

Natural Resources and Other Legislation Amendment Act 2019

Explanatory notes for SL 2020 No. 105

made under the

Natural Resources and Other Legislation Amendment Act 2019

General Outline

Short title

Natural Resources and Other Legislation Amendment Act 2019

Authorising law

Section 2 of the *Natural Resources and Other Legislation Amendment Act 2019* (NROLA Act).

Policy objectives and the reasons for them

Section 2 of the NROLA Act provides for Chapters 3 and 5 to commence by proclamation.

The objective of the Proclamation is to fix 1 July 2020 as the commencement date for all provisions of the NROLA Act that are not in force of the NROLA Act. The provisions which are not in force include:

- amendments to the *Land Act 1994* (Land Act) relating to prescribed terms – these are sections 112, 115, 116, 117(2) and (3), 144, 149, 150, 161(1) and (2), 186 (to the extent it inserts chapter 9, part 4, division 4), 188(1) and 188(2) (other than to the extent it inserts definition *perpetual lease*); and
- amendments to the *Petroleum and Gas (Production and Safety) Act 2004* (P&G Act) relating to the amalgamation of potential commercial areas – sections 303, 312(1) and 313(2) to the extent it inserts the definition *amalgamated potential commercial area*.

Sections 103, 148, 186 (to the extent it inserts chapter 9, part 4, division 6) of the NROLA Act, and chapter 3, parts 2 and 3 of the NROLA Act were commenced by Proclamation on 30 September 2019.

Sections 104 to 111, 113, 114, 117(1), 118 to 121, 128 to 143, 145 to 147, 151 to 160, 161(3), 162 to 184, 186 (to the extent it inserts chapter 9, part 4, division 5), 187 and 188(2) (to the extent it inserts definition *perpetual lease*) of the NROLA Act were commenced by Proclamation on 11 October 2019.

Sections 122 to 127, 185, 243 to 302, 304 to 311, 312(2) and 313 (except to the extent it inserts the definition of *amalgamated potential commercial area*) of the NROLA Act automatically commenced on 25 May 2020 in accordance with section 15DA(2) of the *Acts Interpretation Act 1954*.

The *Natural Resources and Other Legislation Amendment (Postponement) Regulation 2020* postponed the commencement of sections 112, 115, 116, 117(2) and (3), 144, 149, 150, 161(1) and (2), 186 (to the extent it inserts chapter 9, part 4, division 4), 188(1) and (2) (other than to the extent it inserts definition *perpetual lease*), 303, 312(1), and section 313(2) (to the extent it inserts the definition of *amalgamated potential commercial area*) of the NROLA Act until 25 May 2021.

Commencement of remaining Land Act amendments

The sections to be proclaimed amend the Land Act to provide for the discontinuation of the use of mandatory standard terms documents for certain interests on state land. Instead, terms protecting the State's interests will be prescribed in subordinate legislation, making the State's requirements for certain interests more transparent and easily accessible.

As the prescribed terms framework is given effect through the Land Regulation, which was subject to a sunset review, it was appropriate that the commencement of the NROLA Act prescribed terms provisions aligned with the remaking of the *Land Regulation 2009*. This ensures that the prescribed terms framework is implementable.

Commencement of remaining P&G Act amendments

The provisions to be commenced will establish a new framework under the P&G Act that allows for the amalgamation of potential commercial areas.

Section 182 of the *Mineral and Energy Resources and Other Legislation Amendment Act 2020* (MEROLA Act) will be commenced immediately after these provisions commence. This is because section 182 of the MEROLA Act contains an amendment to the potential commercial area amalgamation framework. Section 182 of the MEROLA Act will amend the new section 107AD of the P&G Act to provide flexibility to the Minister regarding the term of declaration of an amalgamated potential commercial area.

Achievement of policy objectives

The policy objective is achieved by fixing 1 July 2020 as the commencement date for the sections of the NROLA Act listed above.

Consistency with policy objectives of authorising law

The Proclamation is consistent with the policy objectives of the NROLA Act.

Inconsistency with policy objectives of other legislation

The Proclamation is not inconsistent with the policy objectives of any other legislation.

Benefits and costs of implementation

Commencement of remaining Land Act amendments

The Proclamation commences the prescribed terms framework in the NROLA Act. The prescribed terms framework replaces the mandatory standard terms requirements, to create greater transparency regarding the obligations and requirements applicable to certain interests created under the Land Act (namely subleases of lease land, trustee leases, and trustee subleases). These terms, such as indemnity, and public liability insurance, are considered necessary to protect the State's interest and the public benefit in the land.

By placing the terms in a regulation, they are more readily accessible by the public, allow parties to know up-front what terms apply to a particular type of interest and provides a more transparent and streamlined mechanism for applying these terms.

The impact of this change will be mitigated for existing relevant interests with mandatory standard terms. There is a one year transitional period for when existing relevant interests will be subject to the prescribed terms.

Commencement of remaining P&G Act amendments

The commencement of the provisions will allow resource authority holders to amalgamate sets of potential commercial areas, improving efficiency of administration. An application fee to amalgamate potential commercial areas may be prescribed by regulation.

Consistency with fundamental legislative principles

The Proclamation does not raise issues regarding fundamental legislative principles.

Consultation

In relation to the prescribed terms provisions in the Land Act, consultation was undertaken during the development and passage of the NROLA Act. Issues raised in relation to the prescribed terms provisions were addressed then.

Targeted industry consultation with the resources sector was undertaken during the development of the *Natural Resources and Other Legislation Amendment Bill 2019* prior to its passage.

In accordance with the *Queensland Government Guide to Better Regulation*, the Office of Best Practice Regulation was not consulted in relation to the regulatory amendments. The Department of Natural Resources, Mines and Energy applied a self-assessable exclusion from undertaking further regulatory impact analysis (category (g) - Regulatory proposals that are of a machinery nature).