



# Greenhouse Gas Storage Act 2009

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## Reprint note

An amendment to schedule 2 was not incorporated into an earlier version of this reprint—see 2024 Act No. 33 s 37B.

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Queensland

# Greenhouse Gas Storage Act 2009

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# Greenhouse Gas Storage Act 2009

An Act to facilitate greenhouse gas geological storage

## Chapter 1 Preliminary

### Part 1 Introduction

#### 1 Short title

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

#### 2 Commencement

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

### Part 2 Purposes and application of Act

#### 3 Purposes of Act and their achievement

- (1) The main purpose of this Act is to help reduce the impact of greenhouse gas emissions on the environment.
- (2) The main purpose is achieved principally by facilitating the process called greenhouse gas geological storage, also called greenhouse gas storage (*GHG storage*).
- (3) This Act facilitates GHG storage by—

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

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

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

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

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## 5 Act binds all persons

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

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

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

*Note—*

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

## 7 Relationship with Nature Conservation Act 1992

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

*Editor's note—*

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

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

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

- (a) for the Geothermal Act—chapter 5, parts 2 to 8 of that Act;
- (b) for the Mineral Resources Act—chapter 9 of that Act;

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

### **8AA Relationship with Common Provisions Act**

The relationship between this Act and the Common Provisions Act is provided for under the Common Provisions Act, section 6.

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

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

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

- (1) Subject to sections 269, 338A and 425 this Act does not affect or limit a civil right or remedy that exists apart from this Act, whether at common law or otherwise.
- (2) Without limiting subsection (1), compliance with this Act does not necessarily show that a civil obligation that exists apart from this Act has been satisfied or has not been breached.
- (3) In addition, a breach of an obligation under this Act does not of itself give rise to an action for breach of statutory duty or another civil right or remedy.
- (4) This Act does not limit a court's powers under the *Penalties and Sentences Act 1992* or another law.



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## Part 3 Interpretation

### Division 1 Dictionary

#### 11 Definitions

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

### Division 2 Key definitions

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

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

*Note—*

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

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

A *GHG stream storage site* is—

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

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

- (1) *GHG stream storage* is—

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

## 15 What is *GHG storage exploration*

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

## 16 What is *GHG storage injection testing*

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

## 17 What is a *GHG stream pipeline*

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

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

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

## 18 Types of authority under Act

- (1) The types of authority under this Act are—
  - (a) a ***GHG exploration permit*** (also called a ***GHG permit***)—
    - (i) granted under section 40; or

*Note—*  
See also sections 431 (Conversion of Zerogen’s P&G Act ATPs) and 432 (New GHG permit for Zerogen).

    - (ii) continued in force under section 95 or 116; or
    - (iii) renewed under section 96; and
  - (b) a ***GHG injection and storage lease*** (also called a ***GHG lease***) granted under section 117 or 130; and
  - (c) a ***GHG injection and storage data acquisition authority*** (also called a ***GHG data acquisition authority***) granted under section 235.
- (2) GHG permits and GHG leases are collectively referred to as a ***GHG tenure***.
- (3) All authorities under this Act are collectively referred to as a ***GHG authority***.

## 19 Who is an *eligible person*

An *eligible person* is—

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

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

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

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

*Note—*

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

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

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

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

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

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

*Notes—*

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

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

## **23 What is a *GHG storage activity***

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

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

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

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

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

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

A *resource Act* is any of the following—

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

## Part 4 State ownership of GHG storage reservoirs

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

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

*Note—*

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

- (b) subsection (1) applies whether or not the land is freehold or other land.
- (3) This section applies despite any other Act, grant, title or other document in force from the commencement of this section.
- (4) In this section—

*the State* does not include any of the adjacent area under the *Petroleum (Submerged Lands) Act 1982*.

### 28 Reservation in land grants

- (1) This section applies to each grant under another Act of a right relating to land.
- (2) This section applies whether the grant was made before or after the commencement of this section.
- (3) The grant is taken to contain a reservation to the State of—
  - (a) all GHG storage reservoirs in the land, whenever created; and
  - (b) the exclusive right to do the following in relation to the land—

- (i) to enter and carry out any GHG storage activity;
- (ii) to authorise under the provisions of this Act or another Act others to carry out any GHG storage activity;
- (iii) to regulate under the provisions of this Act or another Act GHG storage activities carried out by others.

*Note—*

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

- (4) In this section—

*grant*, of a right, includes an authority, lease, licence, permit or other instrument of tenure, however called.

## Chapter 2 GHG exploration permits

*Notes—*

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

### Part 1 Key authorised activities

#### 29 Operation of pt 1

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

*Notes—*

- 1 For other authorised activities, see the Common Provisions Act, chapter 3, part 2, division 4 (Access to private land outside

authorised area) and part 12 (General provisions for conditions and authorised activities).

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

### 30 Principal authorised activities

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

- (a) GHG storage exploration;
- (b) evaluating the feasibility of GHG stream storage, including for example, by GHG storage injection testing;
- (c) plugging and abandoning, or otherwise remediating, a bore or well the holder reasonably believes is a legacy borehole, and rehabilitating the surrounding area in compliance with the requirements prescribed under a regulation.

### 31 Incidental activities

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

*Examples of incidental activities—*

- 1 constructing or operating facilities, plant or works, including for example, communication systems, compressors, powerlines, pumping stations, reservoirs, roads, evaporation or storage ponds and tanks
- 2 constructing or using temporary structures or structures of an industrial or technical nature, including for example, mobile and temporary camps



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

## Part 2                      Obtaining GHG permits

### Division 1                  Preliminary

#### 32              Operation of pt 2

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

### Division 2                  Competitive tenders

#### 33              Call for tenders

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

### **34 Right to tender**

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

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

A tender for a GHG permit must—

- (a) be made to the Minister in the approved form; and
- (b) include—
  - (i) a statement about how and when the tenderer proposes to consult with and keep informed each owner and occupier of private or public land on which authorised activities for the proposed GHG permit are or are likely to be carried out; and
  - (ii) a proposed work program that complies with the initial work program requirements; and
  - (iii) a statement about the extent to which the tenderer has—
    - (A) the financial and technical resources to carry out authorised activities for the proposed GHG permit; and
    - (B) the ability to manage GHG storage exploration; and
- (c) state that the applicant agrees to, as soon as practicable after the grant of the GHG permit to the applicant, give each of the owners or occupiers a notice—
  - (i) describing the activities proposed to be carried out on the land; and

- 
- (ii) stating where and when the activities will be carried out; and
  - (d) be accompanied by the fee prescribed under a regulation.

### **35A Rejection of tender if tenderer disqualified**

- (1) The Minister must reject a tender for a GHG permit if the Minister decides the tenderer is disqualified under the Common Provisions Act, chapter 7 from being granted the GHG permit.
- (2) On rejection of the tender, the Minister must give the tenderer a notice about the decision.

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

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

## **Division 3 Deciding tenders**

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

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

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

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

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

- (1) The Minister may, after the closing time for the call for tenders—
  - (a) grant a GHG permit to 1 tenderer; or
  - (b) refuse to grant any GHG permit.
- (2) However—
  - (a) before deciding to grant the GHG permit, the Minister must decide whether to approve the applicant's proposed initial work program for the permit; and
  - (b) the Minister can not grant the GHG permit unless—
    - (i) the tenderer is an eligible person; and
    - (ii) the proposed program has been approved; and
    - (iii) a relevant environmental authority has been issued.

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*Note—*

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

## **41 Provisions of GHG permit**

- (1) Each GHG permit must state its term and area.
- (2) The term—
  - (a) must be for at least the required program period for the initial work program for the GHG permit under the call for tenders; but
  - (b) must end no later than 12 years after the GHG permit takes effect.
- (3) The GHG permit may also state—
  - (a) conditions or other provisions of the GHG permit other than conditions or provisions that are—
    - (i) inconsistent with the mandatory conditions for GHG permits; or
    - (ii) the same as or substantially the same as or inconsistent with any relevant environmental condition; and
  - (b) the day it takes effect; and
  - (c) GHG permit's relinquishment days.
- (4) However, the provisions of the GHG permit may exclude or restrict the carrying out of an authorised activity for the permit.
- (5) The day of effect must not be before the day the GHG permit is granted.
- (6) If no day of effect is stated, the GHG permit takes effect on the day it is granted.
- (7) The first relinquishment day must not be later than 4 years after the day the GHG permit is to take effect.
- (8) The second and any later relinquishment days must not be later than 4 years after the previous relinquishment day.

- (9) If relinquishment days are not stated, they are taken to be—
- (a) the day that is the fourth anniversary of the GHG permit's day of effect; and
  - (b) each day during its term that is the end of a 4 yearly interval after the day of effect.

## 42 Criteria for decisions

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

## 43 Notice to unsuccessful tenderers

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

# Part 3 Area provisions

## 44 Area of GHG permit

- (1) This section provides for the area of a GHG permit.

- (2) The area does not include excluded land for the GHG permit.

*Note—*

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

- (3) Unless the Minister otherwise decides, the area must form a single parcel of land.

- (4) The area must not include any of the following (***unavailable land***)—

- (a) land in the area of another GHG tenure;
- (b) land in the Great Artesian Basin;
- (c) excluded land for a GHG tenure;
- (d) land that a regulation prescribes as land over which a GHG permit can not be granted.

- (5) The area may include a part of a block only if the part is all areas within the block that are left after taking away all unavailable land within the block (a ***residual block***).

*Note—*

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

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

## 45 References to sub-blocks of GHG permit

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

*Note—*

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

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

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

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

#### **47 Minister may add excluded land**

- (1) The Minister may amend a GHG permit by adding excluded land for the GHG permit to its area only if—
  - (a) the GHG permit as amended complies with section 44; and
  - (b) the GHG permit holder consents.
- (2) If land mentioned in subsection (1) is added to the GHG permit's area the land ceases to be excluded land for the permit.
- (3) The Minister may amend the provisions of the GHG permit in a way that reflects the inclusion of the excluded land.



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- (4) Also, the Minister may give the GHG permit holder a notice—
- (a) withdrawing from a stated day, the approval of the work program for the GHG permit; and
  - (b) directing the holder to give the Minister a proposed later work program for the GHG permit that—
    - (i) complies with the later work program requirements; and
    - (ii) changes the work program for the GHG permit to reflect the inclusion of the excluded land.

*Note—*

For other relevant provisions about giving a document to the Minister, see section 411.

- (5) The amended provisions of the GHG permit or the proposed later work program must not be—
- (a) inconsistent with the mandatory conditions for GHG permits; or
  - (b) the same as or substantially the same as or inconsistent with any relevant environmental condition.

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

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

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

- (1) This section applies if—
  - (a) all or part of the area of a GHG permit is a potential storage area; and

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

## **Part 4                      Work programs**

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

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

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

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

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

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

#### **52                      Program period**

- (1) The proposed program must state its period.

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- (2) The period must be the same as the required period under the relevant call for tenders.

### 53 General requirements

- (1) The proposed program must provide for all of the following—
- (a) an overview of the activities proposed to be carried out under the proposed GHG permit during all of its term;
  - (b) for each year of the program period—
    - (i) the extent and nature of GHG storage exploration proposed to be carried out during the year; and
    - (ii) generally where the activities are proposed to be carried out; and
    - (iii) the estimated cost of the activities;
  - (c) maps that show where the activities are proposed to be carried out;
  - (d) the composition of GHG streams proposed to be injected under the GHG permit;
  - (e) a description of any pipeline land for the GHG permit;
  - (f) reasons why the program is considered appropriate;
  - (g) another matter prescribed under a regulation.
- (2) The proposed program may include any other information relevant to the work program criteria.
- (3) The composition of GHG streams to be injected under the proposed GHG permit must comply with section 83.
- (4) A regulation may impose requirements about the form of the work program.
- (5) In this section—
- year**, of the program period, means—
- (a) the period starting on the day the program period starts and ending on the first anniversary of that day; and

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

## **54 Water issues**

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

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

*Note—*

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

## **55 Criteria**

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

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- (2) The matters mentioned in subsection (1) are the *work program criteria*.

## 56 Verification may be required

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

## 57 Referral to Water Act Minister

The Minister can not approve the proposed work program unless—

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

## **Division 4                      Requirements for proposed later work programs**

### **58            Operation of div 4**

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

*Note—*

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

### **59            General requirements**

The proposed program must—

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

### **60            Program period**

- (1) The proposed program must state its period.
- (2) The period must not be longer than—

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

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

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

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

### **62 Application of div 5**

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

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

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

- (2) Despite the ending of the program period for the current work program for the GHG permit—
  - (a) the GHG permit is taken to have a work program; and
  - (b) the holder may carry out any authorised activity for the GHG permit.

## **64 Deciding whether to approve proposed program**

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

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

- (1) If the Minister decides to approve the proposed later work program, the Minister must give the holder notice of the decision.
- (2) If the Minister decides to refuse to approve the later work program, the Minister must give the holder an information notice about the decision.



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- (3) An approval takes effect when the holder is given the notice or if the notice states a later day of effect, on that later day.
  - (4) A refusal does not take effect until the end of the appeal period for the decision to refuse.

## **Division 6                      Amending work programs**

### **66            Restrictions on amending work program**

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

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

## 67 Applying for approval to amend

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

*Note—*

For other relevant provisions about applications, see chapter 7, part 1.

## 68 Requirements for making application

The application must be—

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

## 69 Deciding application

- (1) If the proposed amendment—
  - (a) does not relate to the initial work program for the GHG permit; and

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- (b) is to substitute the carrying out of an authorised activity (the *original activity*) with another authorised activity; the Minister may approve the amendment only if satisfied the other activity is at least of an equivalent use for GHG storage exploration as the original activity.
- (2) If the application is to extend the period of the work program for the GHG permit, the Minister may approve the amendment only if satisfied—
- (a) the requirements under section 66(2) have been complied with; and
  - (b) the designated person mentioned in section 66(2) is likely to provide additional financial or technical resources for the GHG permit; and
  - (c) the work program will be finished within the period of the extension.

*Note—*

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

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

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- (a) can not be for longer than 12 years after the GHG permit took effect; and
  - (b) does not defer any later relinquishment day for the GHG permit.
- (6) If under this section an amendment is approved, a condition may be imposed on the GHG permit requiring its holder to relinquish by a notice to the chief executive at least a stated percentage of the permit's area on or before a stated day.

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

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

# **Part 5 Key mandatory conditions**

## **Division 1 Preliminary**

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

This part provides for particular mandatory conditions for GHG permits.

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

### 72            **Standard relinquishment condition**

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

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

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

**74 Part usually required to be relinquished**

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

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

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

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- (2) To remove any doubt, it is declared that a potential storage area can be relinquished and can be counted as an area relinquished for the relinquishment condition.
  - (3) In this section—

*penalty relinquishment* means a relinquishment that is—

    - (a) made under section 90 or under a requirement under section 379(1)(b); and
    - (b) more than the sub-blocks required to be relinquished under the relinquishment condition.

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

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

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

If the only way to comply with the relinquishment condition is to relinquish all or part of a potential storage area for the GHG permit, the relinquishment condition is taken to be complied

with if all remaining original sub-blocks of the permit are relinquished.

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

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

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

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

# **Division 3 Other mandatory conditions**

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

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



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the Minister must give the holder an information notice about the decision.

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

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

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

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

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

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

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

*Note—*

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

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

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

*Note—*

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

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

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

**86 Annual rent**

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

**87 Civil penalty for non-payment of annual rent**

- (1) If a GHG permit holder does not pay the annual rent as required under section 86, the holder must also pay the State a civil penalty.

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- (2) The amount of the penalty is 15% of the rent.
  - (3) The penalty—
    - (a) must be paid on the day after the last day for payment of the rent; and
    - (b) is still payable even if the holder later pays the rent.

*Note—*

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

## **88 Requirement to have work program**

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

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

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

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

- (1) If—
  - (a) under part 4, division 6, the period of the work program for a GHG permit has been extended; and
  - (b) the work program is not finished on or before the day on which the extended period ends;

its holder must relinquish a part of the original sub-blocks of the GHG permit that the Minister is satisfied corresponds to the amount of the work under the work program that was not finished.

- (2) The holder must give the chief executive written notice of the relinquishment within 20 business days after the end of the extended period.

- (3) If the holder does not comply with subsection (2), the Minister may take action under section 379(1)(b).

## 91 Obligation to give proposed later work program

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

*Notes—*

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

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- (6) In this section—
- relevant fee*, for the giving of the proposed program, means—
- (a) if the proposed program is given within the time required under subsection (3)—the fee prescribed under a regulation; or
  - (b) if the proposed program is given after the time required under subsection (3)—
    - (i) if it is given under subsection (4)—nil; or
    - (ii) if it is not given under subsection (4)—an amount that is 10 times the prescribed fee.

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

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

## **92A Power to impose or amend condition if changed holder of GHG permit**

- (1) This section applies if 1 of the following changes happens—
  - (a) an entity starts or stops controlling the holder of a GHG permit under the Corporations Act, section 50AA;
  - (b) the holder of a GHG permit starts or stops being a subsidiary of a corporation under the Corporations Act, section 46.
- (2) The Minister may consider whether, after the change, the holder of the GHG permit has the financial and technical resources to comply with the conditions of the GHG permit.
- (3) If the Minister considers the holder of the GHG permit may not have the financial and technical resources to comply with conditions of the GHG permit, the Minister may impose

another condition on, or amend a condition of, the GHG permit.

- (4) If the Minister believes a change mentioned in subsection (1) may have happened, the Minister may require the holder of the GHG permit to give the Minister information or a document about whether or not the change has happened.
- (5) Before deciding to impose another condition on, or amend a condition of, the GHG permit under subsection (3), the Minister may require the holder of the GHG permit to give the Minister information or a document the Minister requires to make the decision.
- (6) A requirement under subsection (4) or (5) must—
  - (a) be made by notice given to the holder; and
  - (b) state a period of at least 10 business days within which the holder must comply with the requirement.
- (7) Before deciding to impose another condition on, or amend a condition of, the GHG permit under subsection (3), the Minister must give the holder of the permit a notice stating—
  - (a) the proposed decision; and
  - (b) the reasons for the proposed decision; and
  - (c) that the holder may, within 10 business days after the notice is given, make submissions to the Minister about the proposed decision.
- (8) The Minister may extend the period mentioned in subsection (6)(b) or (7)(c) by notice given to the holder of the GHG permit.
- (9) In deciding whether to impose another condition on, or amend a condition of, the GHG permit under subsection (3), the Minister—
  - (a) must consider information or a document, if any, given under subsection (6)(b) or (7)(c); and
  - (b) may consider any other matter the Minister considers relevant.

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- (10) If the Minister decides to impose another condition on, or amend a condition of, the GHG permit under subsection (3), the Minister must, as soon as practicable after making the decision, give the holder a notice stating the decision and the reasons for the decision.

## **Part 6 Renewals**

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

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

### **94 Requirements for making application**

- (1) The application must—
- (a) be made to the Minister in the approved form; and
  - (b) include a statement about how and when the applicant proposes to consult with and keep informed each owner and occupier of private or public land on which authorised activities for the renewed GHG permit are or are likely to be carried out; and

- (c) include a proposed later work program for the renewed GHG permit; and
  - (d) be accompanied by—
    - (i) the application fee prescribed under a regulation; and
    - (ii) if the application is made less than 20 business days before end of the GHG permit's term—an amount that is 10 times the application fee.
- (2) The proposed work program must comply with the later work program requirements.

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

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



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## 96 Deciding application

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

*Note—*

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

- (3) Also, if the applicant has been given a notice under section 107 to apply for a GHG lease, the application must not be decided until the issue of whether a GHG lease will be granted is decided.
- (4) Subsection (3) does not limit the power under section 108 to take a proposed action as stated in the notice.
- (5) The Minister may as a condition of deciding to grant the application require the applicant to do all or any of the following within a stated reasonable period—
  - (a) pay the annual rent for the first year of the renewed GHG permit;
  - (b) give under section 271, security for the renewed GHG permit.

- (6) If the applicant does not comply with the requirement, the application may be refused.

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

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

*Note—*

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

- (4) The first relinquishment day for the renewed GHG permit must not be later than 4 years after the day the renewed GHG permit is to take effect.
- (5) If the renewed GHG permit is decided before the end of the term of the GHG permit being renewed as stated in that GHG permit (the *previous term*), the term of the renewed GHG permit is taken to start from the end of the previous term.
- (6) If the renewed GHG permit is decided after the previous term, the term of the renewed GHG permit starts immediately after the end of the previous term, but—
  - (a) the conditions of the renewed GHG permit do not start until its holder is given notice of them; and
  - (b) until the notice is given, the conditions of the GHG permit being renewed apply to the renewed GHG permit as if they were its conditions.
- (7) The term of the renewed GHG permit must not end more than 12 years from when it originally took effect.

- (8) However, if any part of the renewed GHG permit's area is a potential storage area, the term of the renewed GHG permit for that part may be for a longer period that—
- (a) ends no later than when the declaration ends; and
  - (b) is no more than the last term of the GHG permit being renewed.
- (9) To remove any doubt, it is declared that subsection (8)(b) does not prevent a renewal of the renewed GHG permit.

## **98 Criteria for decisions**

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

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

## **99 Information notice about refusal**

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

## **100 When refusal takes effect**

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

## **Part 7**                      **Potential storage areas**

### **101 Applying for potential storage area**

- (1) The holder of a GHG permit may apply for a declaration by the Minister that all or a stated part of its area is a potential storage area for the permit.
- (2) The application must be—
  - (a) made to the Minister in the approved form; and
  - (b) accompanied by the fee prescribed under a regulation.
- (3) The application may be made—
  - (a) for more than 1 part of the GHG permit's area; and
  - (b) even if another part of the GHG permit's area is already a potential storage area.
- (4) The application must include—
  - (a) a report for or that includes the proposed potential storage area that—
    - (i) meets the requirements under section 246 for a GHG storage viability report; and
    - (ii) is still relevant to the circumstances of the proposed potential storage area; and
  - (b) an evaluation program for—
    - (i) potential GHG stream storage in the proposed potential storage area; and
    - (ii) market opportunities for potential GHG stream storage.
- (5) However, subsection (4)(a) does not apply if—
  - (a) a GHG storage viability report or an independent viability assessment relates to or includes the proposed potential storage area; and
  - (b) the report or assessment is still relevant to the circumstances of the proposed potential storage area.

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

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

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

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

## **104 Term of declaration**

- (1) A declaration of a potential storage area continues in force for the period stated in the declaration.
- (2) The period can not be more than 10 years.

- (3) In deciding a shorter period the Minister must consider—
  - (a) when any discovery of a GHG stream storage site was made; and
  - (b) any GHG storage viability report or independent viability assessment for or that includes the proposed potential storage area.
- (4) Despite subsection (1), the declaration ceases if the GHG permit holder gives the chief executive a notice stating that the holder no longer wishes the area to be a potential storage area.

*Note—*

For other relevant provisions about giving a document to the chief executive, see section 411.

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

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

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

## **Part 8 Provisions to facilitate transition to GHG lease**

### **106 Application of pt 8**

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

### **107 Ministerial direction to apply for GHG lease**

- (1) The Minister may give the GHG permit holder a notice stating each of the following—

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

*Note—*

For other relevant provisions about making a submission, see section 411.

- (2) The stated period must be reasonable but must not be more than 6 months.
- (3) In this section—

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

- (a) the stated area or an area that is substantially the same as the stated area; or
- (b) another area the Minister reasonably considers will effectively allow the holder to carry out authorised activities for a GHG lease in relation to the stated area.

## 108 Taking proposed action

- (1) Proposed action under section 107 may be taken only if—
  - (a) the stated period under that section has ended; and
  - (b) either—
    - (i) the holder has not made an appropriate GHG lease application under that section; or

- (ii) any appropriate lease application under that section made by the holder has been refused; and
  - (c) the Minister has considered any submissions made by the holder within the period.
- (2) The decision does not take effect until the holder is given an information notice about the decision.
- (3) A refusal of the application takes effect at end of the appeal period for the decision to refuse.

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

*Notes—*

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

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

#### **109 Operation of pt 1**

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

*Notes—*

- 1 For other authorised activities, see the Common Provisions Act, chapter 3, part 2, division 4 (Access to private land outside authorised area) and part 12 (General provisions for conditions and authorised activities).
- 2 For general restrictions on authorised activities, their relationship with owners' and occupiers' rights and who may carry out authorised activities for a GHG authority holder, see chapter 5, part 12, division 3.



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

## 110 Principal authorised activities

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

- (a) GHG storage exploration;
- (b) evaluating the feasibility of GHG stream storage, including for example, by GHG storage injection testing;
- (c) compressing or otherwise processing a GHG stream for GHG stream storage;
- (d) GHG stream storage;
- (e) monitoring and verifying the behaviour of the GHG streams;
- (f) plugging and abandoning, or otherwise remediating, a bore or well the holder reasonably believes is a legacy borehole, and rehabilitating the surrounding area in compliance with the requirements prescribed under a regulation.

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

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

*Note—*

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

- (2) However, if a GHG stream pipeline or water pipeline extends beyond the area of the GHG lease, subsection (1) applies only if the pipeline is completely within—

- (a) the GHG lease's area; and
  - (b) the area of 1 or more other GHG leases that are—
    - (i) contiguous to the GHG lease; and
    - (ii) also held by the holder or are subject to a GHG coordination arrangement to which the holder is a party.
- (3) Also, if the pipeline is a water pipeline, the pipeline may only be operated to transport water for the carrying out of an authorised activity for the GHG lease or another GHG lease mentioned in subsection (2)(b) on an area mentioned in subsection (2).
- (4) Subsection (3) does not prevent the GHG lease holder from constructing or operating a water pipeline if the holder can otherwise lawfully do so.
- (5) In this section—

*operate*, a GHG stream pipeline, includes use, inspect, test, maintain, repair, alter, add to and replace the pipeline.

*water pipeline* means—

- (a) a pipe or system of pipes for transporting water; and
- (b) a thing connected to or associated with the pipeline that is necessary for its operation, including for example, a thing mentioned in the examples to section 17(2)(b).

## 112 Incidental activities

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

*Examples of incidental activities—*

- 1 constructing or operating facilities, plant or works, including for example, communication systems, compressors, powerlines, pumping stations, reservoirs, roads, evaporation or storage ponds and tanks

- 2 constructing or using temporary structures or structures of an industrial or technical nature, including for example, mobile and temporary camps
- (2) However, constructing or using a structure other than a temporary structure, for office or residential accommodation is not an incidental activity.

## Part 2 Transition from GHG permit to GHG lease

### Division 1 Applying for GHG lease

#### 113 Who may apply

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

*Note—*

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

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

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

A permit-related application must—

- (a) be made to the Minister in the approved form; and
- (b) address the capability criteria; and
- (c) include—

- (i) a statement about how and when the applicant proposes to consult with and keep informed each owner and occupier of private or public land on which authorised activities for the proposed GHG lease are or are likely to be carried out; and
- (ii) a proposed development plan that complies with the initial development plan requirements; and
- (iii) a statement about the extent to which the applicant has—
  - (A) the financial and technical resources to carry out authorised activities for the proposed GHG lease; and
  - (B) the ability to manage GHG stream storage; and
- (d) be accompanied by the fee prescribed under a regulation.

### **115 Rejection of permit-related application if applicant disqualified**

- (1) The Minister must reject a permit-related application for a GHG lease if the Minister decides the person making the application is disqualified under the Common Provisions Act, chapter 7 from being granted the GHG lease.
- (2) On rejection of the application, the Minister must give the person making the application a notice about the decision.

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

- (1) This section applies if other than for subsection (2), the relevant GHG permit would other than by cancellation under this Act, end before the permit-related application is decided.
- (2) The GHG permit continues in force for the area the subject of the application until the earlier of the following to happen—
  - (a) the start of the term of the GHG lease;

- 
- (b) a refusal of the application takes effect;
  - (c) the application is withdrawn.
- (3) Despite any ending of the program period for the current work program for the GHG permit—
- (a) the GHG permit is taken to have a work program; and
  - (b) the holder may carry out any authorised activity for the GHG permit.

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

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

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

*Note—*

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

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

### **118      Requirements for grant**

- (1) The requirements for grant are each of the following—
- (a) the applicant is an eligible person;
  - (b) the proposed area of the proposed GHG lease—

- (i) is appropriate for the authorised activities proposed to be carried out; and
    - (ii) contains an adequately identified GHG stream storage site that is adequate for the proposed purpose of the GHG lease;
  - (c) the conditions of the relevant GHG permit have been substantially complied with;
  - (d) the Minister has approved the applicant's proposed initial development plan for the GHG lease;
  - (e) a relevant environmental authority has been issued;
  - (f) the applicant has established that—
    - (i) GHG stream storage in the GHG lease's area is or is likely to happen within 5 years after the lease is to take effect; or
    - (ii) the applicant has entered into a contract, GHG coordination arrangement or other arrangement for GHG stream storage in the GHG lease's area (a *relevant arrangement*);
  - (g) the applicant has paid the annual rent for the first year of the proposed GHG lease;
  - (h) the applicant has given under section 271, security for the GHG lease;
  - (i) the Minister is of the opinion that the applicant is capable of carrying out authorised activities for the GHG lease having regard to the applicant's—
    - (i) financial and technical resources; and
    - (ii) ability to carry out GHG stream storage.
- (2) The matters mentioned in subsection (1)(i) are the *capability criteria*.
- (3) A person *satisfies* the capability criteria if the Minister forms the opinion about the person mentioned in subsection (1)(i).

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## 119 Exception for particular relevant arrangements

The application may be refused if the Minister—

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

## 120 Provisions of GHG lease

- (1) A GHG lease must state its area.
- (2) A GHG lease may also state—
  - (a) conditions or other provisions of the GHG lease other than conditions or provisions that are—
    - (i) inconsistent with the mandatory conditions for GHG leases; or
    - (ii) the same as or substantially the same as or inconsistent with any relevant environmental condition; and
  - (b) a day for the GHG lease to take effect; and
  - (c) a day by which GHG stream storage under the GHG lease is to start (the *storage commencement day*).
- (3) However, the provisions of the GHG lease may exclude or restrict the carrying out of an authorised activity for the lease.
- (4) The day of effect must not be before the day the GHG lease is granted.
- (5) If no day of effect is decided, the GHG lease takes effect on the day it is granted.

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- (6) The storage commencement day may be more than 5 years after the day of effect only if the Minister is satisfied the holder has entered into a relevant arrangement.
- (7) In deciding the provisions of the GHG lease the Minister must consider the development plan criteria and capability criteria.
- (8) This section applies subject to section 121.

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

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

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

***Coordinator-General's report***, for a coordinated project, means—

- (a) if an EIS was prepared for the project—the Coordinator-General's report for the EIS prepared under the State Development Act, section 34D; or
- (b) if an IAR was prepared for the project—the Coordinator-General's report for the IAR prepared under the State Development Act, section 34L.



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*EIS* means an EIS under the State Development Act.

*IAR* means an IAR under the State Development Act.

## 122 Information notice about refusal

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

## 123 When refusal takes effect

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

# Part 3 Obtaining GHG lease by competitive tender

## Division 1 Preliminary

### 124 Operation of pt 3

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

## Division 2 Calls for tenders

### 125 Call for tenders

- (1) The Minister may by gazette notice invite tenders for a GHG lease (a *call for tenders*) for land other than unavailable land for a GHG lease.
- (2) The call must state—

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

## **126 Right to tender**

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

## **126A Rejection of tender if tenderer disqualified**

- (1) The Minister must reject a tender for a proposed GHG lease if the Minister decides the tenderer is disqualified under the Common Provisions Act, chapter 7 from being granted the GHG lease.
- (2) On rejection of the tender, the Minister must give the tenderer a notice about the decision.

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

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

## **Division 3 Deciding tenders**

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

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

### **129 Provisions for preferred tenderers**

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

- (b) do all things reasonably necessary to allow a GHG lease to be granted to the tenderer;

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

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

- (1) The Minister may, after the closing time for the call for tenders—
  - (a) grant a GHG lease to 1 tenderer; or
  - (b) refuse to grant any GHG lease.
- (2) However—
  - (a) before deciding to grant the GHG lease, the Minister must decide whether to approve the applicant's proposed initial development plan for the GHG lease; and
  - (b) the Minister can not grant the GHG lease unless—
    - (i) the tenderer is an eligible person; and
    - (ii) the proposed plan has been approved; and
    - (iii) the Minister is satisfied the requirements for grant other than the requirement mentioned in section 118(1)(c) have been complied with; and
    - (iv) a relevant environmental authority has been issued.

*Note—*

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

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

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

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

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### 132 Criteria for decisions

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

### 133 Notice to unsuccessful tenderers

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

## Part 4 Term and area provisions

### 134 Term of GHG lease

A GHG lease—

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

### 135 Area of GHG lease

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

*Note—*

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

- (3) Unless the Minister otherwise decides, the area must form a single parcel of land.
- (4) The area must not include any of the following (*unavailable land*)—

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- (a) land in the area of another GHG tenure other than land that will under section 48, cease to be included in the area of a GHG permit on the grant of the GHG lease;
  - (b) land in the Great Artesian Basin;
  - (c) excluded land for another GHG tenure;
  - (d) land that a regulation prescribes as land over which a GHG lease can not be granted.
- (5) The area may include a part of a sub-block only if the part is all areas within the sub-block that are left after taking away all unavailable land within the sub-block.

*Note—*

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

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

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

*Note—*

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

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

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

- (1) The Minister may decide excluded land for a GHG lease or proposed GHG lease.

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

the reference to the block in the register is a reference to all sub-blocks within the block other than any sub-block that is completely within the area of another GHG tenure.
  - (5) Excluded land may be described in a way the Minister considers appropriate, including for example, by area or by reference to a stated type of land.
  - (6) Land ceases to be excluded land for a GHG lease if for any reason, the sub-block in which the land is located ceases to be in the lease’s area.

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

- (1) The Minister may amend a GHG lease by adding excluded land for the GHG lease to its area only if—
  - (a) the GHG lease as amended complies with section 135; and
  - (b) the GHG lease holder consents.
- (2) If land mentioned in subsection (1) is added to the area of the GHG lease, the land ceases to be excluded land for the lease.

- (3) The Minister may amend the provisions of the GHG lease in a way that reflects the inclusion of the excluded land.
- (4) Also, the Minister may give the GHG lease holder a notice—
  - (a) withdrawing from a stated day, the approval of the development plan for the GHG lease; and
  - (b) directing the holder to give the Minister a proposed later development plan for the GHG lease that—
    - (i) complies with the later development plan requirements; and
    - (ii) changes the development plan for the GHG lease to reflect the inclusion of the excluded land.
- (5) The amended provisions of the GHG lease or the proposed later development plan must not be—
  - (a) inconsistent with the mandatory conditions for GHG leases; or
  - (b) the same as or substantially the same as or inconsistent with any relevant environmental condition.

## Part 5 Development plans

### Division 1 Function and purpose

#### 139 Function and purpose

- (1) The development plan for a GHG lease (the *relevant lease*) gives detailed information about the nature and extent of activities to be carried out under the relevant lease.
- (2) The development plan may—
  - (a) also relate to another GHG lease or proposed GHG lease if the other GHG lease or proposed GHG lease relates to the relevant lease; and



- 
- (b) provide that when the plan is approved it will replace any development plan for the other lease.
  - (3) The purposes of giving the information are to—
    - (a) allow resource management decisions to be made; and
    - (b) ensure appropriate development of the GHG lease.

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

### **140    Operation of div 2**

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

### **141    General requirements**

- (1) The proposed plan must provide for all of the following—
  - (a) an overview of the activities proposed to be carried out under the proposed GHG lease during all of its term;
  - (b) a description of the activities proposed to be carried out under the GHG lease during each year of the plan period;
  - (c) each of the following for each GHG stream storage site in the GHG lease's area—
    - (i) a site plan that complies with section 142;
    - (ii) a verifiable estimate of the GHG stream storage site's capacity;
    - (iii) a monitoring and verification plan that complies with section 145;
  - (d) the composition of GHG streams proposed to be injected or used for GHG stream storage under the GHG lease;

- (e) a description of any pipeline land for the GHG lease;
  - (f) reasons why the plan is considered appropriate;
  - (g) another matter prescribed under a regulation.
- (2) The proposed plan may include any other information relevant to the development plan criteria.
  - (3) The composition of GHG streams to be injected under proposed GHG lease must comply with section 164.
  - (4) A regulation may impose requirements about the form of the development plan.
  - (5) In this section—  
*year*, of the plan period, means—
    - (a) the period starting on the day the plan period starts and ending on the first anniversary of that day; and
    - (b) each subsequent period of 12 months or less during the plan period starting on each anniversary of that day and ending on—
      - (i) the next anniversary of that day; or
      - (ii) if the plan period ends before the next anniversary—the day the plan period ends.

## 142 Site plan

- (1) A site plan for a GHG stream storage site must consist of maps, geological cross-sections, three dimensional models and other appropriate information about the site.
- (2) Without limiting subsection (1), the site plan must show each of the following—
  - (a) the geological structure and geochemical composition of the relevant GHG storage reservoir;
  - (b) the GHG storage reservoir's properties, including the potential interaction of carbon dioxide with its rock matrix and fluids;
  - (c) the proposed rate of GHG stream injection;

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- (d) the proposed composition of the GHG streams to be injected;
  - (e) the expected migration pathway of the GHG streams;
  - (f) the operations and techniques to be used to monitor and verify the behaviour of GHG streams during the term of the GHG lease.
- (3) The site plan must include any other information prescribed under a regulation.

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

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

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

*Note—*

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

### **144 Water issues**

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

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

The proposed development plan must include a plan for the observation and monitoring of the migration pathway or

pathways of GHG streams before, during and after injection into the relevant GHG storage reservoir.

#### **146 Plan period**

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

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

*Note—*

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

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

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

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**148 Verification may be required**

- (1) The Minister may by notice require the applicant to give the Minister within a stated reasonable period a document made by an appropriately qualified independent person that verifies—
  - (a) an assessment of data supplied in the proposed initial development plan; or
  - (b) the source of the data; or
  - (c) the work done for the development plan; or
  - (d) that, in the person’s opinion, the applicant has—
    - (i) the financial and technical resources to carry out authorised activities for the proposed GHG lease; and
    - (ii) the ability to manage GHG stream storage.
- (2) If the applicant does not comply with the requirement, the Minister may refuse to approve the development plan.
- (3) The applicant must pay any costs incurred in complying with the requirement.

**149 Referral to Water Act Minister**

The Minister can not approve the proposed plan unless—

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

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

### **150      Operation of div 4**

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

*Note—*

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

### **151      General requirements**

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

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

### **152      Application of div 5**

This division applies if—

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

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

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

### **154      Deciding whether to approve proposed plan**

- (1) The Minister may approve or refuse to approve the proposed plan.
- (2) In deciding whether to approve the proposed plan the Minister must consider each of the following—
  - (a) the development plan criteria;
  - (b) the extent to which the current development plan for the GHG lease has been complied with;

- (c) if the proposed plan provides for a significant change that is a reduction of GHG stream injection—
  - (i) whether the reduction is reasonable; and
  - (ii) whether the GHG lease holder has taken all reasonable steps to prevent the reduction.
- (3) Also, if the GHG lease was granted in response to a tender, any other development plan proposed by other tenderers for the lease must be considered.
- (4) However, subsection (3) applies only to the extent the other plan includes the period of the proposed plan.

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

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

## **Division 6 Amending development plans**

### **156 Restrictions on amendment**

- (1) A GHG lease holder may amend the development plan for the GHG lease.
- (2) However, the amendment is subject to approval under this division.
- (3) Also, a development plan can not be amended—



- (a) in a way that provides for a cessation of GHG stream injection under a GHG lease; or

*Note—*

See section 176 (Timing of surrender application).

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

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

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

### **158 Deciding application**

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

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

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

- (1) If the Minister decides to approve the proposed amendment, the Minister must give the holder notice of the decision.

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

## **Part 6                      Key mandatory conditions for GHG leases**

### **160      Operation of pt 6**

This part provides for particular mandatory conditions for GHG leases.

### **161      Compliance with test plan for GHG storage injection testing**

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

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

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

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

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

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

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

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

*Note—*

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

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

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

*Note—*

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

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

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

**167 Obligation to commence GHG stream storage**

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

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

**168 Annual rent**

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

**169 Civil penalty for non-payment of annual rent**

- (1) If a GHG lease holder does not pay the annual rent as required under section 168, the holder must also pay the State a civil penalty.
- (2) The amount of the penalty is 15% of the rent.

- (3) The penalty—
- (a) must be paid on the day after the last day for payment of the rent; and
  - (b) is still payable even if the holder later pays the rent.

*Note—*

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

### **169A Local government rates and charges**

A GHG lease holder must pay all rates and charges payable to the local government in whose area the lease is situated.

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

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

### **171 Compliance with development plan**

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

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

- (1) This section imposes an obligation on a GHG lease holder to give the Minister a proposed later development plan for the lease.
- (2) The obligation is complied with only if the proposed later development plan—
  - (a) complies with the later development plan requirements; and
  - (b) is accompanied by the relevant fee.
- (3) A proposed later development plan must be given to the Minister—

- (a) at least 40 but no more than 100 business days before the end of the plan period for its current development plan (the *current plan period*); or
  - (b) as soon as practicable after the holder proposes or becomes aware of a significant change to the nature and extent of an authorised activity that is not already dealt with under the current development plan for the GHG lease.
- (4) However, if before the end of the current plan period a decision is made to refuse to approve a proposed later development plan given under subsection (3), the holder may within the period give the Minister another proposed later development plan.
- (5) If the holder does not give the Minister any proposed later development plan before the end of the current plan period or if subsection (4) applies and the holder does not give the Minister another proposed later development plan within the current plan period—
- (a) the Minister must give the holder a notice requiring the holder to give the Minister a proposed later development plan for the GHG lease within 40 business days after the giving of the notice; and
  - (b) the holder must comply with the requirement.
- (6) In this section—
- relevant fee*, for the giving of the proposed plan, means—
- (a) if the proposed plan is given within the time required under subsection (3)—the fee prescribed under a regulation; or
  - (b) if the proposed plan is given after the time required under subsection (3) and—
    - (i) if it is given under subsection (4)—nil; or
    - (ii) if it is not given under subsection (4)—an amount that is 10 times the prescribed fee.

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

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

**173A Power to impose or amend condition if changed holder of GHG lease**

- (1) This section applies if 1 of the following changes happens—
  - (a) an entity starts or stops controlling the holder of a GHG lease under the Corporations Act, section 50AA;
  - (b) the holder of a GHG lease starts or stops being a subsidiary of a corporation under the Corporations Act, section 46.
- (2) The Minister may consider whether, after the change, the holder of the GHG lease has the financial and technical resources to comply with the conditions of the GHG lease.
- (3) If the Minister considers the holder of the GHG lease may not have the financial and technical resources to comply with conditions of the GHG lease, the Minister may impose another condition on, or amend a condition of, the GHG lease.
- (4) If the Minister believes a change mentioned in subsection (1) may have happened, the Minister may require the holder of the GHG lease to give the Minister information or a document about whether or not the change has happened.
- (5) Before deciding to impose another condition on, or amend a condition of, the GHG lease under subsection (3), the Minister may require the holder of the GHG lease to give the Minister information or a document the Minister requires to make the decision.
- (6) A requirement under subsection (4) or (5) must—
  - (a) be made by notice given to the holder; and

- (b) state a period of at least 10 business days within which the holder must comply with the requirement.
- (7) Before deciding to impose another condition on, or amend a condition of, the GHG lease under subsection (3), the Minister must give the holder of the lease a notice stating—
- (a) the proposed decision; and
  - (b) the reasons for the proposed decision; and
  - (c) that the holder may, within 10 business days after the notice is given, make submissions to the Minister about the proposed decision.
- (8) The Minister may extend the period mentioned in subsection (6)(b) or (7)(c) by notice given to the holder of the GHG lease.
- (9) In deciding whether to impose another condition on, or amend a condition of, the GHG lease under subsection (3), the Minister—
- (a) must consider information or a document, if any, given under subsection (6)(b) or (7)(c); and
  - (b) may consider any other matter the Minister considers relevant.
- (10) If the Minister decides to impose another condition on, or amend a condition of, the GHG lease under subsection (3), the Minister must, as soon as practicable after making the decision, give the holder a notice stating the decision and the reasons for the decision.

## Part 7                      Surrenders

### 174      When surrender is permitted

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

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



- (b) the surrender has been approved.

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

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

### **176 Timing of surrender application**

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

### **177 Requirements for making surrender application**

- (1) A surrender application must be—
- (a) made to the Minister in the approved form; and
  - (b) accompanied by the fee prescribed under a regulation.
- (2) A surrender application must also be accompanied by a report by the applicant stating each of the following—
- (a) the authorised activities for the GHG lease carried out on the area the subject of the application;
  - (b) the results of the activities;
  - (c) the applicant's modelling of the behaviour of GHG streams injected under the GHG lease;
  - (d) information relevant to the modelling and the applicant's analysis of the information;

- (e) the applicant's assessment of—
  - (i) the behaviour of GHG streams injected under the GHG lease; and
  - (ii) the expected migration pathway or pathways of the GHG streams; and
  - (iii) the short-term and long-term consequences of the migration;
- (f) the applicant's suggestions for the approach to be taken by the State if the surrender is approved, to monitor and verify the behaviour of the GHG streams;
- (g) any other information prescribed under a regulation.

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

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

- (1) Before deciding whether to approve the surrender of a GHG lease the Minister may by notice require the applicant to do either or both of the following—
  - (a) give the Minister a report about whether the risks associated with GHG stream storage under the GHG lease have been reduced as much as is reasonably practicable;
  - (b) carry out stated work to reduce the risks.
- (2) The applicant must comply with the requirement.  
Maximum penalty—500 penalty units.
- (3) Until the applicant complies with the requirement, the Minister need not decide the application.

### **179 Deciding application**

- (1) The Minister may approve a surrender only if—

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

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

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

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

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

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

### Part 1              **Preliminary**

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

- (1) Requirements and restrictions under this chapter relating to the granting of a GHG tenure apply as well as any relevant requirements under chapter 2, 3 or 5.
- (2) If this chapter imposes a requirement for or a restriction on the granting of a GHG tenure, it can not be granted if the restriction applies or if the requirement has not been complied with.
- (3) If a provision of this chapter conflicts with a provision of chapter 2, 3 or 5, the provision of this chapter prevails to the extent of the inconsistency.
- (4) This chapter does not otherwise limit or affect the requirements of chapter 2, 3 or 5.
- (5) Subsection (6) applies if this chapter imposes a requirement for or a restriction on the carrying out of an authorised activity for a GHG authority.
- (6) Despite chapters 2, 3 and 5, the activity is not an authorised activity for the GHG authority while the restriction applies or if the requirement has not been complied with.

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

- (1) An *overlapping authority*, for a GHG authority, is any authority of the following types all or part of the area of which is in the GHG authority's area—
  - (a) an exploration authority (non-GHG);
  - (b) a geothermal lease;

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

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

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

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

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

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

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

## Part 2                      Coordination arrangements for GHG leases

### 186      GHG coordination arrangements that may be made

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

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

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

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

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

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

- (1) The Minister may approve the proposed arrangement only if—
  - (a) the Minister is satisfied—
    - (i) the arrangement clearly identifies the safety responsibilities of each party to the arrangement for the land the subject of the arrangement; and
    - (ii) the spatial relationship between the relevant leases for the arrangement is appropriate; and
  - (b) for an application required to be accompanied by a proposed later development plan for a relevant lease—the proposed plan has been approved; and
  - (c) the arrangement is consistent with the purposes of this Act.
- (2) In considering whether to approve the proposed arrangement the Minister may have regard to any coordination arrangement

or proposed coordination arrangement under the P&G Act or other agreement the Minister considers relevant.

- (3) The Minister may refuse to approve a proposed GHG coordination arrangement that provides for a party to the arrangement to be granted a pipeline licence for a GHG stream pipeline if the Minister considers that—
  - (a) having regard to the requirements under the P&G Act chapter 4, the pipeline licence would not be granted if the party were to apply for it; or
  - (b) not enough information has been given to decide whether the licence should be granted; or
  - (c) the spatial relationship between the GHG lease and an overlapping authority is not appropriate for a GHG coordination arrangement.
- (4) If a relevant lease has not been granted, the approval does not take effect until the GHG lease takes effect.

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

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

## **191 Grant of pipeline licence**

- (1) This section applies if a GHG coordination arrangement provides for a party to the arrangement to be granted a pipeline licence for a GHG stream pipeline.
- (2) The Minister may if the party applies under the P&G Act, chapter 4, part 2, grant the pipeline licence.



- (3) The P&G Act, section 412 applies as if the application were a pipeline licence application under that Act.
- (4) However, the provisions of the pipeline licence must be consistent with the arrangement.

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

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

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

- (1) The Minister may by complying with subsections (2) and (3), cancel a GHG coordination arrangement.
- (2) If the Minister proposes to cancel the arrangement, the Minister must give each holder of a relevant lease a notice stating—
  - (a) that the Minister proposes to cancel the arrangement; and
  - (b) reasons for the proposed cancellation; and
  - (c) that the holder may make submissions to the Minister about the proposed cancellation or the likely impact of the cancellation on the relevant leases.
- (3) Before cancelling the arrangement, the Minister must consider—
  - (a) any submissions made by a holder within the stated period; and
  - (b) the likely impact of the cancellation on the relevant leases; and
  - (c) the public interest.

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- (4) If the Minister decides to cancel the arrangement, the Minister must give each of the holders an information notice about the decision.
- (5) The cancellation takes effect on the end of the appeal period for the decision to cancel or if a later day of effect is stated in the information notice, on that day.
- (6) When the decision takes effect, the arrangement and the Minister's approval of it cease to have effect.

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

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

## **Part 3 Obtaining GHG lease if overlapping authority**

### **Division 1 Preliminary**

#### **195 Application of pt 3**

This part applies if—

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

### **Division 2 Requirements for application**

#### **196 Requirements for making application**

- (1) The GHG lease application must include—

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

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

The GHG statement must—

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

## **Division 3                      Consultation provisions**

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

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

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

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

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- (4) The holder must give the applicant a copy of the holder submissions.

## Division 4                      Resource management decision

### 200      Application of div 4

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

*Note—*

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

### 201      Resource management decision

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

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

## **202 Criteria for decision**

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

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

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

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

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

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

### **204 Application of div 5**

This division applies only if—

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

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## 205 Notice to applicant and overlapping authority holder

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

## 206 Relevant lease application for all of the land

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

*Note*—

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

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

## 207 Relevant lease application for part of the land

- (1) This section applies if the overlapping authority holder applies for a relevant lease for part of the land within the overlapping authority application period.

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

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

*Note—*

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

## **208 No relevant lease application**

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

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

### **209 Lapsing of application**

The GHG lease application is taken to have lapsed if—

- (a) under division 4, a resource management decision is required; and



- (b) that decision was not to grant the GHG lease application and not to give any overlapping authority priority for any of the relevant land.

## **Division 7                      Deciding application**

### **210      Application of div 7**

This division applies if—

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

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

The Minister may decide to refuse the application if—

- (a) the Minister is satisfied the applicant and the overlapping authority holder have made reasonable attempts to reach a proposed GHG coordination

arrangement (a *relevant arrangement*) for the proposed GHG lease; and

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

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

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

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

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

- (1) After the Minister decides whether or not to grant the GHG lease, the chief executive must publish a notice about the outcome of the GHG lease application in or on at least 1 of the following—
  - (a) the gazette;
  - (b) the department's website;

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- (c) another publication the chief executive considers appropriate.
- (2) The notice must state—
- (a) the decision; and
  - (b) if the decision was to grant the GHG lease—all conditions of the GHG lease other than the mandatory conditions; and
  - (c) if under division 4, a resource management decision was required and that decision was to give overlapping authority priority for all or part of the land—the decision and the reasons for it.
- (3) However, if the chief executive considers that information in any condition is commercial-in-confidence, the chief executive may instead of publishing the condition publish a statement about the intent of the condition.

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

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

If—

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

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

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

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

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

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

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## **Part 5**

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

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

This part applies if—

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

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

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



*Note—*

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

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

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

## **221 Resolving disputes**

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

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

## **Division 2                      Additional conditions**

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

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



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

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

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

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

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

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

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

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

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

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## **Part 7                      Additional provisions for development plans if overlapping authority**

### **226      Operation of pt 7**

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

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

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

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

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

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

## **229 Additional criteria for approval**

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

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

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

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

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

- (1) This section applies if—
  - (a) a person (an *operator*) proposes to be an operator of operating plant under the P&G Act in the area of a GHG tenure; and
  - (b) the operating plant is used or is proposed to be used for GHG storage activities (*relevant operating plant*); and
  - (c) activities (*relevant activities*) carried out, or proposed to be carried out, at the plant may adversely affect the safe

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and efficient use of resources under an overlapping authority for the GHG tenure.

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

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

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

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

*Editor's note—*

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

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

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

### **Division 1        Obtaining authority**

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

- (1) A GHG tenure holder may apply for a GHG data acquisition authority to allow the applicant to carry out the following activities (*data acquisition activities*)—

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

## 234 Requirements for making application

The application must be—

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

## 235 Deciding application

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

*Note—*

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

- (3) The Minister may as a condition of deciding to grant the GHG data acquisition authority, require the applicant to do all or any of the following within a stated reasonable period—
  - (a) pay the annual rent for the GHG data acquisition authority;
  - (b) give under section 271, security for the GHG data acquisition authority.

- (4) If the applicant does not comply with the requirement, the application may be refused.

### **236 Provisions of authority**

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

*Note—*

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

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

### **237 Notice of refusal**

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



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

### **238      Key authorised activities**

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

*Notes—*

- 1 For other authorised activities, see part 12 and the Common Provisions Act, chapter 3, part 2, division 4.
- 2 For general restrictions on authorised activities, their relationship with owners' and occupiers' rights and who may carry out authorised activities for a GHG authority holder, see part 12, division 3.
- 3 The carrying out of particular activities on particular land in the GHG data acquisition authority's area may not be authorised following the taking of the land under a resumption law. See section 369B.

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

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

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

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

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

- (1) A GHG data acquisition authority ends if the relevant GHG tenure ends.

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

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

- (1) This section applies if a GHG tenure is granted over land in the area of a GHG data acquisition authority.
- (2) The grant does not limit the GHG data acquisition authority or its term.
- (3) However, an authorised activity for the GHG data acquisition authority may be carried out on the land only if—
  - (a) carrying out the activity does not adversely affect the carrying out of an authorised activity for the GHG tenure; or
  - (b) the agreement conditions have been complied with.
- (4) In this section—

*agreement conditions* means that—

  - (a) the GHG tenure holder has agreed in writing to the carrying out of the activity; and
  - (b) a copy of the agreement has been given to the chief executive; and
  - (c) the agreement is still in force.

## **243 Annual rent**

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

*Note—*

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

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

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

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

Maximum penalty—150 penalty units.

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

## **Part 2 GHG storage viability assessment**

**245 Minister’s power to require GHG storage viability report**

- (1) The Minister may by notice (a *report requirement*) require a GHG tenure holder to give the Minister a report (a *GHG storage viability report*) about all or a stated part of its area if—
  - (a) the holder is not carrying out GHG storage exploration or GHG stream storage in the area or stated part; and
  - (b) the Minister is of the opinion that—
    - (i) it is viable to carry out GHG stream storage in the area or stated part; or
    - (ii) it may be viable to carry out GHG stream storage in the area or stated part within 10 years.

*Note—*

For the relevance of this period, see section 102 (Deciding potential storage area application).

- (2) The notice must state each of the following—
  - (a) the Minister’s opinion under subsection (1)(b)(i) or (ii);

- (b) the facts and circumstances forming the basis for the opinion;
- (c) that the Minister requires the holder to give the Minister a GHG storage viability report about the area;
- (d) a reasonable period for giving the report.

## **246 Required content of GHG storage viability report**

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

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

- (1) This section applies for a GHG tenure, whether or not its holder has given a GHG storage viability report about the tenure.
- (2) The Minister may obtain an independent assessment of the viability of carrying out GHG stream storage in all or part of the GHG tenure's area (an *independent viability assessment*).
- (3) However, before seeking the assessment, the Minister must give the holder a notice stating each of the following—
  - (a) that the Minister proposes to obtain the assessment;
  - (b) the Minister's reasons for seeking the assessment;
  - (c) whether the State will under section 248, seek to recover the costs of the assessment;
  - (d) that the holder may within a stated reasonable period make submissions to the Minister about the proposed assessment.
- (4) The Minister must consider any submissions made under subsection (3)(d).
- (5) The Minister must after receiving the assessment, give the holder a copy.

**248 Costs of independent viability assessment**

If—

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

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

## **Part 3**

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

### **249 Application of pt 3**

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

*Note—*

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

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

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

- 
- (b) a contract, covenant or claim of right under a law of a State.

## **251 Ownership afterwards**

- (1) This section applies if the GHG tenure (the *original tenure*) ends or the land on which the pipeline is constructed ceases to be in the original tenure's area.
- (2) Section 250 applies and continues to apply for the pipeline and for any subsequent GHG tenure to the original tenure or pipeline licence for the pipeline.
- (3) However, the application of section 250 is subject to—
  - (a) section 356; and
  - (b) any condition of the former tenure.
- (4) Also, if the pipeline is decommissioned under section 252 the following person may dispose of it to anyone else—
  - (a) if no subsequent GHG tenure was granted for the land—the holder or former holder of the original tenure;
  - (b) if a subsequent GHG tenure was granted for the land—the holder or former holder of that tenure.

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

- (1) The holder of a GHG tenure must before the decommissioning day, decommission in the way prescribed under a regulation any pipeline in the tenure's area.
- (2) However, subsection (1)—
  - (a) does not apply if the pipeline was constructed or operated under another GHG tenure or a petroleum authority; and
  - (b) ceases to apply if the operation of the pipeline becomes an authorised activity for another GHG tenure or a petroleum authority.

- (3) Also, subsection (1) does not apply for a pipeline if—
- (a) the pipeline was constructed or operated under a pipeline licence; and
  - (b) the licence is under the P&G Act, surrendered or otherwise ends for the purpose of the pipelines the subject of the licence becoming the subject of another pipeline licence.
- (4) In this section—
- decommissioning day*** means the latest of the following days—
- (a) the earlier of the following—
    - (i) the day the GHG tenure ends;
    - (ii) the day the land ceases to be in the GHG tenure’s area;
  - (b) if before the day provided for under paragraph (a), the Minister fixes a day—that day;
  - (c) if before a day fixed under paragraph (b), the Minister fixes a later day—that day.

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

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

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

- (1) This section applies if a GHG tenure holder carries out GHG storage injection testing.
- (2) The holder must within 40 business days after the testing ends give the chief executive a report stating the outcome of the testing.



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- (3) The report must also state how much water was taken during the testing.

## 254 Monitoring reports by GHG lease holder

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

Maximum penalty—150 penalty units.

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

Maximum penalty—150 penalty units.

- (5) In this section—

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

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

*relevant chief executive* means—

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

- (c) the chief executive of the department in which the Water Act is administered.

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

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

Maximum penalty—200 penalty units.

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

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## 256 End of tenure report

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

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

Maximum penalty—150 penalty units.

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

(1) A regulation or the chief executive may for the services of the State require a GHG authority holder to—

- (a) keep in a stated way stated information or types of information about authorised activities carried out under the GHG authority; or

*Example of a way of keeping information—*

in a stated digital format

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

*Example of a stated time—*

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

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

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

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

- (a) a format required for giving the information; and  
(b) a degree of precision required for the giving of the information.

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

Maximum penalty—100 penalty units.

(5) In this section—

***information*** includes documents, records and samples.

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## Division 2                      Records and samples

### 258      Requirement to keep records and samples

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

Maximum penalty—500 penalty units.

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

### 259      Requirement to give records and samples

- (1) A person who under section 258, is required to keep a record or sample must for the services of the State give a copy of the record and a part of the sample to the chief executive within 6 months after the earlier of the following (the *required time*)—

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

Maximum penalty—500 penalty units.

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

Maximum penalty—500 penalty units.

- (4) The chief executive may extend the required time by up to 1 year if—

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

## **Division 3                      Releasing required information**

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

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

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

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

- (1) The mere fact of the existence of a GHG authority is taken to be an authorisation from its holder to the chief executive to do the following, after the end of any confidentiality period prescribed under a regulation—

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

*Example—*

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

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

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

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

## **Part 5**                      **General provisions for wells**

### **Division 1**                **Responsibility for wells**

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

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

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

A person drilling a GHG well must comply with—

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

Maximum penalty—500 penalty units.

*Note—*

If a corporation commits an offence against this provision, an executive officer of the corporation may be taken, under section 393A, to have also committed the offence.

### **Division 2**                **Decommissioning of wells**

#### **265**    **Application of div 2**

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

- (a) a GHG well drilled by or for the GHG tenure holder;



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

## **266 Restriction on decommissioning well**

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

## **267 Obligation to decommission**

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

Maximum penalty—500 penalty units.

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

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

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

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

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

*Note—*

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

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

## Part 6                      Security

### 270      Operation and purpose of pt 6

- (1) This part empowers the Minister to require, from time to time, the holder of a GHG authority or a person who has applied for a GHG authority to give the State security for the authority or proposed authority.
- (2) The security may be used to pay—
  - (a) any liability under this Act that the State incurs because of an act or omission of the holder; and
  - (b) any unpaid annual rent payable by the holder to the State; and
  - (c) other unpaid amounts payable under this Act by the holder to the State, including for example, any of the following payable by the holder to the State—
    - (i) unpaid civil penalty;
    - (ii) unpaid interest on unpaid annual rent;

- (iii) any debt payable by the holder under section 371;  
and
- (d) for a GHG authority that is a GHG lease—unpaid rates and charges, including unpaid interest on overdue rates and charges, payable to the local government in whose area the lease is situated; and
- (e) any compensation the State must pay under section 360 because of the exercise or purported exercise of a remedial power under section 356 for the GHG authority, whether or not the authority has ended.

## **271 Power to require security for GHG authority**

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

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

- (1) The Minister may at any time require a GHG authority holder to increase the amount of security given for the authority.
- (2) However—

- (a) if, because of an increase in the prescribed amount under section 271(2), the requirement is to increase the total security required to no more than the increased prescribed amount—the requirement must be made by notice to the holder; or
  - (b) if the requirement is to increase the total security required to more than the prescribed amount under section 271(2) when the requirement is made—
    - (i) subsections (3) to (6) must be complied with before making the requirement; and
    - (ii) the requirement does not take effect until the holder is given an information notice about the decision to make the requirement.
- (3) The Minister must give the holder notice—
- (a) stating the proposed increased amount of the security for the GHG authority; and
  - (b) inviting the holder to within a stated reasonable period make submissions to the Minister about the proposed increased amount.
- (4) The stated period must end at least 20 business days after the holder is given the notice.
- (5) The Minister must consider any submissions made by the holder within the stated period.
- (6) In this section—
- security* given includes security given or increased because of a requirement under subsection (1).

## **273 Interest on security**

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

## **274 Power to use security**

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

## **275 Replenishment of security**

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

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

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

## 277 Retention of security after GHG authority ends

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

# Part 11 Ownership of equipment and improvements

## 326 Application of pt 11

- (1) This part applies if—
  - (a) equipment or improvements are taken, constructed or placed on land in the area of a GHG authority; and
  - (b) the equipment or improvements were taken, constructed or placed on the land for use for an authorised activity for the GHG authority; and
  - (c) the GHG authority continues in force.
- (2) However, this part—
  - (a) does not apply for a GHG stream pipeline; and
  - (b) is subject to part 15.

*Notes—*

- 1 For pipelines, see sections 250 (General provision about ownership while tenure is in force for pipeline) and 252 (Obligation to decommission pipelines on cessation or reduction of tenure).
  - 2 Part 15 (Enforcement of end of authority and area reduction obligations).
- (3) In this section—

*equipment* includes machinery and plant.

*improvements—*

- (a) does not include a GHG well; but

- (b) does include any works constructed in connection with a GHG well.

### **327 Ownership of equipment and improvements**

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

*Note—*

See however section 334 (Obligation to remove equipment and improvements).

- (2) However, for a GHG well subsection (1) is subject to part 5, division 2.
- (3) Subsection (1) applies despite—
  - (a) the plant or equipment having become part of the land;  
or
  - (b) the sale or other disposal of the land.
- (4) The equipment or improvements can not be—
  - (a) levied or seized in execution; or
  - (b) sold in exercise of a power of sale or otherwise disposed of by a process under a law of a State taken against the holder or the owner of the land.
- (5) This section applies despite—
  - (a) an Act or law of a State; or
  - (b) a contract, covenant or claim of right under a law of a State.



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## **Part 12**                      **General provisions for conditions and authorised activities**

### **Division 1**                      **Other mandatory conditions for all GHG authorities**

#### **328**      **Operation of div 1**

This division provides for general mandatory conditions for all GHG authorities.

*Notes—*

- 1 The following provisions also impose mandatory conditions on all GHG authorities—
  - chapter 2, parts 1 and 5
  - chapter 3, parts 1 and 6
  - chapter 4.
- 2 For what is a mandatory condition, see section 20(2).

#### **329**      **Compliance with land access code**

A GHG authority holder must—

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

#### **331**      **Obligation to comply with Act and prescribed standards**

- (1) The holder of a GHG authority must—
  - (a) comply with this Act; and
  - (b) in carrying out an authorised activity for the GHG authority, comply with—

- (i) any standard that the GHG authority provides for the activity; and
  - (ii) to the extent that the GHG authority does not provide a standard for the activity—any standard prescribed under a regulation for carrying out the activity.
- (2) In this section—  
*standard* includes an Australian Standard, an international standard or a code or protocol.

### **332 Obligation to survey if Minister requires**

- (1) The Minister may by notice to the holder of a GHG authority require the holder to survey or resurvey its area within a stated reasonable period.
- (2) The holder must cause the survey or resurvey to be carried out by a person registered as a cadastral surveyor under the *Surveyors Act 2003*.
- (3) The holder must pay any costs incurred in complying with the notice.

### **333 Notice of petroleum discovery**

- (1) This section applies if because of the carrying out an authorised activity for a GHG authority, its holder discovers petroleum.
- (2) The holder must within 3 business days give the chief executive a notice about the discovery.
- (3) The notice must give details of the discovery and any other information prescribed under a regulation.

*Note—*

If the holder is also a petroleum tenure holder, see also the P&G Act, section 544 (Notice by petroleum tenure holder about discovery and commercial viability).

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## Division 2                      **General provisions for when authority ends or area reduced**

### **334      **Obligation to remove equipment and improvements****

(1) This section applies for equipment or improvements in the area of a GHG authority or on access land for the authority that are being, or have been, used for an authorised activity for the authority.

(2) However, this section does not apply for—

(a) a GHG well or a pipeline; or

*Notes—*

1 For GHG wells, see part 5, division 2 (Decommissioning of wells).

2 For pipelines, see section 252 (Obligation to decommission pipelines on cessation or reduction of tenure).

(b) equipment or improvements on land that under section 48, ceases to be in the area of a GHG permit.

(3) The holder of the GHG authority must before the removal day remove the equipment or improvements from the land unless the owner of the land otherwise agrees.

Maximum penalty—1000 penalty units.

*Note—*

If a corporation commits an offence against this provision, an executive officer of the corporation may be taken, under section 393A, to have also committed the offence.

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

(5) In this section—

***equipment*** includes machinery and plant.

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

(a) the earlier of the following—

(i) the day the GHG authority ends;

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

### **335 Authorisation to enter to facilitate compliance**

- (1) The Minister may by notice authorise a former holder of a GHG authority to enter any of the following land to comply with, or remedy a contravention of, section 329 or this division—
  - (a) the land to which section 329 or this division applies (*primary land*);
  - (b) any other land (*secondary land*) necessary or desirable to cross for access to the primary land.
- (2) Sections 20 and 331 and the Common Provisions Act, chapter 3, part 2 (other than division 5) and parts 3 and 7 apply to the former holder of the authority as if—
  - (a) the GHG authority were still in force (the *notional authority*); and
  - (b) the former holder is the holder of the notional authority; and
  - (c) the primary land and any secondary land are in the notional authority's area; and
  - (d) the compliance or the remedying of the contravention were authorised activities for the notional authority.
- (3) However, the power under this section does not include the power to enter a structure or a part of a structure used for residential purposes without the consent of the occupier of the structure or part of the structure.
- (4) If the former holder intends to enter the land and any occupier of the land is present at the land, the former holder also must

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show or make a reasonable attempt to show the occupier the former holder's authorisation under this section.

## **Division 3                      Provisions for authorised activities**

### **336      Authorised activities may be carried out despite rights of owner or occupier**

- (1) The authorised activities for a GHG authority may be carried out despite the rights of an owner or occupier of land on which the activities are carried out.
- (2) However, subsection (1) applies for an authorised activity only if section 337 does not prevent it from being carried out.

### **337      General restrictions on right to carry out authorised activity**

- (1) The right under this Act to carry out an authorised activity for a GHG authority is subject to—
  - (a) chapter 4 and this chapter; and
  - (b) compliance with its holder's rights and obligations under—
    - (i) chapters 2 to 4; and
    - (ii) this chapter; and
    - (iii) sections 387 and 388; and
  - (c) the mandatory conditions and the other conditions and provisions of the GHG authority; and
  - (d) any exclusion or restriction provided for in the GHG authority on the carrying out of the activities; and
  - (e) the P&G Act safety provisions; and
  - (f) the Environmental Protection Act; and
  - (g) any other relevant Act or law.

- (2) Also, the right may be exercised only by the holder or someone that the holder has authorised under section 338.

### **338 Who may carry out authorised activity for GHG authority holder**

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

*Example—*

A GHG lease holder may also enter into a GHG coordination arrangement under which another party to the arrangement may carry out an authorised activity for the GHG lease. See section 186(1).

- (2) The authority may be express, or implied from—
- (a) the nature of the relationship between the person and the holder; or
  - (b) the duties the person performs for the holder; or
  - (c) the duties a person mentioned in subsection (1) customarily performs.

### **338A Limitation of owner's or occupier's tortious liability for authorised activities**

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

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

## Part 15                      **Enforcement of end of authority and area reduction obligations**

### **356      Power of authorised person to ensure compliance**

- (1) This section applies if the holder, or former holder, of a GHG authority has not complied with section 267, 252 or 334 in relation to land (the *primary land*).
- (2) A person authorised (the *authorised person*) by the chief executive may by complying with section 357 exercise the following powers (*remedial powers*)—
  - (a) enter the primary land and do all things necessary to ensure the requirement is complied with;

- (b) enter any other land (*secondary land*) necessary or desirable to cross for access to the primary land.
- (3) However, remedial powers do not include power to enter a structure or a part of a structure used for residential purposes without the consent of the occupier of the structure or part of the structure.
- (4) The authorisation—
  - (a) must be written; and
  - (b) may be given on conditions the Minister considers appropriate.

### **357 Requirements for entry to ensure compliance**

- (1) Remedial powers may be exercised for the primary or secondary land under section 356 only if a following person is given notice of the proposed entry at least 10 business days before the proposed entry—
  - (a) if the land has an occupier—any occupier of the land;
  - (b) if the land does not have an occupier—its owner.
- (2) The notice must—
  - (a) identify the authorised person; and
  - (b) describe the land; and
  - (c) state—
    - (i) that the authorised person has under this section, been authorised to enter the land; and
    - (ii) the purpose of the entry; and
    - (iii) the period of the entry.
- (3) The chief executive may approve the giving of the notice by publishing it in a stated way.
- (4) The chief executive may give the approval only if satisfied the publication is reasonably likely to adequately inform the person to whom the notice is required to be given of the proposed entry.



- (5) If the authorised person intends to enter the land and any occupier of the land is present at the land, the person also must show or make a reasonable attempt to show the occupier the person's authorisation under this section.

### **358 Duty to avoid damage in exercising remedial powers**

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

### **359 Notice of damage because of exercise of remedial powers**

- (1) If a person exercising remedial powers damages land or something on it, the person must give the owner and any occupier of the land notice of the damage.
- (2) If for any reason it is not practicable to comply with subsection (1), the person must—
- (a) leave the notice at the place where the damage happened; and
  - (b) ensure it is left in a conspicuous place and in a reasonably secure way.
- (3) The notice must state—
- (a) particulars of the damage; and
  - (b) that the owner or occupier may claim compensation under section 360 from the State.

### **360 Compensation for exercise of remedial powers**

- (1) This section applies if an owner or occupier of land (the *claimant*) suffers a cost, damage or loss because of the exercise or purported exercise of remedial powers.
- (2) Compensation is payable to the claimant by the State for the cost, damage or loss.

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- (3) The compensation may be claimed and ordered in a proceeding brought in a court of competent jurisdiction.
- (4) The court may order the compensation only if it is satisfied it is just to make the order in the circumstances of the particular case.

### **361 Ownership of thing removed in exercise of remedial powers**

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

### **362 Recovery of costs of and compensation for exercise of remedial power**

- (1) The State may recover from the responsible person as a debt any—
  - (a) reasonable costs the State or an authorised person under section 356 incurs in exercising a remedial power; and

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- (b) compensation payable by the State under section 360 for the exercise of the remedial power.
- (2) However, in any proceeding to recover the costs, any relevant net proceeds of sale mentioned in section 361 must be deducted from the amount claimed for the costs.
- (3) In this section—
- relevant net proceeds of sale* means proceeds of sale under which the thing sold was the property of the responsible person immediately before its removal under section 361.
- responsible person* means the holder or former holder of the GHG authority about whom the remedial powers were exercised.

## Part 16 Dealing with serious situations

### 363 What is a serious situation

A *serious situation* exists for a GHG storage reservoir if—

- (a) a GHG stream injected into the reservoir has leaked; or
- (b) there is a significant risk that a GHG stream injected into the reservoir will leak from it; or
- (c) a GHG stream injected, being injected or to be injected into the reservoir has behaved or is behaving otherwise than as predicted in a relevant work program or development plan.

### 364 Minister's power to give direction

- (1) This section applies if the Minister reasonably believes—
- (a) a serious situation exists or may exist for a GHG storage reservoir; and
  - (b) a GHG tenure holder is in a position to take steps to remedy the situation or possible situation.

- (2) The Minister may give the GHG tenure holder a direction (a *serious situation direction*) to—
  - (a) stop injecting any GHG stream into the reservoir; or
  - (b) suspend the injection of any GHG stream into the reservoir for a stated period; or
  - (c) take steps reasonably necessary to remedy the situation within a stated reasonable period.
- (3) If the direction requires the GHG tenure holder to take action mentioned in subsection (2)(c) within a stated period, it may state the steps the Minister reasonably believes are necessary to remedy the serious situation within the period.
- (4) The direction may also require the GHG tenure holder to notify the Minister when the holder has complied with the direction.

### **365 Requirements for giving serious situation direction**

- (1) A serious situation direction must state—
  - (a) that the Minister believes—
    - (i) a stated serious situation exists; and
    - (ii) the GHG tenure holder given the direction is in a position to take steps to remedy the situation; and
  - (b) the reasons for the belief; and
  - (c) the requirements under the direction.
- (2) The direction must include or be accompanied by an information notice about the decisions to give the direction and to fix the period.
- (3) The direction may be given orally if—
  - (a) for any reason it is not practicable to give the direction in writing; and
  - (b) the Minister warns the person it is an offence not to comply with the direction.

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- (4) If a serious situation direction is given orally, the Minister must confirm the direction by also giving it in writing as soon as practicable after giving it orally.

### **366 Failure to comply with serious situation direction**

- (1) A GHG tenure holder to whom a serious situation direction has been given must comply with the direction.

Maximum penalty—1000 penalty units.

- (2) Subsections (3) and (4) apply if—
- (a) the direction requires the GHG tenure holder to take steps reasonably necessary to remedy the serious situation the subject of the direction within a stated reasonable period; and
  - (b) the direction states the steps the Minister reasonably believes are necessary to remedy the serious situation within the period.
- (3) The GHG tenure holder is taken to have complied with the requirement if all of the stated steps are taken within the period.
- (4) Subsection (3) does not prevent the GHG tenure holder from complying with the requirement in another way.

### **367 Serious situation direction applies despite other instruments**

A serious situation direction applies despite any GHG tenure, work program, development plan or other instrument made or given under this Act.

### **368 Powers under P&G Act not affected**

To remove any doubt, it is declared that this part does not limit—

- (a) the power to give a compliance direction or a dangerous situation direction under the P&G Act; or

- (b) another power under the P&G Act safety provisions or chapter 10 of that Act.

## **Part 17                      Miscellaneous provisions**

### **369      GHG authority does not create an interest in land**

The granting of a GHG authority does not create an interest in any land.

### **369A    Extinguishing GHG interests on the taking of land in a GHG authority's area (other than by an easement)**

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

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- (6) The resumption notice for the taking of land may provide for the extinguishment of GHG interests by reference to either or both of the following—
- (a) stated land, which—
    - (i) may be all or part of the land that is taken; and
    - (ii) if the stated land is only part of the land that is taken—may be described in the resumption notice in any way, including, for example—
      - (A) as a shape that does not constitute a block or sub-block; or
      - (B) by using 3 dimensionally located points to identify the position, shape and dimensions of each boundary;
  - (b) stated GHG interests, which may be all GHG interests or GHG interests of a particular type.
- (7) For the taking of land for which GHG interests are extinguished as provided by this section—
- (a) each person’s interest in an extinguished GHG interest is converted into a right to claim compensation under the resumption law; and
  - (b) the resumption law applies with necessary and convenient changes and with the changes mentioned in subsections (8) and (9) and section 369D.
- (8) The notice of intention to resume for the proposed taking of the land must state the extent to which the GHG interests are proposed to be extinguished.
- (9) The entity taking the land must give the chief executive a notice that—
- (a) states the details of the extinguishment; and
  - (b) asks for the extinguishment to be recorded in the 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.

**369B Effect of extinguishment of GHG interests on the taking of land in a GHG authority's area (other than by taking an easement)**

- (1) This section applies if, under section 369A, the resumption notice for the taking of land (other than by taking or otherwise creating an easement) under a resumption law provides for the extinguishment of GHG interests for stated land.
- (2) If the resumption notice states that all GHG interests relating to the stated land are extinguished and a GHG interest relates only to the stated land, the interest is wholly extinguished.
- (3) If the resumption notice states that all GHG interests relating to the stated land are extinguished and a GHG interest relates to the stated land and other land—
  - (a) the stated land is no longer the subject of the interest; and
  - (b) without limiting paragraph (a)—
    - (i) the stated land is excluded from the area of the GHG authority comprising the interest, or under or in relation to which the interest exists; and



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- (ii) this Act applies, in relation to the area of the GHG authority, with necessary and convenient changes to allow for the exclusion of the stated land, including, for example, to allow the area to include a part of a block or sub-block if the part is what is left after the stated land is excluded from the area.
- (4) If the resumption notice states that the carrying out of stated activities on the stated land by holders of stated GHG interests is prohibited, the holder of a stated GHG interest is not, or is no longer, authorised to carry out the stated activities on the stated land.
  - (5) However, subsections (3) and (4) do not apply in relation to a GHG interest that comprises, or exists under or in relation to, a new or renewed GHG authority granted after the land is taken.

### **369C Applications relating to land taken under a resumption law for which GHG interests were extinguished**

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

applicant's application and another application, or other applications, made on the same day as the day on which the applicant's application was made.

- (3) If a grant provision provides for the grant of a new GHG authority (the *new authority*) over land in the area of an existing GHG authority (the *existing authority*)—
  - (a) the application under this Act for the new authority may include acquired land that was, immediately before the taking of the land, in the existing authority's area; and
  - (b) subject to subsections (1) and (2), the Minister may grant the new authority for an area that includes the acquired land as if the acquired land were in the existing authority's area.
- (4) To remove any doubt, it is declared that this section does not affect the operation of the provisions of this Act about the application for, and grant of, a new GHG authority other than to the extent provided for in subsections (1) to (3).
- (5) In this section—

*grant provision* means a provision of this Act providing for the grant of a new GHG authority.

*new GHG authority* includes a renewed GHG authority.

### **369D Compensation for effect of taking of land in a GHG authority's area on GHG interests**

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

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### **370 Joint holders of a GHG authority**

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

***GHG authority*** includes a share in a GHG authority.

### **371 Minister's power to ensure compliance by GHG authority holder**

- (1) This section applies if—
  - (a) the holder of a GHG authority has not complied with a requirement under this Act, of the holder; and
  - (b) no other provision of this Act allows someone other than the holder to ensure compliance with the requirement.
- (2) The Minister may take any action the Minister considers appropriate to ensure all or part of the requirement is complied with if—
  - (a) subsections (3) and (4) have been complied with; or
  - (b) the holder has agreed to the Minister taking the action.
- (3) The Minister must give the holder notice—
  - (a) stating the requirement and the action the Minister proposes to take; and

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- (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).

### **372 Interest on amounts owing to the State**

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

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

annual or other rent and a civil penalty for non-payment 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 non-payment of annual rent—the day that is 3 months after the last day for payment of the rent or civil penalty;

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- (b) for another amount—the day the amount becomes owing.

### **373 Recovery of unpaid amounts**

- (1) If a provision of this Act requires a GHG authority holder to pay the State an amount (including interest) the State may recover the amount from the holder as a debt.
- (2) In this section—  
*holder* includes a former holder of the GHG authority about whom the remedial powers were exercised.

### **374 Power to correct or amend authority**

- (1) The Minister may amend a GHG authority at any time by giving its holder a notice of the amendment and recording particulars in the relevant register if the amendment—
- (a) is to correct a clerical error; or
  - (b) is to state or more accurately state the boundaries of the area of the GHG authority because of a survey carried out under section 332.
- (2) The Minister may at any time amend a condition of the GHG authority if its holder authority agrees in writing.
- (3) Despite subsections (1) and (2), the following can not be amended under this section—
- (a) the mandatory conditions for that type of authority;
  - (b) the term of the GHG authority;
  - (c) any work program or development plan for the GHG authority.
- (4) Also, the Minister can not amend the GHG authority if the authority as amended would be inconsistent with a mandatory condition for that type of authority.

### **376 Joint and several liability for conditions and for debts to State**

If more than 1 person holds a GHG authority each holder is jointly and severally—

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

### **377 Notice of authority holder's agents**

A person carrying out functions under this Act may refuse to deal with a person who claims to be acting as the agent of the holder of a GHG authority unless the holder has given the person notice of the agency.

## **Chapter 6 Investigations and enforcement**

### **Part 1 Noncompliance action for GHG authorities**

#### **Division 1 Preliminary**

### **378 Operation of div 1**

- (1) This division provides a process for noncompliance action against the holder of a GHG authority.
- (2) The power to take noncompliance action under this part does not limit a power as follows (the *other power*)—
  - (a) the power under chapter 5, part 6 to require new or additional security;

- (b) a power under another provision of this Act to amend the GHG authority;
  - (c) the power to give a dangerous situation or compliance direction under the P&G Act.
- (3) The other power does not limit the power to take noncompliance action.
- (4) Noncompliance action may be taken when the other power is exercised.

*Notes—*

- 1 The P&G Act, chapter 10 includes provisions about investigating GHG storage activities and for the giving of compliance and dangerous situation directions concerning those activities.
- 2 See also chapter 5, part 16 (Dealing with serious situations).

## **Division 2                      Noncompliance action by Minister**

### **379      Types of noncompliance action that may be taken**

- (1) The noncompliance action the Minister may take under this division is all or any of the following—
- (a) amending the GHG authority by doing all or any of the following—
    - (i) for a GHG authority other than a GHG lease, reducing its term;
    - (ii) reducing its area;

*Example of a possible reduction—*

A GHG permit holder has not in contravention of section 89, carried out work required under the work program for the permit. Noncompliance action may include amending the permit to reduce its area to reflect the work not carried out.

- (iii) amending a condition of the GHG authority;
- (iv) imposing a new condition;

- (b) for a GHG authority other than a GHG lease, requiring its holder to relinquish a stated part of its area on or before a stated time;
  - (c) cancelling the GHG authority, immediately or on a stated day;
  - (d) if the GHG authority is a GHG tenure—
    - (i) withdrawing from a stated day, the approval of its work program or development plan; and
    - (ii) directing its holder to, on or before that day, give the Minister the following document so that the Minister may decide whether to approve it—
      - (A) for a GHG permit—a proposed later work program that complies with the later work program requirements;
      - (B) for a GHG lease—a proposed later development plan that complies with the later development plan requirements;
  - (e) requiring the GHG authority holder to pay the State a penalty of an amount no more than the monetary value of 2000 penalty units.
- (2) A condition or amendment under subsection (1) may restrict the authorised activities for the GHG authority.
  - (3) If under subsection (1)(c), the GHG authority is cancelled on a stated day, a condition may be imposed under subsection (1)(a) restricting the authorised activities for the authority until the cancellation.
  - (4) Noncompliance action may be taken despite the mandatory conditions for the GHG authority.

### **380 When noncompliance action may be taken**

- (1) Noncompliance action may be taken if—
  - (a) an event mentioned in subsection (2) or (3) has happened; and



- 
- (b) the procedure under division 3 for taking the action has been followed; and
  - (c) the GHG authority for which the noncompliance action is taken relates to the event for which the action is taken.
- (2) For subsection (1), the event is that the holder—
- (a) obtained the GHG authority because of a materially false or misleading representation or declaration made orally or in writing; or
  - (b) has failed to comply with this Act, a direction given under this Act or the GHG authority; or
  - (c) did not pay an amount under this Act by the day it became owing; or
  - (d) has used any land in the GHG authority's area for an activity that—
    - (i) is not an authorised activity for the GHG authority or that, under any of the following Acts can not be carried out on the land—
      - (A) the Geothermal Act, chapter 5, part 5;
      - (B) the Mineral Resources Act, chapter 9;
      - (C) the P&G Act, chapter 3A;
      - (D) the 1923 Act, part 6FA; and
    - (ii) the holder can not otherwise lawfully carry out; or
  - (e) has used the GHG authority for a purpose other than for a purpose for which it was granted; or
  - (f) has carried out or purported to carry out work under the GHG authority for which the GHG authority was not granted.
- (3) Also, it is an event for subsection (1) if the holder is not or has ceased to be an eligible person.

## **Division 3                      Procedure for noncompliance action**

### **381      Notice of proposed noncompliance action**

- (1) The Minister must give the GHG authority holder a notice stating each of the following—
  - (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 any of the following—
  - (a) if the noncompliance action is likely to include amending the GHG authority—the likely amendment;
  - (b) the amount of any likely reduction of the GHG authority's area.
- (3) The stated period must be at least 20 business days after the holder is given the notice.

### **382      Considering submissions**

- (1) The Minister must consider any submissions made by the holder within the period stated in the notice given under section 381.
- (2) If the Minister decides not to take noncompliance action the Minister must, as soon as practicable, give the holder a notice of the decision.

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**383 Decision on proposed noncompliance action**

- (1) If after complying with section 382, the Minister still believes a ground exists to take noncompliance action, the Minister may decide to take noncompliance action for the GHG authority relating to a ground stated in the notice given under section 381.
- (2) The Minister must in deciding whether to take the action have regard to whether the holder is a suitable person to hold or continue to hold the GHG authority.
- (3) In considering whether the holder is a suitable person to hold or to continue to hold the GHG authority the Minister must consider any criteria for deciding whether to grant an GHG authority of the same type.

**384 Notice and taking effect of decision**

- (1) If the Minister makes a decision under section 383, the person must after making the decision give an information notice about the decision to—
  - (a) the holder; and
  - (b) any other person who holds an interest in the GHG authority recorded in the register.
- (2) Generally, the decision takes effect on the later of the following—
  - (a) the day the holder is given the information notice;
  - (b) a later day of effect stated in the notice.
- (3) However, if the decision was to cancel the GHG authority, the decision does not take effect until the end of the appeal period for the decision.

**385 Consequence of failure to comply with relinquishment requirement**

- (1) This section applies if—

- (a) noncompliance action taken is a requirement under section 379(1)(b), of a GHG authority holder; and
  - (b) the requirement is not complied with.
- (2) The Minister must give the holder a notice requiring the holder to comply with the requirement under section 379(1)(b) within 20 business days after the giving of the notice.
- (3) If the holder does not comply with the requirement under the notice, the GHG authority is cancelled.
- (4) However, the cancellation does not take effect until the Minister gives the holder a notice stating that the GHG authority has been cancelled because of the operation of subsection (3).

## **Part 2                      General offences**

### **Division 1                      Restrictions relating to GHG storage activities**

#### **386      Restriction on GHG storage activities**

- (1) A person must not carry out a GHG storage activity in relation to land unless—
- (a) the activity is carried out under a GHG authority or a serious situation direction; or
  - (b) the carrying out of the activity is necessary to preserve life or property because of a dangerous situation or emergency that exists or may exist; or
  - (c) the activity is the construction or operation of a GHG stream pipeline carried out under a pipeline licence; or
  - (d) the person—
    - (i) is carrying out the activity for the State; and

- (ii) has, under section 420, been authorised for that purpose; and
- (iii) is acting within the scope of that authority.

Maximum penalty—2000 penalty units.

*Note—*

If a corporation commits an offence against this provision, an executive officer of the corporation may commit an offence against section 393.

- (2) If the activity is injecting a GHG stream into an underground reservoir, it is a defence to a proceeding for an offence against subsection (1) for the defendant to prove that the injection—
  - (a) was for the purpose of enhanced petroleum recovery and was authorised under the 1923 Act or the P&G Act; and
  - (b) was for the purpose of production testing or geothermal production under the Geothermal Act and was authorised under that Act.

### **387 GHG tenure holder’s measurement obligations**

The holder of a GHG tenure must ensure—

- (a) GHG streams used for GHG stream storage in the GHG tenure’s area are measured by a meter; and
- (b) the meter complies with any requirements prescribed under a regulation; and
- (c) the measurement is made at the times and in the way prescribed under a regulation.

Maximum penalty—500 penalty units.

### **388 Duty to avoid interference in carrying out GHG storage activities**

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

Maximum penalty—500 penalty units.

## **Division 2                    Interference with authorised activities**

### **389    Obstruction of GHG authority holder**

- (1) A person must not without reasonable excuse obstruct a GHG authority holder from—
  - (a) entering or crossing land to carry out an authorised activity for the GHG authority if the Common Provisions Act, chapter 3 to the extent the chapter is relevant, has been complied with for the entry; or
  - (b) carrying out an authorised activity for the GHG authority on the land.

Maximum penalty—500 penalty units.

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

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

### **390    Restriction on building on pipeline land for GHG tenure**

- (1) This section applies if land is pipeline land for 1 or more GHG tenures.

- (2) A person other than a holder of any of the GHG tenures must not construct or place a structure on the land unless all the GHG tenure holders consent.

Maximum penalty—500 penalty units.

**391 Restriction on changing surface of pipeline land for a GHG tenure**

A person must not change the surface of pipeline land for a GHG tenure in a way that changes or may cause a change to the depth of burial of a pipeline unless—

- (a) the GHG tenure holder consents; or
- (b) the change is necessary to preserve life or property because of a dangerous situation or emergency that exists or may exist; or
- (c) the change is a change to a public road by or for its public road authority; or
- (d) the person has a reasonable excuse.

Maximum penalty—500 penalty units.

**Division 3 Other offences**

**392 False or misleading information**

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

Maximum penalty—500 penalty units.

*Note—*

If a corporation commits an offence against this provision, an executive officer of the corporation may be taken, under section 393A, 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 393A, to have also committed the offence.

### **393 Liability of executive officer—offence committed by corporation against s 386(1)**

- (1) An executive officer of a corporation commits an offence if—
  - (a) the corporation commits an offence against section 386(1); 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 386(1) 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 386(1); and
  - (b) whether the officer was in a position to influence the corporation's conduct in relation to the offence against section 386(1); 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 386(1).
- (4) This section does not affect—



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- (a) the liability of the corporation for the offence against section 386(1); 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 386(1).

### **393A 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 264
- section 334(3)
- section 392(1)

- section 392(2).

### **394 Attempts to commit offences**

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

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

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

## **Part 3 Appeals**

### **395 Who may appeal**

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

### **396 Period to appeal**

- (1) The appeal must be started within 20 business days after—
  - (a) for an appeal from a review decision—
    - (i) if the person has been given a review notice about the review decision to which the appeal relates—the day the person is given the notice; or
    - (ii) if subparagraph (i) does not apply—the day the person otherwise becomes aware of the review decision; or
  - (b) for an appeal from another decision—

- (i) if the person has been given an information notice about the decision—the day the person is given the notice; or
  - (ii) if subparagraph (i) does not apply—the day the person otherwise becomes aware of the decision.
- (2) However, the Land Court may at any time within the 20 business days extend the period for making an appeal.

### **397 Starting appeal**

- (1) The appeal is started by filing a written notice of appeal with the Land Court.
- (2) The appellant must give the chief executive a copy of the notice.

### **398 Stay of operation of decision**

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

### **399 Hearing procedures**

- (1) In deciding an appeal, the Land Court—
  - (a) has the same powers as the Minister; and
  - (b) is not bound by the rules of evidence; and

- (c) must comply with natural justice; and
  - (d) may hear the appeal in court or in chambers.
- (2) An appeal is by way of rehearing unaffected by the decision.
  - (3) Subject to subsections (1) and (2), the procedure for the appeal is—
    - (a) in accordance with the rules for the Land Court; or
    - (b) in the absence of relevant rules, as directed by the Land Court.
  - (4) A power under an Act to make rules for the Land Court includes power to make rules for appeals under this part.

#### **400 Land Court's powers on appeal**

- (1) Subject to section 401, in deciding an appeal the Land Court may—
  - (a) confirm the decision; or
  - (b) set aside the decision and substitute another decision; or
  - (c) set aside the decision and return the issue to the Minister with the directions the Land Court considers appropriate.
- (2) If the Land Court substitutes another decision, the substituted decision is for this Act other than this part taken to be the decision of the Minister.

#### **401 Restriction on Land Court's powers for decision not to grant GHG lease**

- (1) This section applies if the Land Court is deciding an appeal against a decision not to grant a GHG lease.
- (2) The Land Court can not exercise a power mentioned in section 400(1)(b) or (c) in relation to the decision on the ground that any resource management decision for the application for the GHG lease was to give overlapping authority priority, in whole or part.

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## **Part 4                      Evidence and legal proceedings**

### **Division 1                Evidentiary provisions**

#### **403      Application of div 1**

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

#### **404      Authority**

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

#### **405      Signatures**

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

#### **406      Other evidentiary aids**

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

- (a) that a stated document of any of the following types is a document given, issued, kept or made under this Act—
  - (i) an appointment, approval or decision;
  - (ii) a direction, notice or requirement;
  - (iii) a GHG authority;
  - (v) a report;
  - (vi) another record;

- (aa) that a stated document is a register kept under the Common Provisions Act;
- (b) that a stated document is another document kept under this Act;
- (c) that a stated document is a copy of, or an extract from or part of, a thing mentioned in paragraph (a) or (b);
- (d) that on a stated day—
  - (i) a stated person was given a stated decision, direction or notice under this Act; or
  - (ii) a stated requirement under this Act was made of a stated person;
- (e) that on a stated day or during a stated period a GHG authority—
  - (i) was or was not in force; or
  - (ii) was or was not subject to a stated condition; or
  - (iii) was or was not cancelled;
- (f) that a stated amount is payable under this Act by a stated person and has not been paid;
- (g) that a stated address for the holder of a GHG authority is the last address of the holder known to the Minister or the chief executive.

## **Division 2                      Offence proceedings**

### **407      Offences under Act are summary**

- (1) An offence against this Act is a summary offence.
- (2) A proceeding for an offence against this Act must be started within—
  - (a) 1 year after the commission of the offence; or

- (b) 1 year after the offence comes to the complainant's knowledge, but within 2 years after the commission of the offence.

#### 408 Statement of complainant's knowledge

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

#### 409 Conduct of representatives

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

- (b) for an individual—an agent or employee of the individual.

*state of mind*, of a person, includes the person's—

- (a) belief, intention, knowledge, opinion or purpose; and
- (b) reasons for the belief, intention, opinion or purpose.

#### **410 Additional orders that may be made on conviction**

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



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## Chapter 7      Miscellaneous provisions

### Part 1                      Applications, lodging documents and making submissions

#### 411      Place or way for making applications, lodging documents or making submissions

- (1) This section applies to any of the following under this Act—
  - (a) the making of an application;
  - (b) the giving of a document to the Minister or the chief executive;
  - (c) the making of a submission.
- (2) The application, document or submission may be made or given only—
  - (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 document that, under this Act, must be given in the required way for giving reports to the chief executive.

#### **412 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 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 written notice of the decision and the reasons for it; and
  - (b) the chief executive must refund the application fee to the applicant.

#### **413 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 GHG 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 GHG tenure.

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- (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 GHG tenure—that the applicant meets the relevant capability criteria under chapter 2 or 3.
- (2) For subsection (1)(b), if the application is for a GHG authority, a required document may include a survey or resurvey of the area of the proposed authority carried out by a 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.

### **413A Refusing application for failure to comply with request**

The Minister may refuse an application if—

- (a) a notice under section 413 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.

### **413B Notice to progress GHG authority or renewal application**

- (1) The Minister may by notice require an applicant for, or to renew, a GHG authority 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 authority 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.

### **414 Particular criteria generally not exhaustive**

- (1) This section applies if another provision of this Act permits or requires the Minister to consider particular criteria in deciding an application.
- (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—

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*criteria* includes issues and matters.

#### **415 Particular grounds for refusal generally not exhaustive**

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

#### **416 Amending applications**

- (1) If a person has made an application under this Act, the person may amend the application or a document accompanying the application only if—
  - (a) the application has not been decided; and
  - (b) the Minister has agreed to the making of the amendment; and
  - (c) if the proposed amendment is to change the applicant—each applicant and proposed applicant has agreed to the change; and
  - (d) the person has paid any fee prescribed by regulation for the amendment.
- (2) However, if the application is a tender for a GHG tenure—
  - (a) a proposed work program or development plan included in the tender can not be amended after the applicant has become the preferred tenderer for the tender; and
  - (b) the tender can not be otherwise amended after the closing time for the relevant call for tenders.
- (3) However, subsection (2)(b) does not apply if—

- (a) the tenderer is a corporation; and
  - (b) the change is only a change of name of the tenderer; and
  - (c) the tenderer's Australian company number and Australian registered business name have not changed.
- (4) If under subsection (1), the application is amended to change the applicant, for the deciding of the application the applicant as changed is taken to have been the applicant from the making of the application.

#### **417 Withdrawal of application**

- (1) A person who has made an application under this Act may give the chief executive a notice withdrawing the application at any time before any decision about the application takes effect.
- (2) The withdrawal takes effect when the notice is given.
- (3) If the applicant is a preferred tenderer for a call for tenders, the withdrawal does not affect the Minister's power to appoint another tenderer from the tenders made in response to the call to be the preferred tenderer.

#### **418 Minister's power to refund application fee**

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

## **Part 2 Other miscellaneous provisions**

#### **419 General public interest criteria for ministerial decisions**

- (1) The Minister must consider the public interest in making a decision under this Act about an application or the granting of an approval by the Minister.
- (2) If—

- 
- (a) another provision of this Act permits or requires the Minister to make a decision; and
  - (b) the other provision does not require the Minister to consider the public interest;
- the Minister may nonetheless consider the public interest in making the decision.

#### **420 Provision for entry by State to carry out GHG storage activity**

- (1) If the State proposes to exercise a right under section 28(3)(b)(i), the right may be exercised by anyone authorised by the chief executive.
- (2) However, a person authorised under subsection (1) may enter the land only if the person has given the owner of the land at least 5 business days notice of the proposed entry.
- (3) To remove any doubt, it is declared that subsection (2) does not apply to an inspector or authorised officer under the P&G Act performing functions under that Act relating to this Act.

#### **421 Name and address for service**

- (1) A person (the *first person*) may by a signed notice given to the chief executive nominate another person (a *nominated person*) at a stated address as the first person's address for service for this Act.
- (2) If this Act requires or permits the Minister or chief executive to serve a notice or other document on the first person, it may be served on the first person by serving it on the last nominated person at the stated address for that person.
- (3) In this section—  
*serve* includes give.

#### **422 Additional information about reports and other matters**

- (1) This section applies if—

- (a) a person is required under this Act to give a notice or copy of a document, report or information (the *advice*) with the Minister or the chief executive; and
  - (b) the person gives the advice.
- (2) The Minister or chief executive may by notice require the person to give within the reasonable time stated in the notice written information about the matter for which the advice was given.
- (3) The person must comply with the notice.
- Maximum penalty for subsection (3)—500 penalty units.

#### **423 References to right to enter**

A right under this Act to enter a place includes the right to—

- (a) leave and re-enter the place from time to time; and
- (b) remain on the place for the time necessary to achieve the purpose of the entry; and
- (c) take on the place equipment, materials, vehicles or other things reasonably necessary to exercise a power under this Act.

#### **424 Application of provisions**

If a provision of this Act applies any of the following (the *applied law*) for a purpose—

- (a) another provision of this Act;
- (b) another law;
- (c) a provision of another law;

for that purpose the applied law and any definition relevant to it apply with necessary changes.



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## 425 Protection from liability for particular persons

- (1) A person as follows (a *designated person*) does not incur civil liability for an act done, or omission made, honestly and without negligence under this Act—
  - (a) the Minister;
  - (b) a public service officer or public service employee;
  - (c) a person if—
    - (i) the person has, under section 420, been authorised to carry out an activity for the State; and
    - (ii) the act or omission happened while the person was acting within the scope of that authority;
  - (d) a GHG tenure holder given a serious situation direction who is complying with the direction.
- (2) For subsection (1)(b), it does not matter what is the form of appointment or employment of the person.
- (3) If subsection (1) prevents a civil liability attaching to a designated person, the liability attaches instead to the State.
- (4) In this section—

*civil liability* includes liability for the payment of costs ordered to be paid in a proceeding for an offence against this Act.

## 426 Delegation by Minister or chief executive

- (1) The Minister may delegate the Minister's functions under this Act to an appropriately qualified public service officer or employee.
- (2) The chief executive may delegate the chief executive's functions under this Act to an appropriately qualified public service officer or employee.
- (3) In this section—

*functions* includes powers.

#### **428 Approved forms**

- (1) The chief executive may approve forms for use under this Act.
- (2) A form may be approved for use under this Act that is combined with or is to be used together with an approved form under another Act.

#### **429 Regulation-making power**

- (1) The Governor in Council may make regulations under this Act.
- (2) A regulation may—
  - (a) be made about the fees payable under this Act including late payment fees; or
  - (b) impose a penalty for a contravention of a provision of a regulation of no more than 20 penalty units; or
  - (c) be made about the way an application, document or submission must be made or given for section 411(2)(b), or the way a report must be given for section 255(2)(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; or
  - (d) requiring lodgement of a hard copy of the application, document or submission.

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## Chapter 8 Transitional provisions

### Part 1 Transitional provisions for Act No. 3 of 2009

#### 430 Definitions for pt 1

In this part—

*assent* means the date of assent of this Act.

*new GHG permit* see section 432(1).

*Zerogen* means Zerogen Pty Ltd (ACN 118 696 932).

#### 431 Conversion of Zerogen's P&G Act ATPs

- (1) This section applies to P&G Act ATP 830 and to P&G Act ATP 835 both held by Zerogen.
- (2) On assent—
  - (a) each of the ATPs—
    - (i) becomes a GHG permit; and
    - (ii) ceases to be a P&G Act ATP; and
  - (b) the work program for each of the ATPs becomes the work program for the GHG permit that it becomes.
- (3) The Minister may amend the following in any way the Minister considers appropriate to reflect the changes under subsection (2)—
  - (a) the instruments for the ATPs;
  - (b) their work programs under the P&G Act.
- (4) In this section—

*amend* includes remake.

*P&G Act ATP* means an ATP under the P&G Act.

### 432 New GHG permit for Zerogen

- (1) On assent, Zerogen is taken to have been granted a GHG permit (the *new GHG permit*) for the following sub-blocks—

#### Charleville block identification map

Block	Sub-blocks
55	a, b, c, d, e, f, g, h, j, k, m, n, o, p, s, t, u, x, y and z
56	a, b, c, d, e, f, g, h, j, k, l, m, n, o, p, q, r, s, t, u, v, w, x, y and z

#### Clermont block identification map

Block	Sub-blocks
3147	a, b, c, d, e, f, g, h, j, k, l, m, n, o, p, q, r, s, t, u, v, w, x, y and z
3219	a, b, c, d, e, f, g, h, j and k
3291	a, b, c, d, e, f, g, h, j, k, l, m, n, o, p, q, r, s, t, u, v, w, x, y and z
3364	a, b, f, g, l, m, n, q, r, s, v, w and x
3365	c, d, e, h, j, k, n, o, p, t, u and z
3366	a, b, c, d, e, f, g, h, j, k, l, m, n, o, p, q, r, s, t, u, v, w, x, y and z
3436	a, b, c, d, e, f, g, h, j, k, l, m, n, o, p, q, r, s, t, u, v, w, x, y and z
3437	f, l, q, r, v, w and x
3438	a, b, c, d, e, g, h, j, k, n, o, p, s, t, u, y and z.

- (2) In this section—

*block identification map* means a map that forms part of the series of maps known as the ‘Block Identification Map—Series B’ held by the department.

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### **432A Correction of new GHG permit for Zerogen**

- (1) Despite section 432, from the commencement of this section, the new GHG permit described in section 432 is taken not to include the following sub-blocks—

#### **Clermont block identification map**

<b>Block</b>	<b>Sub-blocks</b>
3436	d and e

- (2) In this section—  
*block identification map* see section 432.

### **433 Authorised activities under Zerogen GHG permits may start from assent**

- (1) From assent, Zerogen may, subject to this Act, carry out all authorised activities for any of its GHG permits mentioned in this part as if all of this Act commences on assent.
- (2) Without limiting subsection (1), chapter 4, part 6, division 1 applies for the GHG permits from assent.
- (3) The authorised activities may be carried out despite chapter 4, part 6, division 1.
- (4) Chapter 2, part 5 applies to the carrying out of the authorised activities.

### **434 Deciding provisions of new GHG permit**

- (1) Zerogen must give the Minister a proposed work program for the new GHG permit as if all of this Act commences on assent.
- (2) The proposed work program must comply with the initial work program requirements.
- (3) As soon as practicable after Zerogen complies with subsection (2), the Minister must—

- (a) decide whether to approve the proposed work program;  
and
  - (b) if the approval is given—
    - (i) decide the provisions of the instrument for the GHG permit other than provisions relating to the permit's area; and
    - (ii) give Zerogen the instrument.
- (4) For subsection (3), sections 41, 44 and 45 apply as if—
- (a) a call for tenders had been made for the area of each of the GHG permits; and
  - (b) Zerogen had been the successful tenderer under the call for tenders.

#### **435 Test plan for new GHG permit**

Despite section 80 not having commenced, Zerogen may give the Minister, and the Minister may approve under that section a test plan for GHG storage injection testing relating to the new GHG permit.

#### **436 Functions under part may be performed before assent**

- (1) If before assent the Minister or Zerogen purports to perform a function under this part that can be performed from assent, the function is taken to have been validly performed on assent.
- (2) In this section—  
*function* includes power.

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## Part 2                      **Transitional provisions for amendments under Geothermal Energy Act 2010**

### **437      Land access code prevails over conditions**

If a condition of a GHG authority is inconsistent with a mandatory provision of the land access code, the mandatory provision prevails to the extent of the inconsistency.

### **438      Existing compensation agreements other than for notifiable road uses**

- (1) This section applies if immediately before the commencement of this section a compensation agreement under chapter 5, part 10 was in force.
- (2) On the commencement the agreement becomes a conduct and compensation agreement under chapter 5, part 10, division 1.

### **439      Existing entry notices**

- (1) This section applies to an entry notice for the carrying out of an authorised activity for a GHG authority if the notice complied with the entry notice requirements before the commencement of this section.
- (2) The notice continues, according to its terms, to be valid for the carrying out of the activity after the commencement even though the notice does not comply with all of the entry notice requirements from the commencement.
- (3) In this section—

***entry notice requirements*** means the requirements under this Act relating to the giving of an entry notice.

#### **440 References to geothermal tenure**

Until the *Geothermal Energy Act 2010*, chapter 9, part 1 commences, a reference in this Act to a geothermal tenure is taken to be a reference to a geothermal exploration permit.

## **Part 3 Transitional provisions for Mines Legislation (Streamlining) Amendment Act 2012**

### **Division 1 Preliminary**

#### **441 Definitions for pt 3**

In this part—

*amending Act* means the *Mines Legislation (Streamlining) Amendment Act 2012*.

*commencement* means the commencement of the section in which the term is used.

*former*, in relation to a provision, means the provision as in force before the commencement of the section in which the term is used.

### **Division 2 Transitional provisions for amendments in amending Act commencing on assent**

#### **442 Land in a GHG authority's area taken before the commencement**

(1) This section applies if—

(a) land in a GHG authority's area was taken under a resumption law before the commencement; and



- (b) at the commencement, the entity taking the land has not taken action indicating the GHG authority was extinguished (wholly or partly) when the land was taken.

*Examples of action for paragraph (b)—*

- serving a copy of the resumption notice for the taking of the land on the GHG authority holder (in the holder's capacity as the holder of the authority)
  - entering into a resumption agreement under the ALA with the GHG authority holder for the taking of the land
  - negotiating, or taking other action relating to, the compensation payable to the GHG authority holder for the taking of the land
  - paying compensation to the GHG authority holder for the taking of the land
  - arranging for the taking of the land to be recorded in the GHG register against the GHG authority
- (2) The taking of the land did not extinguish (wholly or partly) the GHG authority or any other GHG interest relating to the authority.
- (3) Subsection (2) does not affect the ending of a GHG interest (wholly or partly) in any other way, including, for example—
- (a) by the entity taking the land acquiring the GHG interest (wholly or partly) under a separate commercial agreement or other arrangement with the holder of the interest; or
  - (b) by the GHG interest holder surrendering the interest (wholly or partly) under this Act.

**443 Land in a GHG authority's area for which notice of intention to resume given before the commencement**

- (1) This section applies if—
- (a) before the commencement, an entity gave a notice of intention to resume for the proposed taking, under a resumption law, of land in a GHG authority's area; and

[s 444]

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- (b) at the commencement, the land had not been taken under the resumption law.
- (2) If the land is taken other than by taking or otherwise creating an easement, sections 369A to 369D apply in relation to the taking, except that the resumption notice for the taking may provide for the extinguishment of a GHG interest on the taking even if the notice of intention to resume does not comply with section 369A(8).
- (3) If the land is taken by taking or otherwise creating an easement, section 369D applies in relation to the taking.

### **Division 3                      Transitional provisions for amendments in amending Act commencing by proclamation**

#### **444      Undecided applications for approval of particular dealing**

- (1) This section applies to an application for approval of a third party transfer—
  - (a) made, before the commencement, under former chapter 5, part 14, division 3; and
  - (b) not decided before the commencement.
- (2) The Minister may continue to deal with the application under former chapter 5, part 14, 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 347.

#### **445      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

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inserted by the *Environmental Protection (Greentape Reduction) and Other Legislation Amendment Act 2012*.

- (2) Former section 353(2)(a) continues in force instead of section 354(4)(b), as inserted by the amending Act, for deciding whether to give an approval of an assessable transfer.

#### **446 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 395 in relation to a refusal to approve a third party transfer under former section 353; 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 395, subject to sections 396 and 397.

#### **447 Unfinished appeals about refusal to approve particular dealing**

- (1) This section applies if, before the commencement—
- (a) a person started an appeal under section 397 in relation to a refusal to approve an assessable transfer under former section 353; and
  - (b) the Land Court had not yet decided the appeal.
- (2) The Land Court may continue, under chapter 6, part 3, to grant a stay of the decision being appealed, and hear and decide the appeal.

## Part 4 **Transitional provisions for Mineral and Energy Resources (Common Provisions) Act 2014**

### **448 Continued appeal right for particular decisions**

(1) A person who, before the commencement of this section, may have appealed against a relevant decision to the Land Court under section 395(1), may still appeal against the decision, in compliance with chapter 6, part 3, despite the amendment of schedule 1 by the Common Provisions Act.

(2) In this section—

*previous*, for a section of this Act, means the section as in force immediately before the repeal of the section under the Common Provisions Act.

*relevant decision* means any of the following—

- (a) a decision to give a road use direction under previous section 303;
- (b) the imposition of condition on entry on public land under previous section 315, other than a condition agreed to or requested by the relevant GHG authority holder;
- (c) a refusal to approve an assessable transfer under previous section 354.

### **449 Existing practice manuals**

(1) A practice manual kept under former section 427 continues in effect until the chief executive makes a manual available under the Common Provisions Act, section 202(4)(b).

(2) In this section—

*former section 427* means section 427 as in force immediately before the commencement of this section.

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## Part 5

# Transitional provisions for Mineral and Energy Resources and Other Legislation Amendment Act 2020

### 450 Power to impose or amend condition if changed holder of GHG permit or GHG lease

The power of the Minister to impose another condition on, or amend a condition of, a GHG permit under section 92A or a GHG lease under section 173A applies—

- (a) whether the permit or lease was granted before or after the commencement; and
- (b) only if the change mentioned in section 92A(1) or 173A(1) happens after the commencement.

### 451 Conferences with eligible claimants or owners or occupiers started before commencement

- (1) This section applies if—
  - (a) an authorised officer asked parties to attend a conference under section 377B as in force before the commencement; and
  - (b) immediately before the commencement the conference had not taken place.
- (2) The conference must take place under chapter 6, part 1A as in force immediately before the commencement.
- (3) The Common Provisions Act, chapter 3, part 8 does not apply in relation to the conference.

## **Part 6**                      **Transitional provision for Coal Mining Safety and Health and Other Legislation Amendment Act 2022**

### **452**      **Application of new s 379 to noncompliance action**

- (1) New section 379 applies in relation to noncompliance action if the event mentioned in section 380(2) or (3) for which the action is taken happens after the commencement.
- (2) In this section—  
*new section 379* means section 379 as in force from the commencement.

## **Part 7**                      **Transitional provisions for Mineral and Energy Resources and Other Legislation Amendment Act 2024**

### **Division 1**                      **Preliminary**

#### **453**      **Definitions for part**

In this part—

*CTSCo* means Carbon Transport and Storage Corporation (CTSCo) Pty Limited ACN 143 012 971.

*EPQ10* means the GHG permit granted on 9 December 2019 to CTSCo and described as ‘EPQ10’.

*relevant amendment* means an amendment of this Act by the *Mineral and Energy Resources and Other Legislation Amendment Act 2024*, section 35A, 35B, 35C, 37A or 37B.

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## **Division 2                      Provisions for ending of EPQ10**

### **454      Ending of EPQ10**

On the commencement, EPQ10 is ended.

### **455      Reporting and record keeping requirements**

- (1) The following continue to apply in relation to CTSCo as if EPQ10 were still in effect and CTSCo were still its holder—
  - (a) sections 253 and 257;
  - (b) a condition of EPQ10 requiring CTSCo to give a report or information about an authorised activity carried out under EPQ10.
- (2) To remove any doubt, it is declared that sections 256, 258, 259 and 422 apply in relation to the ending of EPQ10 under section 454.

### **456      Decommissioning of wells**

- (1) To remove any doubt, it is declared that section 266 does not apply in relation to EPQ10.
- (2) Section 267 applies in relation to EPQ10 as if—
  - (a) EPQ10 were still in effect and CTSCo were still its holder; and
  - (b) the reference to ‘Subject to section 266,’ in section 267(1) were omitted; and
  - (c) section 267(1)(b) provided as follows—
    - (b) either—
      - (i) the day that is 2 years after the day EPQ10 ended under section 454;
      - or

(ii) if before the day provided for under subparagraph (i), the Minister fixes a day—that day.

(3) Section 268 does not apply in relation to EPQ10.

*Note—*

See section 459 in relation to a right of entry to facilitate decommissioning of wells.

(4) Section 269 applies in relation to EPQ10 as if—

(a) EPQ10 were still in effect and CTSCo were still its holder; and

(b) section 269(2) did not apply; and

(c) section 269(3) provided as follows—

(3) The well is taken to have been transferred to the State.

#### **457 Removal of equipment and improvements**

Section 334 applies in relation to EPQ10 as if section 334(5), definition *removal day*, paragraph (a) provided as follows—

(a) the day that is 2 years after the day EPQ10 ended under section 454;

*Note—*

See section 459 in relation to a right of entry to facilitate removal of equipment or improvements.

#### **458 Enforcement of end of authority and area reduction obligations**

To remove any doubt, it is declared that chapter 5, part 15 applies in relation to the ending of EPQ10 under section 454.



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**459 Right of entry to facilitate decommissioning of wells and removal of equipment and improvements**

- (1) CTSCo may enter the following land to carry out decommissioning for EPQ10—
  - (a) land (the *primary land*) on which the decommissioning must be carried out;
  - (b) any other land (the *access land*) it is reasonably necessary to cross for access to the primary land.
- (2) For subsection (1), the Common Provisions Act, chapter 3, parts 2, 3, 4A and 7 apply to CTSCo as if—
  - (a) EPQ10 were still in effect and CTSCo were still its holder; and
  - (b) the primary land and access land were in EPQ10's area; and
  - (c) decommissioning were an authorised activity for EPQ10.
- (3) To remove any doubt, it is declared that the right to enter land, under the Common Provisions Act, section 72B(2), continues to apply in relation to CTSCo until the rehabilitation conditions have been complied with.
- (4) In this section—

*decommissioning*, for EPQ10, means—

  - (a) decommissioning a well under section 267 as applied in relation to EPQ10 by this division; and
  - (b) removing equipment or improvements under section 334 as applied in relation to EPQ10 by this division.

*rehabilitation conditions* means conditions 58 to 60 of the environmental authority, with the environmental authority number 'EPPG00646913', ended under the Environmental Protection Act, section 819(1)(a).

#### **460 Withdrawal of particular requests and applications**

- (1) This section applies in relation to each of the following applications and requests made, but not decided, before the commencement—
  - (a) a request, under section 91(3), to approve a proposed later work program for EPQ10;
  - (b) an application, under section 101(1), for a declaration that all or part of the area of EPQ10 is a potential storage area.
- (2) On the commencement, the application or request is taken to be withdrawn.

### **Division 3 Other provisions**

#### **461 Withdrawal of undecided applications for proposed GHG permits**

- (1) This section applies in relation to each of the following applications made, but not decided, before the commencement—
  - (a) the application made by CTSCo for the proposed GHG permit described as ‘EPQ12’;
  - (b) the application made by Origin for the proposed GHG permit described as ‘EPQ16’;
  - (c) the application made by Origin for the proposed GHG permit described as ‘EPQ17’.
- (2) On the commencement, the applications are taken to be withdrawn.
- (3) In this section—

***Origin*** means Origin Energy Future Fuels Pty Ltd ACN 105 431 534.

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**462 No compensation payable by the State**

- (1) No compensation is payable by the State to any person for or in connection with the enactment or operation of a relevant amendment or anything done to carry out or give effect to a relevant amendment.
- (2) This section applies despite any other Act or law.

**463 Transitional regulation-making power**

- (1) A regulation (a *transitional regulation*) may make provision about a matter for which—
  - (a) it is necessary to make provision to allow or facilitate the doing of anything to achieve the transition—
    - (i) from the operation of this Act as in force before the commencement of a relevant amendment; and
    - (ii) to the operation of this Act as in force after the commencement of the relevant amendment; and
  - (b) this Act does not provide or sufficiently provide.
- (2) A transitional regulation may have retrospective operation to a day not earlier than the day the relevant amendment commences.
- (3) A transitional regulation must declare it is a transitional regulation.
- (4) This section and any transitional regulation expire on the day that is 3 years after the day this section commences.

## **Schedule 1      Decisions subject to appeal**

section 395(1)

<b>Section reference</b>	<b>Description of decision</b>
<b>GHG permits</b>	
64	refusal to approve proposed later work program
69	refusal to approve amendment to work program
69	imposition of condition about relinquishment for amendment to work program
80	refusal to approve proposed test plan
80	decision to impose condition on proposed test plan
96	refusal to renew GHG permit
102	refusal of application for declaration of potential storage area
108	decision to take proposed action under section 107 for GHG permit
<b>GHG leases</b>	
117	decision not to grant a GHG lease on ATP-related application
154	refusal to approve proposed later development plan
158	refusal to approve amendment to development plan
161	refusal to approve proposed test plan
161	decision to impose condition on proposed test plan
179	refusal to approve surrender of GHG lease

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<b>Section reference</b>	<b>Description of decision</b>
<b>GHG coordination arrangements</b>	
193	cancellation of GHG coordination arrangement
<b>Decisions under chapter 5</b>	
271	decision to require security for GHG authority other than security in the form and amount prescribed under section 271(2)
272	decision to require increase in total security required to more than the prescribed amount under section 271(2) when the requirement is made
364	decision to give a serious situation direction
371	decision to take action to ensure compliance with a requirement under this Act of a GHG authority holder other than action to which the holder has agreed
<b>Noncompliance action</b>	
383	decision to take noncompliance action for GHG authority
<b>Decisions under Common Provisions Act</b>	
19(2)	decision to refuse to approve a prescribed dealing, or to approve a prescribed dealing with conditions
23(3)	decision to refuse to give indicative approval, or to give indicative approval with conditions
59(2)	imposition of condition on entry on public land, other than a condition agreed to or requested by the relevant GHG authority holder

<b>Section reference</b>	<b>Description of decision</b>
59(7)	variation of condition imposed on entry on public land, other than a variation agreed to or requested by the relevant GHG authority holder
64(1)	decision to give road use direction

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## Schedule 2 Dictionary

## section 11

**1923 Act** means the *Petroleum Act 1923*.

**1923 Act petroleum tenure** see the 1923 Act, section 2.

**access land**, for a GHG authority, see section 287(3).

**access rights** see section 287(2).

**acquired land**—

- 1 Land is *acquired land* if—
  - (a) it was taken under a resumption law, other than by taking or otherwise creating an easement; and
  - (b) under section 369A, all GHG interests relating to the land were extinguished on the taking.
- 2 However, land mentioned in paragraph 1 stops being *acquired land* if it is included in the area of a new or renewed GHG tenure granted under this Act.

**ALA** means the *Acquisition of Land Act 1967*.

**appeal period**, for a decision, means the period provided for under section 396 for starting an appeal against the decision.

**applicant**, for chapter 4, part 3, see section 195(a).

**application** includes a tender in response to a call for tenders.

**apply**, in relation to making an application, has the meaning affected by section 411.

**appropriately qualified**, for the performance of a function or exercise of a power, includes having the qualifications, experience and competence to perform the function or exercise the power.

**approved form** means the form approved under section 428.

**area**—

- 1 The *area*, of a GHG authority, is the land to which the authority is subject as recorded in the register.
- 2 The *area* of an authority, tenement or tenure granted under another resource Act is its area as defined under that Act or the area to which the authority, tenement or tenure is subject under that Act.

**ATP** means an authority to prospect.

**authorised activity**, for a GHG authority, see section 22.

**authority to prospect** means an authority to prospect under the 1923 Act or the P&G Act.

**block** see the Common Provisions Act, section 11A(1).

**call for tenders**—

- (a) for chapter 2, part 2—see section 33(1); or
- (b) for chapter 3, part 3—see section 125(1).

**capability criteria**—

- (a) for chapter 2—see section 42(2); or
- (b) for chapter 3—see section 118(2).

**closing time**, for a call for tenders—

- (a) for a GHG permit—see section 33(2)(a); or
- (b) for a GHG lease—see section 125(2)(a).

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

**compensation liability** see the Common Provisions Act, section 81(2).

**conditions**, of a GHG authority, see section 20.

**conduct and compensation agreement** see the Common Provisions Act, section 83(1).

**construct**, a structure, includes placing the structure.

**contiguous**, for land, means abutting, with at least 1 side in common.



**conviction** includes a finding of guilt or the acceptance of a plea of guilty by a court, whether or not a conviction is recorded.

**coordinated project** means a project declared under the State Development Act, section 26, to be a coordinated project.

**costs**, incurred by the State, includes the cost of services that the State provides for itself.

**dangerous situation** means a situation relating to geothermal activity under the Geothermal Act, a GHG stream or petroleum or fuel gas in which an inspector under the P&G Act reasonably believes an imminent risk of material harm to persons or property is likely if action is not taken to avoid, eliminate or minimise the risk.

**data acquisition activities** see section 233(1).

**dealing**, in relation to a GHG authority, means a dealing with a resource authority, under the Common Provisions Act, that is a GHG authority.

**deferral agreement** see the Common Provisions Act, section 44(1).

**development plan**, for a GHG lease, see section 25(1).

**development plan criteria** see section 147(2).

**drill** includes to bore.

**eligible person** see section 19.

**enhanced petroleum recovery** means producing petroleum by injecting a substance including for example, GHG, into a natural underground reservoir as defined under the P&G Act.

**enter** a place includes the exercise of the rights in relation to the place under section 423.

**Environmental Protection Act** means the *Environmental Protection Act 1994*.

**excluded land**—

- (a) for a GHG permit—means excluded land for the permit decided under section 46; or

(b) for a GHG lease—means excluded land for the lease decided under section 137.

*executive officer*, of a corporation, means a person who is concerned with or takes part in its management, whether or not the person is a director or the person's position is given the name of executive officer.

*exploration authority (non-GHG)*, for chapter 4, see section 184.

*fee* includes tax.

*formed road* means any existing road or track on private or public land used or that may reasonably be capable of being used to drive or ride motor vehicles.

*Geothermal Act* means the *Geothermal Energy Act 2010*.

*geothermal lease* see the Geothermal Act, section 19(1)(b).

*geothermal permit* see the Geothermal Act, section 19(1)(a).

*geothermal tenure* see the Geothermal Act, section 19(2).

*GHG* means greenhouse gas.

*GHG assessment criteria* see section 196(1)(b).

*GHG authority* see section 18(3).

*GHG coordination arrangement* see section 186(3).

*GHG data acquisition authority* means a GHG injection and storage data acquisition authority.

*GHG exploration permit* (also called a *GHG permit*) see section 18(1)(a).

*GHG injection and storage data acquisition authority* (also called a *GHG data acquisition authority*) see section 18(1)(c).

*GHG injection and storage lease* (also called a *GHG lease*) see section 18(1)(b).

*GHG interest* means—

- (a) a GHG authority; or
- (b) a right existing under, or in relation to, a GHG authority.

***GHG lease*** means a GHG injection and storage lease.

***GHG permit*** means a GHG exploration permit.

***GHG statement*** see section 196(1)(a).

***GHG storage*** see section 3(2).

***GHG storage activity*** see section 23.

***GHG storage exploration*** see section 15.

***GHG storage injection testing*** see section 16.

***GHG storage reservoir*** see section 13(a).

***GHG storage viability report*** see section 245(1).

***GHG stream*** see section 12.

***GHG stream pipeline*** see section 17.

***GHG stream storage*** see section 14.

***GHG stream storage site*** see section 13.

***GHG tenure*** see section 18(2).

***GHG well***—

1 A *GHG well* is a hole in the ground made or being made by drilling, boring or any other means—

- (a) to carry out GHG storage exploration; or
- (b) for GHG stream storage.

2 A *GHG well* includes the casing for the well and any of the following attached to the well—

- the casing head
- a casing hanger or spool or tubing hanger
- flow control equipment up to and including the wing valves.

3 To remove any doubt, it is declared that a *GHG well* does not include a seismic shot hole or shallow hole drilled to work out a geological structure.

***give***, a document to the Minister or the chief executive, has the meaning affected by section 411.

**Great Artesian Basin** means the area that is on or below the surface of the plan area under the *Water Plan (Great Artesian Basin and Other Regional Aquifers) 2017*.

**holder**—

- (a) of a GHG authority other than a GHG data acquisition authority, means each person recorded as its holder in the register; or
- (b) of a GHG data acquisition authority, means the person mentioned in section 240.

**holder submissions** see section 199(1).

**independent viability assessment** see section 247(2).

**information notice**, for a decision, means a notice stating each of the following—

- (a) the decision, and the reasons for it;
- (b) the rights of appeal under this Act;
- (c) the period in which any appeal under this Act must be started;
- (d) how rights of appeal under this Act are to be exercised;
- (e) that a stay of a decision the subject of an appeal under this Act may be applied for under this Act.

**initial development plan requirements** see section 140.

**initial work program requirements** see section 51.

**interfere with** includes tamper with.

**land** includes—

- (a) land covered by Queensland waters; and
- (b) subterranean land.

**land access code** see the Common Provisions Act, section 36.

**later development plan requirements** see section 150.

**later work program requirements** see section 58.

**legacy borehole** means a bore or well that—

- (a) was drilled for the purpose (the **original purpose**) of—

- (i) exploration or production of mineral or petroleum resources; or
  - (ii) informing the exploration or production of mineral or petroleum resources; and
- (b) is no longer used for the original or another purpose.

***make submissions*** has the meaning affected by section 411.

***mandatory condition***, of a GHG authority, see section 20(2).

***mandatory provision***, of the land access code, means a provision of that code that the code requires compliance with.

***Mineral Resources Act*** means the *Mineral Resources Act 1989*.

***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.

***noncompliance action*** means action of a type mentioned in section 379.

***notice*** means a written notice.

***notice of intention to resume***, for the proposed taking of land under a resumption law, means—

- (a) if the land is taken under the process stated in the ALA (whether the land is taken under the ALA or another resumption law)—the notice of intention to resume under the ALA; or
- (b) otherwise—the notice, however named, required to be given under the resumption law to notify persons of the proposed taking.

***notifiable road use*** see the Common Provisions Act, section 62.

***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** see section 183.

**overlapping authority application period** see section 205(2).

**overlapping authority priority** see section 199(3)(b).

**owner**—

- 1 An *owner*, of land, means each person as follows in relation to the land—
  - (a) for freehold land—a registered owner;
  - (b) for land for which a person is, or will on performing conditions, be entitled to a deed of grant in fee simple—the person;
  - (c) if an estate in fee simple of land is being purchased from the State—the purchaser;
  - (d) for a public road—the public road authority for the road;
  - (e) for land that is busway land, light rail land, rail corridor land or a cane railway or other railway—the public land authority for the land;
  - (f) for required land under the *Transport Infrastructure Act 1994*, section 436—the chief executive of the department in which that Act is administered;

- 
- (g) for a forest entitlement area, State forest or timber reserve under the *Forestry Act 1959*—the chief executive of the department in which that Act is administered;
  - (h) for a conservation park or resources reserve under the *Nature Conservation Act 1992* (the *NCA*) for which there are trustees—
    - (i) if, under the *NCA*, the conservation park or resources reserve has trustees whose powers are not restricted—the trustees; or
    - (ii) otherwise—the chief executive of the department in which the *NCA* is administered;
  - (i) for DOGIT land under the *Aboriginal Land Act 1991* or the *Torres Strait Islander Land Act 1991*—a trustee for the land;
  - (k) for Torres Strait Islander land under the *Torres Strait Islander Land Act 1991* that is taken to be a reserve because of section 151(2) of that Act—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 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 (scientific);
  - (ii) a national park;
  - (iii) a national park (Aboriginal land);
  - (iv) a national park (Torres Strait Islander land);
  - (v) a forest reserve.

2 Also, a mortgagee of land is the *owner* of land if—

- (a) the mortgagee is acting as mortgagee in possession of the land and has the exclusive management and control of the land; or
- (b) the mortgagee or a person appointed by the mortgagee is in possession of the land and has the exclusive management and control of the land.

3 If land or another thing has more than 1 owner, a reference in this Act to the owner of the land or thing is a reference to each of its owners.

***P&G Act*** see section 4.

***P&G Act safety provisions*** see section 4(c).

***permit-related application*** see section 113(3).

***petroleum*** see the P&G Act, section 10.

***petroleum authority*** see the P&G Act, section 18(2).

***petroleum discovery*** includes a discovery of an underground geological formation or structure that under the P&G Act has or is likely to have commercial potential for petroleum.

***petroleum lease*** means a petroleum lease under the P&G Act or a lease under the 1923 Act.

***petroleum tenure*** means any ATP or petroleum lease.

***pipeline land***, for a GHG tenure, means land on which pipelines are or may be constructed or operated under the



tenure if the land is identified as pipeline land in any of the following—

- (a) the register;
- (b) the instrument for the tenure;
- (c) if the tenure is a GHG permit—the work program for the tenure;
- (d) if the tenure is a GHG lease—the development plan for the tenure.

***pipeline licence*** see the P&G Act, section 18(1)(f).

***place*** includes land.

***plan period***, for a development plan, means the period for which the plan applies.

***potential storage area***, for a GHG permit, means an area declared under section 102 to be a potential storage area for the permit.

***private land***—

- 1 *Private land* is—
  - (a) freehold land; or
  - (b) an interest in land less than fee simple held from the State under another Act.
- 2 However, land is not private land to the extent of an interest in any of the following relating to the land—
  - (a) a mining interest;
  - (b) a petroleum authority or 1923 Act petroleum tenure;
  - (c) a GHG authority;
  - (d) a geothermal tenure;
  - (e) an occupation right under a permit under the *Land Act 1994*.
- 3 Also, land owned by a public land authority is not private land.

***program period***, for a work program, means the period for which the program applies.

***provision***, of a GHG authority, means a provision of the authority as defined under section 21.

***public interest*** means a consideration of each of the following—

- (a) government policy;
- (b) environmental impacts;
- (c) employment creation;
- (d) social impacts;
- (e) the overall economic benefit for the State, or a part of the State, in the short and long term;
- (f) impacts on aesthetic, amenity or cultural values.

***public land*** means land other than—

- (a) private land; or
- (b) to the extent an interest in any of the following relates to the land—
  - (i) a mining interest;
  - (ii) a petroleum authority or 1923 Act petroleum tenure;
  - (iii) a GHG authority;
  - (iv) a geothermal tenure;
  - (v) an occupation right under a permit under the *Land Act 1994*.

***public land authority*** means—

- (a) for a public road—the road authority for the road; or
- (b) if a local government or other authority is under an Act, charged with the control of the land—the local government or other authority; or

- (c) otherwise—the chief executive of the department administering the Act under which entry to the land is administered.

**public road** means an area of land that—

- (a) is open to or used by the public; and
- (b) is developed for or has as one of its main uses—
- (i) the driving or riding of motor vehicles; or
  - (ii) pedestrian traffic; and
- (c) is controlled by a public road authority.

*Examples of an area of land that may be included in a road—*

- a bridge, culvert, ford, tunnel or viaduct
- a pedestrian or bicycle path

**public road authority**, for a public road, means—

- (a) for a State-controlled road—the chief executive of the department in which the *Transport Infrastructure Act 1994* is administered; or
- (b) for another public road—the local government having the control of the road.

**publish**, a notice, means to publish it in any of the following ways—

- (a) in a journal published by the department or under the Minister's authority;
- (b) in another publication the Minister considers appropriate;
- (c) on the department's website;
- (d) by placing it on a public notice board, established and maintained by the department at—
- (i) the department's head office; and
  - (ii) other places the chief executive considers appropriate.

**reasonably believes** means to believe on grounds that are reasonable in the circumstances.

**register** means the register kept by the chief executive under the Common Provisions Act, section 197.

**registration**, for a dealing, means recorded in the register.

**relevant arrangement**, for chapter 3, part 2, see section 118(1)(f)(ii).

**relevant environmental authority**, for a GHG authority or proposed GHG authority, means an environmental authority under the Environmental Protection Act granted for all of the authorised activities for the GHG authority or proposed GHG authority that are environmentally relevant activities under that Act.

**relevant environmental condition**, for a provision about a GHG authority or proposed GHG authority, means a condition of any relevant environmental authority for the GHG authority or proposed GHG authority.

**relevant GHG tenure**, for a GHG data acquisition authority or proposed GHG data acquisition authority, see section 233(3).

**relevant land**, for a GHG lease application, means the land the subject of the application.

**relevant lease**—

- (a) for a GHG lease application—see section 205(2); or
- (b) for a GHG coordination arrangement—see section 186(4).

**relinquishment condition**, for a GHG permit is the relinquishment condition under section 72(1).

**relinquishment notice** see section 72(3)(a).

**remedial powers** see section 356(2).

**report** means a written report.

**required information**, for chapter 5, part 4, division 3, see section 260.

**required way**, for giving the chief executive reports, see section 255(4).

**requirements for grant** see section 117(1).

**resource Act** see section 26A.

**resource management decision** see section 201.

**resumption law**—

(a) means a law that provides for the compulsory acquisition of land, including, for example, the following—

(i) the ALA, including as applied by another law providing for an entity to take land under the ALA as if the entity were a constructing authority under the ALA;

*Examples of other laws for subparagraph (i)—*

- *Electricity Act 1994*, section 116
- *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009*, section 53AY

(ii) the *Land Act 1994*, chapter 5, part 3, division 3;

(iii) the *Petroleum and Gas (Production and Safety) Act 2004*, sections 456 to 458;

(iv) the *Queensland Reconstruction Authority Act 2011*, section 99;

(v) the State Development Act, section 82 or 125;

(vi) the *Transport Planning and Coordination Act 1994*, section 25 or 26; but

(b) does not include the *Land Act 1994*, chapter 5, part 3, divisions 1 and 2.

**resumption notice**, for the taking of land under a resumption law, means—

(a) if the land is taken under the process stated in the ALA (whether the land is taken under the ALA or another resumption law)—the gazette resumption notice under the ALA for the taking; or

(b) otherwise—the instrument giving effect to the taking.

**road use direction** see section 303(1).

**safety management plan** see the P&G Act, schedule 2.

**satisfies**, the capability criteria—

- (a) for chapter 2—see section 42(3); or
- (b) for chapter 3—see section 118(3).

**security** includes a bond, deposit of an amount as security, guarantee, indemnity or other surety, insurance, mortgage and undertaking.

**serious situation** see section 363.

**serious situation direction** see section 364(2).

**services of the State** has the same meaning that the term has in relation to the State of Queensland under the *Copyright Act 1968* (Cwlth), section 183(1).

**share**, of a GHG authority, means any interest held by a person as a holder of the authority in all of the area of the authority.

**special criteria**—

- (a) for a GHG permit—see section 33(2)(b); or
- (b) for a GHG lease—see section 125(2)(b).

**State-controlled road** see *Transport Infrastructure Act 1994*, schedule 6.

**State Development Act** means the *State Development and Public Works Organisation Act 1971*.

**storage capacity**, of a GHG storage reservoir, means the measure of its potential for GHG stream storage.

**storage commencement day**, for a GHG lease, see section 120(2)(c).

**structure** means anything built or constructed, whether or not attached to land.

**sub-block** see the Common Provisions Act, section 11A(2).

**submission** means a written submission.

**surrender application** see section 174(a).

**take**, in relation to land, includes acquire.

***unavailable land***—

- (a) for a GHG permit—see section 44(4); or
- (b) for a GHG lease—see section 135(4).

***Water Act*** means the *Water Act 2000*.

***Water Act Minister*** means the Minister of the department in which the Water Act is administered.

***work program***, for a GHG permit, see section 24(1).

***work program criteria*** see section 55(2).