



Queensland

Land and Other Legislation Amendment Act 2017

Act No. 10 of 2017

An Act to amend the Coal Mining Safety and Health Act 1999, the Explosives Act 1999, the Land Act 1994, the Land Title Act 1994, the Mineral Resources Act 1989, the Mining and Quarrying Safety and Health Act 1999, the Petroleum and Gas (Production and Safety) Act 2004 and the Planning (Consequential) and Other Legislation Amendment Act 2016 for particular purposes

[Assented to 30 March 2017]



Queensland

Land and Other Legislation Amendment Act 2017

Contents

		Page
Part 1	Preliminary	
1	Short title	7
2	Commencement	7
Part 1A	Amendment of Coal Mining Safety and Health Act 1999	
2A	Act amended	7
2B	Replacement of pt 20, hdg (Transitional provisions and repeals) Part 20 Repeal, transitional and validation provisions	7
2C	Insertion of new pt 20, div 5 Division 5 Validation provision for Land and Other Legislation Amendment Act 2017 305 Validation of particular appointments	8 8
Part 1B	Amendment of Explosives Act 1999	
2D	Act amended	9
2E	Amendment of pt 10, hdg (Transitional provisions)	9
2F	Insertion of new pt 10, div 5 Division 5 Validation provision for Land and Other Legislation Amendment Act 2017 147 Validation of particular appointments	9 9
Part 2	Amendment of Land Act 1994	
Division 1	Preliminary	
3	Act amended	10
Division 2	Amendments commencing on assent	
4	Amendment of s 13A (Land adjacent to non-tidal boundary (watercourse) or non-tidal boundary (lake) owned by State)	10
5	Amendment of s 13AA (Power to deal with non-tidal watercourse land and non-tidal lake land)	11
6	Insertion of new s 13AC	11

Contents

	13AC	Dedicating non-tidal watercourse land or non-tidal lake land as reserve	12
7		Amendment of s 17 (Granting land to the State)	12
8		Amendment of s 103 (Issue of road licence)	13
9		Amendment of s 164 (What is a rolling term lease)	14
10		Amendment of s 164A (Approval of lease as a rolling term lease)	14
11		Amendment of s 164C (Making extension application or giving expiry advice)	15
12		Amendment of s 164E (Length of extension)	16
13		Amendment of s 288 (Certain documents must be signed)	16
14		Amendment of s 308 (Withdrawing lodged document before registration)	16
15		Amendment of s 322 (Requirements for transfers)	16
16		Amendment of s 372 (End and continuation of easements)	18
17		Amendment of s 373A (Covenant by registration)	18
18		Amendment of s 374A (Interests held in trust must be registered)	20
19		Amendment of s 375A (Document to vest in trustee)	20
20		Amendment of s 379 (Registering beneficiary)	20
21		Amendment of s 420C (Requirements for making an application)	21
22		Amendment of sch 6 (Dictionary)	21
	Division 3	Amendments commencing on proclamation	
23		Amendment of s 34P (Subdivision of DOGIT land)	22
24		Amendment of s 50 (Vacation of office by trustee)	22
25		Omission of s 318A (Minister may lodge mandatory standard terms document)	23
26		Omission of s 320A (Conflict with mandatory standard terms document)	23
27		Insertion of new ch 6, pt 3, div 3	24
	Division 3	Prescribed terms for registered documents	
	Subdivision 1	Prescribed terms	
	321A	Regulation may prescribe terms	24
	321B	Effect of prescribed terms	24
	321C	Obligations relating to prescribed terms	25
	321D	Registered document not affected by amendment or repeal of prescribed terms	25
	Subdivision 2	Remedial action	
	321E	Notice to remedy	26

	321F	Failure to comply with notice to remedy	27
	321G	Notice to cancel interest	27
	321H	Decision about cancellation	28
	321I	Effect of decision	29
	321J	Removal of improvements on cancellation	29
	321K	Compensation	30
28		Replacement of ch 9, pt 2 (Repeal)	30
	Part 2	Transitional provisions for Land and Other Legislation Amendment Act 2017	
	522	Definition for part	31
	523	Chief executive must cancel registered mandatory terms documents	31
	524	Documents containing mandatory standard terms document not affected	31
29		Amendment of sch 2 (Original decisions)	32
30		Amendment of sch 6 (Dictionary)	32
	Part 3	Amendment of Land Title Act 1994	
	Division 1	Preliminary	
31		Act amended	33
	Division 2	Amendments commencing on assent	
32		Amendment of s 109 (How interest as trustee may be registered)	33
33		Amendment of s 110A (Instrument to vest in trustee)	33
34		Amendment of s 112 (Registering beneficiary)	33
35		Amendment of s 126 (Lapsing of caveat)	34
36		Amendment of s 130 (Compensation for improper caveat)	35
37		Amendment of s 159 (Withdrawing lodged instrument before registration)	35
38		Amendment of s 164 (Dispensing with production of paper instrument)	35
	Division 3	Amendments commencing on proclamation	
39		Replacement of pt 7A (Settlement notice)	36
	Part 7A	Priority notices	
	138	Definitions for part	36
	139	Depositing priority notice	36
	140	Effect of priority notice	37
	141	Extending priority notice	37
	142	Lapsing of priority notice	38

Contents

	143	Withdrawing priority notice	38
	144	Removing priority notice	39
	145	Cancelling priority notice	39
	146	Compensation for improper priority notice	40
	147	Registrar may withdraw instrument	40
	148	Priority of instruments	41
	149	Minor correction of priority notice	41
40		Insertion of new pt 12, div 6	41
		Division 6 Transitional provision for Land and Other Legislation Amendment Act 2017	
	212	Existing settlement notices	41
41		Amendment of sch 2 (Dictionary)	42
Part 3A		Amendment of Mineral Resources Act 1989	
41A		Act amended	42
41B		Insertion of new ch 12, pt 4B	42
		Part 4B Grant of mining lease application 70460	
	334ZJH	Definitions for part	42
	334ZJI	Grant of mining lease application 70460	42
	334ZJJ	Effect of grant on other applications	43
	334ZJK	No compensation payable by State, ML 70434 entity or ML 70460 entity	43
41C		Amendment of sch 2 (Dictionary)	44
Part 3B		Amendment of Mining and Quarrying Safety and Health Act 1999	
41D		Act amended	44
41E		Amendment of pt 20, hdg (Other transitional provisions)	44
41F		Insertion of new pt 20, div 4	44
		Division 4 Validation provision for Land and Other Legislation Amendment Act 2017	
	281	Validation of particular appointments	45
Part 3C		Amendment of Petroleum and Gas (Production and Safety) Act 2004	
41G		Act amended	45
41H		Amendment of ch 15, hdg (Repeal and transitional provisions) .	46
41I		Insertion of new ch 15, pt 20	46
		Part 20 Validation provision for Land and Other Legislation Amendment Act 2017	
	992	Validation of particular appointments	46

Part 4	Other amendments	
42	Acts amended	47
Schedule 1	Other amendments	49
Part 1	Amendments commencing on assent	
	Land Act 1994	49
	Land Title Act 1994	50
	Planning (Consequential) and Other Legislation Amendment Act 2016	51
Part 2	Amendments commencing on proclamation	
	Land Act 1994	51

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Land and Other Legislation Amendment Act 2017*.

2 Commencement

The following provisions of this Act commence on a day to be fixed by proclamation—

- (a) part 2, division 3;
- (b) part 3, division 3;
- (c) schedule 1, part 2.

Part 1A Amendment of Coal Mining Safety and Health Act 1999

2A Act amended

This part amends the *Coal Mining Safety and Health Act 1999*.

2B Replacement of pt 20, hdg (Transitional provisions and repeals)

Part 20, heading—
omit, insert—

Part 20 Repeal, transitional and validation provisions

[s 2C]

2C Insertion of new pt 20, div 5

Part 20—

insert—

Division 5 Validation provision for Land and Other Legislation Amendment Act 2017

305 Validation of particular appointments

- (1) This section applies if, before the commencement, an officer or employee of the public service was purportedly appointed to any of the following offices (each a *relevant office*)—
 - (a) an inspector or inspection officer under section 125(1);
 - (b) for an inspector—the chief inspector of coal mines under section 125(2);
 - (c) an authorised officer under section 129A.
- (2) The person is declared to always have been validly appointed to the relevant office.
- (3) Anything done or omitted to be done by the person that would have been valid and lawful under this Act had the person been validly appointed to the relevant office is taken to be, and always to have been, valid and lawful.
- (4) Without limiting subsection (3), it is declared that evidence obtained by the person in the purported exercise of a power under this Act is taken to be, and always to have been, lawfully obtained.

Part 1B Amendment of Explosives Act 1999

2D Act amended

This part amends the *Explosives Act 1999*.

2E Amendment of pt 10, hdg (Transitional provisions)

Part 10, heading, after ‘Transitional’—

insert—

and validation

2F Insertion of new pt 10, div 5

Part 10—

insert—

Division 5 Validation provision for Land and Other Legislation Amendment Act 2017

147 Validation of particular appointments

- (1) This section applies if, before the commencement, a person was purportedly appointed or designated to any of the following offices (each a *relevant office*)—
 - (a) an inspector under section 78(1);
 - (b) for an inspector—the chief inspector under section 78(2).
- (2) The person is declared to always have been validly appointed to the relevant office.
- (3) Anything done or omitted to be done by the person that would have been valid and lawful

[s 3]

under this Act had the person been validly appointed to the relevant office is taken to be, and always to have been, valid and lawful.

- (4) Without limiting subsection (3), it is declared that evidence obtained by the person in the purported exercise of a power under this Act is taken to be, and always to have been, lawfully obtained.

Part 2 Amendment of Land Act 1994

Division 1 Preliminary

3 Act amended

This part amends the *Land Act 1994*.

Note—

See also the amendments in schedule 1.

Division 2 Amendments commencing on assent

4 Amendment of s 13A (Land adjacent to non-tidal boundary (watercourse) or non-tidal boundary (lake) owned by State)

- (1) Section 13A(4), ‘section 20(3)’—

omit, insert—

section 96

- (2) Section 13A(6)—

omit, insert—

- (6) If the adjacent area is part of a reserve or the subject of a lease—

- (a) subsection (4)(a) and (b) applies only to the extent exercising the right does not interfere with—
 - (i) a trustee of the reserve performing the trustee’s functions, and fulfilling the trustee’s duty of care for the land in the reserve; or
 - (ii) the lessee’s rights and interests under the lease; and
- (b) subsection (4)(c) does not allow the owner to bring an action against—
 - (i) a trustee of the reserve, a person acting for a trustee, or a person with a registered interest in the land in the reserve; or
 - (ii) the lessee, a person acting for the lessee, or a person with a registered interest in the lease.

5 Amendment of s 13AA (Power to deal with non-tidal watercourse land and non-tidal lake land)

- (1) Section 13AA(2), after ‘leased’—
insert—

, or dedicated as a reserve,
- (2) Section 13AA(3), ‘section 13AB’—
omit, insert—

sections 13AB and 13AC

6 Insertion of new s 13AC

After section 13AB—
insert—

[s 7]

13AC Dedicating non-tidal watercourse land or non-tidal lake land as reserve

- (1) Non-tidal watercourse land or non-tidal lake land may be dedicated as a reserve only if—
 - (a) each person who is an adjacent owner for the land consents to the dedication; and
 - (b) the chief executive (water) consents to the dedication; and
 - (c) each condition of the consent of the chief executive (water) imposed under subsection (3)—
 - (i) has been satisfied; or
 - (ii) is imposed as a condition of the appointment of a trustee of the reserve.
- (2) In deciding whether to consent to the dedication, the chief executive (water) must consider whether, and to what extent, the dedication will interfere with—
 - (a) the State's control or use of any part of the non-tidal watercourse land or non-tidal lake land for a purpose under the *Water Act 2000*; or
 - (b) a right of the State or a person to take or use water under the *Water Act 2000*.
- (3) The consent of the chief executive (water) may be given on conditions.

7 Amendment of s 17 (Granting land to the State)

- (1) Section 17, heading, after 'to the State'—
insert—

and the Commonwealth

- (2) Section 17(2), after 'to the State'—

insert—

or the Commonwealth

(3) Section 17(2)—

renumber as section 17(3).

(4) Section 17—

insert—

(2) The Governor in Council may grant unallocated State land in fee simple to the Commonwealth.

8 Amendment of s 103 (Issue of road licence)

(1) Section 103(1)(b), from ‘structural’—

omit, insert—

structural improvements—

(i) mentioned in section 104(b)(ii) or (iii); and

(ii) for the benefit of land of which the person is the registered owner (other than a trustee of a deed of grant in trust), lessee or trustee.

(2) Section 103—

insert—

(3) If the Minister issues a road licence under subsection (1), the chief executive must register a covenant of a type mentioned in section 373A(5)(c) over—

(a) for a road licence issued to an adjoining owner—the licence land and the adjoining owner’s land; or

(b) otherwise—the licence land and the land for the benefit of which the road licence is issued.

[s 9]

9 Amendment of s 164 (What is a *rolling term lease*)

(1) Section 164(1)(a), after ‘island’—

insert—

(a *tourism lease*)

(2) Section 164(1)(c), example, ‘paragraph (c)’—

omit, insert—

paragraph (d)

(3) Section 164(1)(b) and (c)—

renumber as section 164(1)(c) and (d).

(4) Section 164(1)—

insert—

(b) it is a lease that—

(i) includes tidal water land the subject of a covenant ensuring the lease may only be transferred to a person if a tourism lease is also transferred to the person; and

(ii) the Minister has approved as a rolling term lease;

(5) Section 164—

insert—

(3) In this section—

tidal water land means land that, under section 9(1), is the property of the State and may be dealt with as unallocated State land.

10 Amendment of s 164A (Approval of lease as a rolling term lease)

(1) Section 164A, ‘section 164(1)(b)(ii)’—

omit, insert—

section 164(1)(c)(ii)

(2) Section 164A—

number as section 164A(2).

(3) Section 164A—

insert—

(1) The Minister may approve a lease as a rolling term lease under section 164(1)(b) only if improvements on the lease land—

(a) are a part of a significant development; and

(b) facilitate the tourism purposes of the tourism lease mentioned in section 164(1)(b)(i).

11 Amendment of s 164C (Making extension application or giving expiry advice)

(1) Section 164C(5), from ‘made’—

omit, insert—

made once during each term of the lease.

(2) Section 164C—

insert—

(8) In this section—

original term, of a lease, see section 164E(3).

term, of a rolling term lease, means each of the following—

(a) the original term of the lease;

(b) the term of each extension of the lease under this subdivision.

Note—

Section 164F(1) provides for when an extension of a lease under this subdivision commences and ends.

[s 12]

12 Amendment of s 164E (Length of extension)

- (1) Section 164E(2)(a), before ‘lease’—

insert—

a

- (2) Section 164E(2)(a), after ‘the term’—

insert—

, not longer than the original term of the lease,

13 Amendment of s 288 (Certain documents must be signed)

Section 288(1)(b), ‘lawyer’—

omit, insert—

legal practitioner

14 Amendment of s 308 (Withdrawing lodged document before registration)

- (1) Section 308(1)(b), after ‘lodged’—

insert—

, including, for example, because the document can not be given legal effect

- (2) Section 308(1)(b)—

insert—

Example of a document that can not be given legal effect—

a power of attorney that names the same person as principal and attorney

15 Amendment of s 322 (Requirements for transfers)

- (1) Section 322(1)(b)—

omit, insert—

(b) only if—

-
- (i) the Minister has given written approval to the transfer; and
 - (ii) the transfer is not prohibited by a provision of this Act or a condition of the lease, licence or sublease.

(2) Section 322(1A)—

omit, insert—

(1A) However, subsection (1)(b)(i) does not apply to the transfer of a road licence over a temporarily closed road to a person if—

- (a) the licence is held by the registered owner of freehold land; and
- (b) the licence land and the freehold land are both the subject of a covenant mentioned in section 373A(5)(c); and
- (c) the freehold land is also being transferred to the person; and
- (d) for a person who is an individual, the person is an adult; and

Note—

Freehold land can be held under the *Land Title Act 1994* by an individual who is a child. See section 28 of that Act. Land, including a road licence, can be held under this Act by an individual only if the individual is an adult. See section 142.

- (e) all charges owing to the State on the licence are paid before the transfer is lodged; and
- (f) when the transfer is lodged, it is accompanied by a statutory declaration signed by the person stating—
 - (i) the person is aware of the conditions of the licence; and
 - (ii) any other matters prescribed by regulation for this paragraph.

[s 16]

- (3) Section 322(3), '(2)'—
omit, insert—
(4)
- (4) Section 322(4)(b)(v), 'section 325(4) and (5) would apply'—
omit, insert—
the land would be subject to an indigenous
cultural interest
- (5) Section 322(1A) to (9)—
renumber as section 322(2) to (11).

16 Amendment of s 372 (End and continuation of easements)

- (1) Section 372—
insert—
(2A) Also, with the Minister's written approval, a public utility easement that burdens a State lease over a reserve may continue over the reserve when the State lease ends.
- (2) Section 372(5), after 'unallocated State land'—
insert—
or a reserve
- (3) Section 372(2A) to (6)—
renumber as section 372(3) to (7).

17 Amendment of s 373A (Covenant by registration)

- (1) Section 373A—
insert—
(1A) However, non-freehold land the subject of a trust, lease or sublease may be made the subject of a covenant only with the consent of—

-
- (a) for trust land—the trustee; or
- (b) for lease land—the lessee; or
- (c) for land the subject of a sublease—the sublessee.
- (2) Section 373A(3)—
omit.
- (3) Section 373A(4), from ‘If non-freehold’ to ‘subject may’—
omit, insert—
- The covenant must
- (4) Section 373A(4)—
insert—
- (c) be for ensuring the land may be transferred to a person only if there is also transferred to the person—
- (i) other non-freehold land that is also the subject of the covenant; or
- (ii) a lot that, under the *Land Title Act 1994*, is the subject of the covenant; or
- (iii) non-freehold land mentioned in subparagraph (i) together with a lot mentioned in subparagraph (ii).
- (5) Section 373A—
insert—
- (4A) Non-freehold land may be the subject of a covenant under subsection (5)(c) only if the land is lease land or land the subject of a road licence or occupation licence.
- (6) Section 373A(5), ‘A covenant under this division’—
omit, insert—
- The covenant
- (7) Section 373A(8) and (9), ‘subsection (4)(a)’—

[s 18]

omit, insert—

subsection (5)(a)

(8) Section 373A(1A) to (10)—

renumber as section 373A(2) to (12).

18 Amendment of s 374A (Interests held in trust must be registered)

Section 374A—

insert—

- (2) For subsection (1)(b), a request to vest an interest in a lease or sublease in a person as trustee includes a request to give effect to an order of a court appointing the person as trustee for the sale of the lease or sublease.

19 Amendment of s 375A (Document to vest in trustee)

Section 375A(1)(b), ‘made under the *Trusts Act 1973* or another Act’—

omit, insert—

of a court

20 Amendment of s 379 (Registering beneficiary)

Section 379(2)(a)—

omit, insert—

- (a) written consent is given by—
- (i) the person who is or is entitled to be the deceased’s personal representative; or
 - (ii) a person the chief executive considers would succeed in an application for a grant of representation; or

- (iii) a person who has obtained a grant of representation other than in Queensland and the chief executive considers would succeed in an application for the resealing of the grant in Queensland; and

21 Amendment of s 420C (Requirements for making an application)

Section 420C(5), ‘lawyer’—

omit, insert—

legal practitioner

22 Amendment of sch 6 (Dictionary)

- (1) Schedule 6, definition *designated officer*—

omit.

- (2) Schedule 6—

insert—

designated officer, for a provision about a document, means—

- (a) to the extent the provision is about a lease or licence—the Minister; or
- (b) to the extent the provision is about a permit or other document—the chief executive.

legal practitioner means—

- (a) an Australian legal practitioner as defined under the *Legal Profession Act 2007*, section 6(1); or
- (b) a government legal officer engaged in government work as defined under the *Legal Profession Act 2007*, section 12(1) and (2).

[s 23]

- (3) Schedule 6, definition *conservation covenant*, ‘section 373A(4)(b)’—

omit, insert—

section 373A(5)(b)

Division 3 Amendments commencing on proclamation

23 Amendment of s 34P (Subdivision of DOGIT land)

- (1) Section 34P(1), after ‘subdivided by’—

insert—

registration of

- (2) Section 34P(3) to (5)—

renumber as section 34P(4) to (6).

- (3) Section 34P(2)—

omit, insert—

- (2) The plan of subdivision may be registered only with the approval of the Minister.

- (3) Subsection (2) does not apply to a plan of subdivision that is—

(a) for DOGIT land under the *Aboriginal Land Act 1991* or the *Torres Strait Islander Land Act 1991*; or

(b) only for the purposes of the resumption, taking or other compulsory acquisition under an Act of part of the DOGIT land.

24 Amendment of s 50 (Vacation of office by trustee)

- (1) Section 50(1)(a), ‘resigns by signed notice of resignation given to the Minister,’—

omit.

(2) Section 50(1)(b)—

renumber as section 50(1)(c).

(3) Section 50(1)—

insert—

(b) the trustee resigns by signed notice of resignation given to the Minister and the trustee's resignation takes effect; or

(4) Section 50(2) and (3)—

renumber as section 50(3) and (4).

(5) Section 50—

insert—

(2) For subsection (1)(b), a trustee's resignation takes effect on the earlier of the following days—

(a) the day agreed by the Minister and the trustee;

(b) the day stated by the Minister in a notice given to the trustee;

(c) the day that is 1 year after the day the trustee's notice of resignation was given to the Minister.

25 Omission of s 318A (Minister may lodge mandatory standard terms document)

Section 318A—

omit.

26 Omission of s 320A (Conflict with mandatory standard terms document)

Section 320A—

omit.

[s 27]

27 Insertion of new ch 6, pt 3, div 3

Chapter 6, part 3—

insert—

Division 3 Prescribed terms for registered documents

Subdivision 1 Prescribed terms

321A Regulation may prescribe terms

A regulation may prescribe a term (a *prescribed term*) to be a term of a registered document—

- (a) of a type stated in the regulation; and
- (b) for lease land, licence land, permit land or trust land.

321B Effect of prescribed terms

- (1) A prescribed term for a stated type of registered document—
 - (a) becomes a term of the document when the document is registered; and
 - (b) is binding on—
 - (i) each person who holds an interest in land created by the document's registration and any successor in title of the person; and
 - (ii) each person who is otherwise a party to the transaction to which the document relates.
- (2) If a term of a document is inconsistent with a prescribed term of the document, the prescribed term prevails to the extent of the inconsistency.

- (3) To remove any doubt, it is declared that a prescribed term has effect even though it is not registered.

321C Obligations relating to prescribed terms

- (1) A person who is bound by a prescribed term for a registered document must comply with the prescribed term to the satisfaction of the designated officer for the document.
- (2) If a prescribed term becomes a term of a document when the document is registered, the document must state the prescribed term is a term of the document.
- (3) Failure to comply with subsection (2) does not invalidate or otherwise affect the prescribed term, the document or the document's registration.
- (4) To remove any doubt, it is declared that if no action is taken for noncompliance with a prescribed term, it is not a waiver of, authorisation of or excuse for the noncompliance.

321D Registered document not affected by amendment or repeal of prescribed terms

- (1) A registered document is not affected by—
 - (a) a term prescribed by regulation after the document was registered; or
 - (b) the amendment or repeal, after the document was registered, of a prescribed term of the document.
- (2) Subsection (3) applies if a prescribed term is amended or repealed after it becomes a term of a document.
- (3) The designated officer for the document may, if the designated officer considers it appropriate and

[s 27]

with the agreement of each person who is bound by the prescribed term—

- (a) if the prescribed term was amended—include the amended term in the document; or
- (b) if the prescribed term was repealed—omit the term from the document.

Subdivision 2 Remedial action

321E Notice to remedy

- (1) This section applies if the designated officer for a registered document reasonably believes a person who is bound by a prescribed term of the document has not complied, or is not complying, with the prescribed term.
- (2) The designated officer may give a notice (a *notice to remedy*) about the noncompliance to each person who is bound by the prescribed term.
- (3) The notice to remedy must state the following—
 - (a) that the designated officer reasonably believes a stated person has not complied, or is not complying, with the prescribed term;
 - (b) the facts and circumstances that are the basis for the belief;
 - (c) that the noncompliance must be remedied within a stated reasonable period;
 - (d) that it is an offence not to comply with the notice to remedy without a reasonable excuse.
- (4) The notice to remedy may also state—

- (a) the reasonable steps the designated officer is satisfied are necessary to remedy the noncompliance; and
 - (b) that a written report must be given to the designated officer after the steps are taken.
- (5) If the designated officer gives a notice to remedy under subsection (2), the designated officer must also give a copy of the notice to each person (each an *underlying interest holder*) who—
- (a) holds a registered interest in the land over which the registered document creates an interest; and
 - (b) is not a person bound by the prescribed term.
- (6) A person who is given the notice to remedy, other than an underlying interest holder, may appeal against the decision to give the notice.

321F Failure to comply with notice to remedy

A person who is given a notice to remedy, other than an underlying interest holder, must comply with the notice unless the person has a reasonable excuse.

Maximum penalty—400 penalty units.

321G Notice to cancel interest

- (1) If the Minister is satisfied a person has not complied with a notice to remedy given in relation to a prescribed term of a registered document, the Minister may give notice (a *notice of intention to cancel*) of the Minister's intention to cancel the registration of the document.
- (2) If the Minister gives a notice of intention to cancel under subsection (1), the Minister must give the

[s 27]

notice to each person who is—

- (a) bound by the prescribed term; or
 - (b) an underlying interest holder.
- (3) The notice of intention to cancel must state the following—
- (a) that the Minister intends to cancel the registration of the document;
 - (b) that cancellation of the registration of the document will end any interest in land created by the document's registration;
 - (c) that the person may, within 30 days after being given the notice, make written submissions to the Minister about—
 - (i) the Minister's intention to cancel the registration of the document; and
 - (ii) why the registration should not be cancelled; and
 - (iii) any improvements on the land held by a person with an interest in land created by the registration and, if the registration is cancelled, whether or not the improvements should be removed.

321H Decision about cancellation

- (1) The Minister must consider all submissions made under section 321G(3)(c) and may decide to cancel, or not to cancel, the registration of the document.
- (2) If the Minister decides not to cancel the registration of the document, the Minister may decide to impose conditions on any interest in land created by the document's registration.
- (3) The Minister must give notice of a decision under subsection (1) or (2) to each person who was

given the notice of intention to cancel.

- (4) Each person who is entitled to be given a notice of a decision under subsection (3) may appeal against the decision.

321I Effect of decision

The chief executive must record the following in the appropriate register—

- (a) if the Minister decides to cancel the registration of a document—the cancellation;
- (b) if the Minister decides to impose conditions on an interest in land created by the document's registration—the conditions.

321J Removal of improvements on cancellation

- (1) This section applies if—
 - (a) the registration of a document that created an interest in land is cancelled under section 321H; and
 - (b) the interest was held by the owner of improvements on the land.
- (2) The owner may apply to the Minister to remove the improvements.
- (3) The owner may remove the improvements only with the written approval, and within the reasonable period stated by, the Minister.
- (3A) In deciding whether to approve the removal of the improvements, the Minister must consider all submissions made under section 321G(3)(c) about the improvements and their removal.
- (4) The improvements become the property of the State if—

[s 28]

- (a) the Minister does not give approval for their removal; or
- (b) the improvements are not removed within the period stated by the Minister.

321K Compensation

- (1) Compensation for the cancellation of the registration of a document that created an interest in land under this division is payable only for lawful improvements on the land that become the property of the State.
- (2) The compensation is the value of the improvements on the day the cancellation takes effect and is payable by the State.
- (3) The Minister must decide the compensation payable.
- (4) The value of the improvements must be assessed as their market value in a sale of the interest in land if the interest had not been cancelled.
- (5) The person whose improvements became the property of the State may appeal against the Minister's decision about the compensation payable.
- (6) No person has a right to claim compensation from the Minister or the State because of the imposition of conditions on an interest in land under this division.

28 Replacement of ch 9, pt 2 (Repeal)

Chapter 9, part 2—

omit, insert—

Part 2

Transitional provisions for Land and Other Legislation Amendment Act 2017

522 Definition for part

In this part—

mandatory standard terms document means a mandatory standard terms document under this Act as in force before the commencement.

523 Chief executive must cancel registered mandatory terms documents

The chief executive must cancel a registered standard terms document that, immediately before the commencement, was a mandatory standard terms document.

524 Documents containing mandatory standard terms document not affected

- (1) This section applies if, under section 319, a mandatory standard terms document forms part of a document that—
 - (a) immediately before the commencement was a registered document; or
 - (b) was executed within 7 days after the commencement.
- (2) The document is not affected by the repeal of section 318A or the cancellation of the mandatory standard terms document under section 523.
- (3) If there is a conflict between the document, or another relevant document, and the mandatory standard terms document, the mandatory standard

[s 29]

terms document prevails.

(4) Subsection (3) applies despite section 320(2).

29 Amendment of sch 2 (Original decisions)

Schedule 2—

insert—

321E(2)	giving a notice to remedy
321H(1)	cancelling the registration of a document
321H(2)	imposing conditions on an interest in land
321K(3)	about the value of improvements

30 Amendment of sch 6 (Dictionary)

(1) Schedule 6, definition *mandatory standard terms document*—
omit.

(2) Schedule 6—
insert—

notice of intention to cancel, for chapter 6, part 3, division 3, see section 321G(2).

notice to remedy, for chapter 6, part 3, division 3, see section 321E(2).

prescribed term, for chapter 6, part 3, division 3, see section 321A.

underlying interest holder, for chapter 6, part 3, division 3, see section 321E(5).

Part 3 Amendment of Land Title Act 1994

Division 1 Preliminary

31 Act amended

This part amends the *Land Title Act 1994*.

Note—

See also the amendments in schedule 1.

Division 2 Amendments commencing on assent

32 Amendment of s 109 (How interest as trustee may be registered)

Section 109—

insert—

- (2) For subsection (1)(b), a request to vest an interest in a lot in a person as trustee includes a request to give effect to an order of a court appointing the person as trustee for the sale of the lot.

33 Amendment of s 110A (Instrument to vest in trustee)

Section 110A(2), ‘made under the *Trusts Act 1973* or another Act’—

omit, insert—

of a court

34 Amendment of s 112 (Registering beneficiary)

- (1) Section 112(2)(a)(ii), ‘; and’—

[s 35]

omit, insert—

; or

(2) Section 112(2)(a)—

insert—

(iii) a person who has obtained a grant of representation other than in Queensland and would, in the registrar’s opinion, succeed in an application for the resealing of the grant in Queensland; and

35 Amendment of s 126 (Lapsing of caveat)

(1) Section 126(1)(b), after ‘registered owner’—

insert—

, in the appropriate form,

(2) Section 126(1)(c), ‘122(d) or (e)’—

omit, insert—

122(1)(d) or (e)

(3) Section 126—

insert—

(1A) However, this section applies to a caveat lodged by the registered owner of a lot if—

(a) the lot is subject to a mortgage; and

(b) the grounds stated in the caveat relate to the actions of the mortgagee in relation to—

(i) if the mortgage is registered—registration of the mortgage; or

(ii) the mortgagee’s power of sale.

36 Amendment of s 130 (Compensation for improper caveat)

- (1) Section 130(1), ‘A person who lodges or continues a caveat’—

omit, insert—

The caveator under a caveat lodged or continued

- (2) Section 130(3), ‘person who lodged or continued it’—

omit, insert—

caveator

37 Amendment of s 159 (Withdrawing lodged instrument before registration)

- (1) Section 159(1)(b), after ‘lodged’—

insert—

, including, for example, because the instrument can not be given legal effect

- (2) Section 159(1)(b)—

insert—

Example of an instrument that can not be given legal effect—

a power of attorney that names the same person as principal and attorney

38 Amendment of s 164 (Dispensing with production of paper instrument)

- (1) Section 164(4)—

renumber as section 164(5).

- (2) Section 164—

insert—

- (4) In addition, the registrar may dispense with the production of a certificate of title of a lot if the registrar is satisfied the certificate of title is held

[s 39]

by a legal practitioner.

Division 3 Amendments commencing on proclamation

39 Replacement of pt 7A (Settlement notice)

Part 7A—

omit, insert—

Part 7A Priority notices

138 Definitions for part

- (1) In this part—
extension request see section 141(1).
priority notice see section 139(1).
related instrument see section 139(2)(d)(ii).
- (2) In this part, a reference to an instrument includes a reference to a caveat.

139 Depositing priority notice

- (1) A notice (a *priority notice*) for a lot may be deposited by or for a person who is, or will be, a party to an instrument that—
 - (a) is to be lodged; and
 - (b) will affect the lot or an interest in the lot.
- (2) A priority notice must—
 - (a) be in the appropriate form; and
 - (b) state the person's name; and
 - (c) be signed by or for the person; and
 - (d) sufficiently describe—

- (i) the lot; and
 - (ii) each instrument to which the notice relates (each a *related instrument*); and
 - (e) state the order in which the related instruments are intended to be lodged.
- (3) The related instruments must include the instrument mentioned in subsection (1).

140 Effect of priority notice

- (1) The deposit of a priority notice for a lot prevents an instrument affecting the lot or an interest in the lot being registered until the notice lapses or is withdrawn, removed or cancelled.
- (2) However, the priority notice does not prevent registration of—
 - (a) an instrument if the person for whom the notice was deposited consents to its registration; or
 - (b) an instrument of transfer or release of mortgage executed by a mortgagee whose interest was registered before the notice was deposited; or
 - (c) an instrument lodged before the notice was deposited; or
 - (d) a caveat; or
 - (e) another instrument that, if registered, would not affect an interest the subject of the notice.

141 Extending priority notice

- (1) A priority notice may be extended for 30 days by depositing a request (an *extension request*) to extend the notice.

[s 39]

- (2) An extension request must be—
 - (a) in the appropriate form; and
 - (b) signed by or for the person for whom the priority notice was deposited; and
 - (c) deposited within 60 days after the priority notice was deposited.
- (3) Only 1 extension request may be deposited for a priority notice.
- (4) The deposit of an extension request continues the effect of the priority notice under section 140.

142 Lapsing of priority notice

A priority notice lapses on the earliest of the following days—

- (a) either—
 - (i) if an extension request for the notice has been deposited under section 141—the day that is 90 days after the notice was deposited; or
 - (ii) otherwise—the day that is 60 days after the notice was deposited;
- (b) the day when all related instruments have been lodged in the order stated in the notice.

143 Withdrawing priority notice

- (1) A priority notice may be withdrawn by depositing a request to withdraw the notice.
- (2) The request must be—
 - (a) in the appropriate form; and
 - (b) signed by or for the person for whom the priority notice was deposited.

144 Removing priority notice

- (1) An affected person for a lot may, at any time, apply to the Supreme Court for an order that a priority notice for the lot be removed.
- (2) The Supreme Court may make the order—
 - (a) whether or not the person for whom the priority notice was deposited has been served with the application; and
 - (b) on the terms the court considers appropriate.
- (3) In this section—

affected person, for a lot the subject of a priority notice, means a person, other than the person for whom the priority notice was deposited, who—

 - (a) is a registered proprietor of the lot; or
 - (b) has another interest in the lot.

145 Cancelling priority notice

- (1) The registrar may cancel a priority notice for a lot if—
 - (a) a request to cancel the notice is deposited; and
 - (b) the registrar is satisfied it is unlikely the related instruments for the notice will be lodged before the notice lapses.
- (2) The registrar must give written notice of the registrar's intention to cancel the priority notice to the person for whom the priority notice was deposited at least 7 days before cancelling the notice.
- (3) The registrar may give the notice by leaving it at, or sending it to, the address stated in the notice for the person who deposited the notice.

146 Compensation for improper priority notice

- (1) This section applies if, without reasonable cause—
 - (a) a priority notice is deposited or extended; or
 - (b) a priority notice is not withdrawn after it is no longer needed to prevent the registration of an instrument.
- (2) The person for whom the priority notice was deposited must compensate another person who suffers loss or damage because of the deposit or extension of the notice, or the failure to withdraw the notice.
- (3) In a proceeding for compensation under subsection (2)—
 - (a) the Supreme Court may include a component for exemplary damages in a judgment for compensation; and
 - (b) proof there was reasonable cause to deposit or extend the priority notice, or not to withdraw the notice after it was no longer needed to prevent the registration of an instrument, rests on the person for whom the notice was deposited.

147 Registrar may withdraw instrument

- (1) The registrar may withdraw an instrument that has been lodged but prevented from being registered by a priority notice.
- (2) The registrar must give written notice of the registrar's intention to withdraw the instrument to the person who lodged the instrument at least 14 days before withdrawing the instrument.

148 Priority of instruments

- (1) Instruments lodged, but prevented from being registered by a priority notice, are taken to have been lodged (in the order in which they were lodged) immediately after lodgment of the related instruments for the notice.
- (2) This section does not apply to an instrument withdrawn by the registrar under section 147.

149 Minor correction of priority notice

- (1) This section applies if the registrar receives a written request to correct a priority notice from, or on behalf of, the person for whom the priority notice was deposited.
- (2) The registrar may make the correction if the registrar is satisfied the correction is minor.

40 Insertion of new pt 12, div 6

After section 211—

insert—

Division 6 Transitional provision for Land and Other Legislation Amendment Act 2017

212 Existing settlement notices

This Act as in force before the commencement continues to apply in relation to a settlement notice that was deposited and had not lapsed or been cancelled or withdrawn before the commencement.

[s 41]

41 Amendment of sch 2 (Dictionary)

Schedule 2—

insert—

extension request, for part 7A, see section 141(1).

priority notice, for part 7A, see section 139(1).

related instrument, for part 7A, see section 139(2)(d)(ii).

Part 3A Amendment of Mineral Resources Act 1989

41A Act amended

This part amends the *Mineral Resources Act 1989*.

41B Insertion of new ch 12, pt 4B

Chapter 12—

insert—

Part 4B Grant of mining lease application 70460

334ZJH Definitions for part

In this part—

ML 70434 entity means the entity that is the applicant for mining lease application 70434.

ML 70460 entity means the entity that is the applicant for mining lease application 70460.

334ZJI Grant of mining lease application 70460

(1) This section applies to mining lease application

70460 for a mining lease for transportation through land under section 316.

- (2) On the commencement, the mining lease applied for is, by operation of this section, granted to the ML 70460 entity.
- (3) The mining lease granted under subsection (2)—
 - (a) expires on 31 December 2032; and
 - (b) can not be renewed.
- (4) This Act, other than sections 286 to 287, applies in relation to the mining lease as if it had been granted by the Minister under section 271A on the day of the commencement.

334ZJJ Effect of grant on other applications

- (1) The ML 70434 entity need not comply with section 248 for the following applications, to the extent the applications relate to land within the area of the mining lease granted under section 334ZJI(2)—
 - (a) mining lease application 70434;
 - (b) another application for a mining lease;
 - (c) an application under section 275 for surface area to be included in a mining lease.
- (2) Subsection (1) applies only while the mining lease granted under section 334ZJI(2) is in force.

334ZJK No compensation payable by State, ML 70434 entity or ML 70460 entity

- (1) No compensation is payable by the State, the ML 70434 entity or the ML 70460 entity to any person for or in connection with the enactment or operation of this part, or anything done to give effect to this part, other than as required under

[s 41C]

sections 279 and 280.

(2) This section applies despite any other Act or law.

41C Amendment of sch 2 (Dictionary)

Schedule 2—

insert—

ML 70434 entity, for chapter 12, part 4B, see section 334ZJH.

ML 70460 entity, for chapter 12, part 4B, see section 334ZJH.

Part 3B Amendment of Mining and Quarrying Safety and Health Act 1999

41D Act amended

This part amends the *Mining and Quarrying Safety and Health Act 1999*.

41E Amendment of pt 20, hdg (Other transitional provisions)

Part 20, heading, after ‘transitional’—

insert—

and validation

41F Insertion of new pt 20, div 4

Part 20—

insert—

**Division 4 Validation provision for
Land and Other Legislation
Amendment Act 2017**

281 Validation of particular appointments

- (1) This section applies if, before the commencement, an officer or employee of the public service was purportedly appointed to any of the following offices (each a *relevant office*)—
 - (a) an inspector or inspection officer under section 122(1);
 - (b) for an inspector—the chief inspector of mines under section 122(2);
 - (c) an authorised officer under section 126A.
- (2) The person is declared to always have been validly appointed to the relevant office.
- (3) Anything done or omitted to be done by the person that would have been valid and lawful under this Act had the person been validly appointed to the relevant office is taken to be, and always to have been, valid and lawful.
- (4) Without limiting subsection (3), it is declared that evidence obtained by the person in the purported exercise of a power under this Act is taken to be, and always to have been, lawfully obtained.

Part 3C

Amendment of Petroleum and Gas (Production and Safety) Act 2004

41G Act amended

This part amends the *Petroleum and Gas (Production and Safety) Act 2004*.

[s 41H]

41H Amendment of ch 15, hdg (Repeal and transitional provisions)

Chapter 15, heading, ‘and transitional’—

omit, insert—

, transitional and validation

41I Insertion of new ch 15, pt 20

Chapter 15—

insert—

**Part 20 Validation provision for
Land and Other
Legislation
Amendment Act 2017**

992 Validation of particular appointments

- (1) This section applies if, before the commencement, a public service officer was purportedly appointed to any of the following offices (each a *relevant office*)—
 - (a) the chief inspector, petroleum and gas under section 735(1)(a);
 - (b) the deputy chief inspector, petroleum and gas under section 735(1)(b);
 - (c) an inspector, petroleum and gas under section 735(1)(c);
 - (d) an authorised officer under section 735(1)(d).
- (2) The person is declared to always have been validly appointed to the relevant office.
- (3) Anything done or omitted to be done by the person that would have been valid and lawful

under this Act had the person been validly appointed to the relevant office is taken to be, and always to have been, valid and lawful.

- (4) Without limiting subsection (3), it is declared that evidence obtained by the person in the purported exercise of a power under this Act is taken to be, and always to have been, lawfully obtained.

Part 4 Other amendments

42 Acts amended

Schedule 1 amends the Acts it mentions.

Schedule 1 Other amendments

section 42

Part 1 Amendments commencing on assent

Land Act 1994

- 1 **Section 15(3)(b), example, '17(2)'—**
omit, insert—
17(3)

- 2 **Section 164B(1) and (3)(c), 'under section 164(1)(b)(ii)'—**
omit.

- 3 **Section 164H(1)(c), '164(1)(b)(ii)'—**
omit, insert—
section 164(1)

- 4 **Section 288B(4), 'mortgagee'—**
omit, insert—
mortgage

- 5 **Section 431Z(2), after 'operation'—**
insert—
of

- 6 Schedule 2, entry for section 322(6), ‘322(6)’—**
omit, insert—
322(8)
- 7 Schedule 3, part 1, item 4(d)(ii), ‘section 373A(4)(b)’—**
omit, insert—
section 373A(5)(b)
- 8 Schedule 3, part 2, item 4(d)(ii), ‘section 373A(4)(b)’—**
omit, insert—
section 373A(5)(b)

Land Title Act 1994

- 1 Section 11B(4), ‘mortgagee’—**
omit, insert—
mortgage
- 2 Section 188A(1)(g), ‘of which’—**
omit, insert—
with which

Planning (Consequential) and Other Legislation Amendment Act 2016

- 1 **Section 282(2), ‘373A(7)’—**
omit, insert—
373A(9)
- 2 **Section 282(2), inserted subsection (7A), ‘Subsection (7)(b)’—**
omit, insert—
Subsection (9)(b)
- 3 **Section 282(2), inserted subsections (7) and (7A)—**
renumber as inserted subsections (9) and (9A).

Part 2 Amendments commencing on proclamation

Land Act 1994

- 1 **Section 57(2), from ‘, including’ to ‘lease’—**
omit.
- 2 **Section 57(5)(b)—**
omit.
- 3 **Section 57(5)(c) and (d)—**
renumber as section 57(5)(b) and (c).

