

Queensland



**LAND AND RESOURCES
TRIBUNAL AMENDMENT
BILL 2000**



LAND AND RESOURCES TRIBUNAL AMENDMENT BILL 2000

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2000

A BILL

FOR

An Act to amend the Land and Resources Tribunal Act 1999

The Parliament of Queensland enacts—

1

Short title

2

Clause **1.** This Act may be cited as the *Land and Resources Tribunal Amendment Act 2000*.

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Act amended

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Clause **2.** This Act amends the *Land and Resources Tribunal Act 1999*.

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Amendment of s 39 (General requirements for establishing panel for proceeding)

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Clause **3.** Section 39, heading, ‘**establishing panel**’—
 omit, insert—
 ‘**constituting tribunal**’.

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Amendment of s 40 (Specific requirements for constituting tribunal for proceeding)

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Clause **4.** Section 40(3) and (4)—
 omit, insert—

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 ‘**(3)** If the tribunal is constituted by a panel that includes 2 or more presiding members including the president, the president is the senior presiding member for the proceeding.’

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 ‘**(4)** If the tribunal is constituted by a panel that includes 2 or more presiding members but does not include the president, the president must designate 1 of the presiding members as the senior presiding member for the proceeding.’

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Amendment of s 59 (Protection)

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Clause **5.** Section 59(1), after ‘as a member,’—

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Land and Resources Tribunal Amendment

insert—

‘including in the performance or exercise of an administrative function or power conferred on the member under an Act,’.

Amendment of s 62 (Contempt of tribunal)

Clause 6. Section 62(2), ‘contravenes subsection (1)’—

omit, insert—

‘under subsection (1) is in contempt of the tribunal’.

Amendment of s 67 (Appeal only on question of law)

Clause 7.(1) Section 67(2)(a), ‘Land Court non-presiding member or a mining referee’—

omit, insert—

‘presiding member (alternative), mining referee or Land Court non-presiding member’.

(2) Section 67(2)(b)—

omit, insert—

‘(b) if the tribunal is not constituted by a presiding member (alternative), mining referee or Land Court non-presiding member—the Court of Appeal (also the “**appellate body**”).’.

Amendment of s 69 (Question of law referred from single member)

Clause 8.(1) Section 69, heading—

omit, insert—

‘**Question of law referred from presiding member (alternative), mining referee or Land Court non-presiding member**’.

(2) Section 69(1), after ‘is constituted by a’—

insert—

‘presiding member (alternative),’.

	Amendment of s 70 (Question of law referred from panel)	1
Clause	9.(1) Section 70, heading—	2
	<i>omit, insert—</i>	3
	‘Question of law referred from panel or presiding member’.	4
	(2) Section 70(1)—	5
	<i>omit, insert—</i>	6
	‘70.(1) This section applies if, for a proceeding, the tribunal is constituted other than by a presiding member (alternative), mining referee or Land Court non-presiding member.’.	7
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		9
	Insertion of new s 70A	10
Clause	10. Part 4, division 4—	11
	<i>insert—</i>	12
	‘Tribunal constituted by presiding member (alternative)	13
	‘70A.(1) For a relevant provision, the tribunal is constituted by a presiding member (alternative) if—	14
		15
	(a) the tribunal is constituted by a presiding member other than the president; and	16
		17
	(b) in giving directions for constituting the tribunal, the president was required, under schedule 1, to choose—	18
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	(i) either a presiding member or a mining referee; or	20
	(ii) a presiding member, a mining referee or a Land Court non-presiding member.	21
		22
	‘(2) In this section—	23
	“relevant provision” means—	24
	(a) section 67(2); or	25
	(b) section 69(1); or	26
	(c) section 70(1).’.	27

Amendment of s 85 (Warden)

Clause

11.(1) Section 85(2) to (5)—*omit, insert—*

‘**(2)** The *Judges (Salaries and Allowances) Act 1967* continues to apply to the person as if this Act had not been enacted.

‘**(3)** The relevant mining Act provisions are taken to continue to have effect as if this Act had not been enacted, to the extent necessary for keeping in place—

(a) the person’s appointment as a warden; and

(b) the Wardens Court.

‘**(4)** The relevant mining Act provisions are also taken to continue to have effect as if this Act had not been enacted, to the extent necessary for giving full effect to the relevant designated Act provisions.

‘**(5)** However, if the person’s appointment as a warden ends and there is no other person whose appointment as warden is kept in place under this section, a reference in a relevant mining Act provision or relevant designated Act provision to a warden or the Wardens Court is taken to be a reference to the tribunal.

‘**(6)** In this section—

“designated Acts” means the following Acts—

- the *Coal Mining Act 1925*
- the *Coal Mining Safety and Health Act 1999*
- the *Mines Regulation Act 1964*
- the *Mining and Quarrying Safety and Health Act 1999*.

“relevant designated Act provisions” means the provisions of the designated Acts that mention a warden or the Wardens Court.

“relevant mining Act provisions” means the provisions of the *Mineral Resources Act 1989* that, immediately before the schedule commencement, mentioned, directly or indirectly, a warden or the Wardens Court.

“schedule commencement” means the commencement of schedule 3, amendments of the *Mineral Resources Act 1989*.’.

Amendment of s 86 (Continuing role for warden and wardens court under certain Acts)

Clause	12.(1) Section 86, heading—	1 2
	<i>omit, insert—</i>	3 4
	‘Assumption by tribunal of role of warden and Wardens Court under certain Acts’.	5 6
	(2) Section 86(3)—	7
	<i>renumber</i> as section 86(4).	8
	(3) Section 86(2)—	9
	<i>omit, insert—</i>	10
	‘(2) A reference in a relevant mining Act provision or relevant designated Act provision to a warden or the Wardens Court is taken to be a reference to the tribunal.	11 12 13
	‘(3) In subsection (4), definition “designated Acts” , a reference to an Act includes a reference to any instrument—	14 15
	(a) that has been made or entered into under the Act; and	16
	(b) that the reference to the Act does not otherwise include.’.	17
	(4) Section 86(4) (as renumbered), definition “designated Acts” , entries for the <i>Coal Mining Act 1925</i> and the <i>Mines Regulation Act 1964</i> —	18 19
	<i>omit.</i>	20

Amendment of sch 1 (Requirements for constituting tribunal)

Clause	13.(1) Schedule 1, entry for <i>Fossicking Act 1994</i> , ‘mining referee’—	21 22
	<i>omit, insert—</i>	23
	‘presiding member or mining referee’.	24
	(2) Schedule 1, entries for <i>Mineral Resources Act 1989</i> , entries for sections 38 to 42 and for sections 53(6)(b), 70(1), 77, 101, 116, 125, 156, 174(1), 203, 222(1), 250, 259(1), 299, 305 and 317, ‘mining referee’—	25 26 27
	<i>omit, insert—</i>	28
	‘presiding member or mining referee’.	29

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(3) Schedule 1, entries for *Mineral Resources Act 1989*, entries for sections 85 and 281, ‘mining referee or Land Court non-presiding member’—

omit, insert—

‘presiding member, mining referee or Land Court non-presiding member’.

(4) Schedule 1, entries for *Mineral Resources Act 1989*, entry for section 268, words under the column heading ‘Nature of proceeding’, paragraph (a), ‘by the mining referee’—

omit, insert—

‘other than by a panel’.

(5) Schedule 1, entries for *Mineral Resources Act 1989*, entry for section 268, words under the column heading ‘Constitution of tribunal’, ‘mining referee’—

omit, insert—

‘presiding member or mining referee’.