval—

- (a) engage in paid employment outside the responsibilities of the office of the executive officer; or
- (b) actively take part in the activities of a business, or in the management of a corporation carrying on a business.

---

## 42 Conflicts of interest

If the executive officer has an interest that conflicts, or may conflict, with the discharge of the executive officer's responsibilities, the executive officer—

- (a) must disclose the nature of the interest and conflict to the Minister as soon as practicable after the relevant facts come to the executive officer's knowledge; and
- (b) must not take action or further action concerning a matter that is, or may be, affected by the conflict unless authorised by the Minister.

## 43 Functions

- (1) The executive officer has the function of ensuring the effective and efficient administration and operation of the employing office and the performance of its functions.
- (2) The executive officer also has the functions given to the executive officer under this Act or another Act.

## 44 Powers

- (1) The executive officer has the power to do anything necessary or convenient to be done for the performance of the executive officer's functions.
- (2) The executive officer also has the powers given to the executive officer under this Act or another Act.

## 45 Delegation

- (1) The executive officer may delegate the executive officer's functions under this Act to another appropriately qualified officer of the employing office.
- (2) In this section—  
*functions* includes powers.

#### **46 Acting executive officer**

- (1) The Minister may appoint a person to act as executive officer—
  - (a) during a vacancy in the office; or
  - (b) during any period, or during all periods, when the executive officer is absent from duty or from the State or is, for another reason, unable to perform the duties of the office.
- (2) The acting executive officer is appointed under this Act and not the *Public Sector Act 2022*.

#### **47 Preservation of rights**

- (1) This section applies if a public service officer is appointed as the executive officer.
- (2) The person keeps all rights accrued or accruing to the person as a public service officer as if service as the executive officer were a continuation of service as a public service officer.
- (3) Without limiting subsection (2), the person's appointment does not—
  - (a) prejudice the person's existing or accruing rights to superannuation or recreation, sick, long service or other leave; or
  - (b) interrupt continuity of service, except that the employee is not entitled to claim the benefit of a right or entitlement more than once in relation to the same period of service; or
  - (c) entitle the person to a payment or other benefit because the person is no longer a public service officer.
- (4) At the completion of the person's term of office under section 40(a) or resignation as the executive officer under section 40(b)—
  - (a) the person has the right to be appointed to an office in the public service at a salary level no less than the current salary level of an office equivalent to the office

the person held before being appointed as the executive officer; and

- (b) the person's service as the executive officer is taken to be service of a like nature in the public service for deciding the person's rights as an officer of the public service.

## **Part 4 Commissioner for Resources Safety and Health**

### **48 Appointment**

- (1) The Governor in Council must appoint a Commissioner for Resources Safety and Health (the *commissioner*).
- (2) The commissioner is appointed under this Act and not the *Public Sector Act 2022*.

### **49 Qualifications for appointment**

To be appointed as the commissioner, a person must have—

- (a) a professional qualification relevant to the resources industry, and professional experience in safety and health in the resources sector; or
- (b) professional experience in senior operational positions relating to the management of safety and health in the resources sector, and demonstrated competence in the management of safety and health in the resources sector.

### **50 Disqualification as commissioner**

A person is disqualified from becoming, or continuing as, the commissioner if the person—

- (a) has a conviction, other than a spent conviction, for an indictable offence; or
- (b) is an insolvent under administration; or

- (c) is disqualified from managing corporations because of the Corporations Act, part 2D.6; or
- (d) contravenes section 56 or 57.

## **51 Criminal history report**

- (1) To decide if a person is disqualified from becoming or continuing as the commissioner, the Minister may ask the commissioner of the police service for—
  - (a) a written report about the criminal history of the person; and
  - (b) a brief description of the circumstances of a conviction mentioned in the criminal history.
- (2) However, the Minister may make the request only if the person has given the Minister written consent for the request.
- (3) The commissioner of the police service must comply with the request.
- (4) However, the duty to comply applies only to information in the possession of the commissioner of the police service or to which the commissioner of the police service has access.
- (5) The Minister must ensure the report is destroyed as soon as practicable after it is no longer needed for the purpose for which it was requested.

## **52 Term**

- (1) The commissioner holds office for the term stated in the commissioner's instrument of appointment.
- (2) The stated term must not be more than 5 years.
- (3) The commissioner may be reappointed.

## **53 Remuneration and conditions**

- (1) The commissioner is to be paid the remuneration and other allowances decided by the Governor in Council.



- 
- (2) The remuneration must not be reduced during the commissioner's term of office without the commissioner's written consent.
  - (3) The commissioner holds office on the terms and conditions, not provided for by this Act, that are decided by the Governor in Council.

#### **54 Removal by Governor in Council**

The Governor in Council may, on the Minister's recommendation, remove the commissioner from office if the Minister is satisfied the commissioner—

- (a) has engaged in—
  - (i) inappropriate or improper conduct in an official capacity; or
  - (ii) inappropriate or improper conduct in a private capacity that reflects seriously and adversely on the office; or
- (b) has become incapable of performing the commissioner's functions; or
- (c) has neglected the commissioner's duties or performed the commissioner's functions incompetently.

#### **55 Vacancy in office**

The office of the commissioner becomes vacant if the commissioner—

- (a) completes a term of office and is not reappointed; or
- (b) resigns office by signed notice given to the Minister; or
- (c) becomes disqualified under section 50 from continuing as commissioner; or
- (d) is removed under section 54 as commissioner.

## **56 Commissioner not to engage in other paid employment**

The commissioner must not, without the Minister's prior written approval—

- (a) engage in paid employment outside the responsibilities of the office of the commissioner; or
- (b) actively take part in the activities of a business, or in the management of a corporation carrying on a business.

## **57 Conflicts of interest**

If the commissioner has an interest that conflicts, or may conflict, with the discharge of the commissioner's responsibilities, the commissioner—

- (a) must disclose the nature of the interest and conflict to the Minister as soon as practicable after the relevant facts come to the commissioner's knowledge; and
- (b) must not take action or further action concerning a matter that is, or may be, affected by the conflict unless authorised by the Minister.

## **58 Functions**

(1) The commissioner has the following functions—

- (a) advising the Minister on matters relating to safety and health in the resources sector;
- (b) responding to requests by the Minister for advice on particular matters, including, for example, the strategic direction of RSHQ;
- (c) fulfilling the following roles—
  - (i) chairperson of the coal mining safety and health advisory committee;
  - (ii) chairperson of the mining safety and health advisory committee;

- (d) engaging with representatives of the explosives sector, and petroleum and gas sector, about promoting and protecting the safety and health of persons who may be affected by the operation of those sectors;
  - (e) monitoring, reviewing, and reporting to the Minister on the performance of RSHQ's functions.
- (2) The commissioner also has the functions given to the commissioner under this Act or another Act.
  - (3) The commissioner must, in performing the commissioner's functions, act independently, impartially and in the public interest.

## **59 Powers**

- (1) The commissioner has the power to do anything necessary or convenient to be done for the performance of the commissioner's functions.
- (2) The commissioner also has the powers given to the commissioner under this Act or another Act.

## **60 Acting commissioner**

- (1) The Minister may appoint a person to act as commissioner—
  - (a) during a vacancy in the office; or
  - (b) during any period, or during all periods, when the commissioner is absent from duty or from the State or is, for another reason, unable to perform the duties of the office.
- (2) The acting commissioner is appointed under this Act and not the *Public Sector Act 2022*.

## **61 Preservation of rights**

- (1) This section applies if a public service officer is appointed as the commissioner.

[s 62]

---

- (2) The person keeps all rights accrued or accruing to the person as a public service officer as if service as the commissioner were a continuation of service as a public service officer.
- (3) Without limiting subsection (2), the person's appointment does not—
  - (a) prejudice the person's existing or accruing rights to superannuation or recreation, sick, long service or other leave; or
  - (b) interrupt continuity of service, except that the employee is not entitled to claim the benefit of a right or entitlement more than once in relation to the same period of service; or
  - (c) entitle the person to a payment or other benefit because the person is no longer a public service officer.
- (4) At the completion of the person's term of office under section 55(a) or resignation as the commissioner under section 55(b)—
  - (a) the person has the right to be appointed to an office in the public service at a salary level no less than the current salary level of an office equivalent to the office the person held before being appointed as the commissioner; and
  - (b) the person's service as the commissioner is taken to be service of a like nature in the public service for deciding the person's rights as an officer of the public service.

## **62 Staff services from government agency**

- (1) The commissioner may, with the agreement of the chief executive of a government agency, arrange for the services of officers or employees of the agency to be made available to the commissioner.
- (2) An officer or employee whose services are made available under subsection (1)—

- 
- (a) continues to be an officer or employee of the government agency; and
  - (b) continues to be employed or otherwise engaged by the government agency on the same terms and conditions applying to the officer or employee immediately before the services were made available; and
  - (c) is subject to the direction of the commissioner only in relation to the services made available to the commissioner and for the performance of the commissioner's functions.
- (3) Nothing in subsection (1) requires the chief executive of a government agency to enter into an arrangement mentioned in that subsection.
- (4) In this section—
- chief executive** includes—
- (a) for RSHQ—the CEO; or
  - (b) for the employing office—the executive officer.
- government agency** means—
- (a) a department or an administrative unit within a department; or
  - (b) a government owned corporation or a subsidiary of a government owned corporation; or
  - (c) an entity that is established under an Act and represents the State, including, for example, RSHQ or the employing office; or
  - (d) a local government.

## 63 Ministerial direction

- (1) The Minister may give a written direction to the commissioner about the performance of the commissioner's functions or the exercise of the commissioner's powers if the Minister is satisfied it is necessary to give the direction in the public interest.

[s 64]

---

- (2) Without limiting subsection (1), the direction may be to give reports and information to the Minister.
- (3) The direction can not be about the content of any advice or recommendation given by the commissioner.
- (4) The commissioner must—
  - (a) comply with the direction; and
  - (b) publish a copy of the direction on a Queensland government website.

## **64 Annual report**

- (1) The commissioner must—
  - (a) prepare and give to the Minister a written report about the operations of the commissioner during each financial year; and
  - (b) as soon as practicable after it is given to the Minister, publish it on a Queensland government website.
- (2) The report must be given within 4 months after the end of the financial year to which the report relates.
- (3) The report must include—
  - (a) details of the functions performed by the commissioner during the year; and
  - (b) information about how efficiently and effectively the commissioner has performed the commissioner's functions, including, for example, identifying key achievements and financial and non-financial performance; and
  - (c) details of—
    - (i) any interest disclosed by the commissioner under section 57(a); and
    - (ii) any action authorised by the Minister under section 57(b); and
  - (d) details of—

- 
- (i) each direction given by the Minister under section 63 during the financial year to which the report relates; and
    - (ii) action taken by the commissioner because of the direction.
  - (4) The report must not be prepared in a way that discloses confidential information.
  - (5) The Minister must table a copy of the report in the Legislative Assembly within 14 sitting days after receiving it.

## **65 Annual budget**

- (1) The commissioner must, before each 31 March, prepare, in consultation with the CEO, a budget of estimated costs of the commissioner for the next financial year.
- (2) The Minister must approve, or refuse to approve, a budget by each 31 May.
- (3) However, a failure by the Minister to act under subsection (2) does not prevent the Minister approving, or refusing to approve, a budget at later time.
- (4) A budget has no effect until it has been approved by the Minister on the recommendation of the commissioner and the CEO.
- (5) During a financial year the commissioner may prepare, in consultation with the CEO, amendments to the budget for that year.
- (6) An amendment of a budget has no effect until it has been approved by the Minister on the recommendation of the commissioner and the CEO.
- (7) If the commissioner and the CEO differ about what should be recommended to the Minister for an approval under this section, the Minister may still give the approval.
- (8) The commissioner may spend money in a financial year only under the budget for that year, unless the Minister otherwise approves.

- (9) This section does not require the commissioner or the CEO to give the Minister any details that would, if given, prejudice a current investigation.

## Part 5                      General

### 66      Disclosure of information

A person must not disclose information concerning the personal affairs of a person or commercially sensitive information obtained by the person in the administration of this Act, unless the disclosure is made—

- (a) with the consent of the person from whom the information was obtained; or
- (b) in the administration of this Act; or
- (c) in a proceeding under this Act or a report of the proceeding; or
- (d) in a proceeding before a court in which the information is relevant to the issue before the court.

Maximum penalty—100 penalty units.

### 67      CEO may disclose information to particular entities

- (1) The CEO may disclose anything that comes to the CEO's knowledge under this Act or a Resources Safety Act to a prescribed entity if the CEO is satisfied the disclosure would assist in the performance of the prescribed entity's functions under an Act or another law.
- (2) Subsection (1) applies despite section 66 and the prescribed confidentiality provisions.
- (3) In this section—

***prescribed confidentiality provision*** means—

- (a) the *Coal Mining Safety and Health Act 1999*, section 275A; or



- (b) the *Explosives Act 1999*, section 132; or
- (c) the *Mining and Quarrying Safety and Health Act 1999*, section 255; or
- (d) the *Petroleum and Gas (Production and Safety) Act 2004*, chapter 6, part 5.

**prescribed entity** means—

- (a) the chief executive of a department in which a Resource Act is administered; or
- (b) the WHS prosecutor; or
- (c) the director of public prosecutions.

**Resource Act** see the *Mineral and Energy Resources (Common Provisions) Act 2014*.

**WHS prosecutor** see the *Work Health and Safety Act 2011*, schedule 2, section 25.

## 68 Regulation-making power

The Governor in Council may make regulations under this Act.

# Part 6 Transfer notices

## 69 Definitions for part

In this part—

**instrument** means any document, and includes—

- (a) a written or oral agreement; and
- (b) an application; and
- (c) an accreditation, approval, certificate, entitlement, exemption, licence, manual, notice, permit, plan and any other authority.

**right** includes power, privilege and immunity.

*transfer notice* see section 70(1).

## **70 Minister may make transfer notice**

- (1) For the purpose of the establishment of RSHQ or the employing office, the Minister may, by gazette notice (a *transfer notice*), do any of the following—
- (a) transfer a business, asset or liability of the State to RSHQ or the employing office;
  - (b) grant a lease, easement or other right from the State to RSHQ or the employing office;
  - (c) vary or extinguish a lease, easement or other right held by the State;
  - (d) in relation to a lease held under the *Land Act 1994*—
    - (i) transfer the lease; or
    - (ii) change a purpose for which the lease is issued; or
    - (iii) change a condition imposed on the lease; or
    - (iv) grant a sublease;
  - (e) in relation to a reserve under the *Land Act 1994*—
    - (i) change a community purpose for which the reserve is dedicated; or
    - (ii) remove a trustee of the reserve; or
    - (iii) appoint a trustee of the reserve, subject to conditions or without conditions;
  - (f) provide whether and, if so, the extent to which, RSHQ is the successor in law of the State;
  - (g) make provision for a legal proceeding that is being, or may be, taken by or against the State to be continued or taken by or against RSHQ or the employing office;
  - (h) make provision for or about the issue, transfer or application of an instrument to RSHQ or the employing office.

- 
- (2) A transfer notice may include conditions applying to something done or to be done under the notice.
  - (3) If the Minister is satisfied it would be inappropriate for a particular matter to be stated in a transfer notice (for example, because of the size or nature of the matter), the Minister may provide for the matter by including a reference in the transfer notice to another document that is—
    - (a) signed by the Minister; and
    - (b) kept available, at a place stated in the transfer notice, for inspection by the persons to whom the matter relates.
  - (4) The transfer of a liability of the State under a transfer notice discharges the State from the liability, other than to the extent stated in the notice.
  - (5) A transfer notice has effect despite any other law or instrument.
  - (6) A transfer notice has effect on the day it is published in the gazette or a later day stated in it.
  - (7) If a transfer notice makes provision for a matter under subsection (1)(h) in relation to an instrument, the responsible entity for the instrument must take the action necessary to register or record the effect of the transfer notice, including—
    - (a) updating a register or other record; and
    - (b) amending, cancelling or issuing an instrument.
  - (8) In this section—

*lease* includes any derivative under lease of the lease.

*responsible entity*, for an instrument, means the entity required or authorised by law to register or record matters in relation to the instrument.

## 71 Application of instruments

- (1) This section applies if a transfer notice provides for an instrument that applied to an entity (the *transferor*) to apply to another entity (the *transferee*) in place of the transferor.

- (2) Without limiting the application of the transfer notice to the instrument—
- (a) any right, title, interest or liability of the transferor arising under or relating to the instrument is taken to be transferred from the transferor to the transferee; and
  - (b) if the instrument, including a benefit or right provided by the instrument, is given to, by or in favour of the transferor, the instrument is taken to have been given to, by or in favour of the transferee; and
  - (c) the transferee is taken to be a party to the instrument in place of the transferor; and
  - (d) a reference in the instrument to the transferor is, to the extent possible and if the context permits, taken to be a reference to the transferee; and
  - (e) if an application was made for the instrument in the name of the transferor, the application is taken to have been made in the name of the transferee; and
  - (f) if the instrument is an instrument under which an amount is or may become payable to or by the transferor, the instrument is taken to be an instrument under which the amount is or may become payable to or by the transferee, in the way the amount was or might have been payable to or by the transferor; and
  - (g) if the instrument is an instrument under which property, other than money, is or may become liable to be transferred, conveyed or assigned to or by the transferor, the instrument is taken to be an instrument under which the property is or may become liable to be transferred, conveyed or assigned to or by the transferee, in the way it was or might have been liable to be transferred, conveyed or assigned to or by the transferor.

---

# Schedule 1      Dictionary

## section 3

**CEO** see section 14(1).

**coal mining safety and health advisory committee** means the coal mining safety and health advisory committee under the *Coal Mining Safety and Health Act 1999*.

**commissioner** see section 48(1).

**criminal history**, of a person, means the person's criminal history as defined under the *Criminal Law (Rehabilitation of Offenders) Act 1986*, other than spent convictions.

**employing office** see section 29(1).

**executive officer** means the executive officer of the employing office appointed under section 35(1).

**mining safety and health advisory committee** means the mining safety and health advisory committee under the *Mining and Quarrying Safety and Health Act 1999*.

**insolvent under administration** see the *Corporations Act 2001* (Cwlth), section 9.

**instrument**, for part 6, see section 69.

**Queensland government website** means a website with a URL that contains 'qld.gov.au', other than the website of a local government.

**Resources Safety Act** means—

- (a) the *Coal Mining Safety and Health Act 1999*; or
- (b) the *Explosives Act 1999*; or
- (c) the *Mining and Quarrying Safety and Health Act 1999*; or
- (d) the *Petroleum and Gas (Production and Safety) Act 2004*.

***right***, for part 6, see section 69.

***RSHQ*** see section 5.

***spent conviction*** means a conviction—

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

***transfer notice***, for part 6, see section 69.