



Queensland

Gas Security Amendment Act 2011

Act No. 16 of 2011



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Gas Security Amendment Act 2011

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Queensland

Gas Security Amendment Act 2011

Act No. 16 of 2011

An Act to amend the Mineral Resources Act 1989, the National Gas (Queensland) Act 2008, the Petroleum and Gas (Production and Safety) Act 2004 and the Petroleum and Gas (Production and Safety) Regulation 2004 for particular purposes

[Assented to 19 May 2011]

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Gas Security Amendment Act 2011*.

2 Commencement

- (1) Section 9 commences on 1 July 2011.
- (2) Sections 11, 12, 14 to 16 and 28(3) commence on a day to be fixed by proclamation.

Part 2 Amendment of Mineral Resources Act 1989

3 Act amended

This part amends the *Mineral Resources Act 1989*.

4 Amendment of s 381A (Definitions for pt 10AA)

Section 381A, definition *affected land*—

omit, insert—

‘affected land means land that, on 5 November 2008, was—

- (a) a part of the place given the name of Collingwood Park and entered in the Gazetteer of Place Names under the *Place Names Act 1994*; and

(b) used only for a residential, charitable or religious purpose.’.

5 Amendment of s 381B (What is the *Collingwood Park State guarantee*)

Section 381B(3)—

insert—

‘*market value*, of affected land, means the market value the land would have had, at the time the chief executive formed the opinion mentioned in subsection (1)(c)(ii), if the subsidence damage had not happened.’.

6 Insertion of new pt 19, div 14

Part 19—

insert—

‘Division 14 Transitional provision for Gas Security Amendment Act 2011

‘783 Date of effect of amended s 381A

‘Section 381A, as amended by the *Gas Security Amendment Act 2011*, is taken to have had effect on and from 5 November 2008.’.

Part 3 Amendment of National Gas (Queensland) Act 2008

7 Act amended

This part amends the *National Gas (Queensland) Act 2008*.

[s 8]

8 Amendment of s 7 (Application in Queensland of National Gas Law)

Section 7—

insert—

- ‘(1A) The National Gas Law, chapter 2, part 6, division 2A as set out in the schedule to the South Australian Act applies to, and in relation to, the State.’.

9 Insertion of new s 15A

After section 15—

insert—

‘15A Carpentaria Gas Pipeline

- ‘(1) The arrangements stated in this section apply for the pipeline which—
- (a) is the subject of pipeline licence 41; and
 - (b) is known as the Carpentaria Gas Pipeline; and
 - (c) starts at Ballera and ends at Mt Isa.
- ‘(2) From the commencement, the pipeline is taken to be a covered pipeline and a transmission pipeline.
- ‘(3) For the period starting on the commencement and ending on 30 April 2023, the services provided by the pipeline—
- (a) are taken to be the subject of a light regulation determination; and
 - (b) can not be made the subject of a full access arrangement.
- ‘(4) In this section—
- commencement*** means the commencement of this section.’.

Part 4 Amendment of Petroleum and Gas (Production and Safety) Act 2004

10 Act amended

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

11 Amendment of s 35 (Call for tenders)

Section 35(2)(e)—

insert—

‘(v) if any part of the proposed area of the authority is to be subject to an Australian market supply condition—the part of the proposed area and the condition.’.

12 Amendment of s 42 (Provisions of authority to prospect)

Section 42—

insert—

‘(3A) The conditions of the authority may include an Australian market supply condition applying to all or part of the area of the authority.’.

13 Amendment of s 118 (Requirements for making ATP-related application)

(1) Section 118(e)—

renumber as section 118(g).

(2) Section 118—

insert—

‘(e) include information to satisfy the requirements for grant mentioned in section 121; and

[s 14]

- (f) include evidence of certification by an entity the chief executive is satisfied is independent and appropriately qualified to certify that the resources and reserves of petroleum in the proposed area satisfy the requirements of section 121(1)(b)(ii); and’.
- (3) Section 118—
insert—
- ‘(2) The chief executive may refuse to receive an application that does not include—
 - (a) the proposed development plan mentioned in subsection (1)(d)(iv); and
 - (b) evidence of certification mentioned in subsection (1)(f).
- ‘(3) If the chief executive refuses to receive an application, the chief executive must—
 - (a) give the applicant notice of the refusal that states the reason for the refusal; and
 - (b) refund the fee accompanying the application.’.

14 Amendment of s 123 (Provisions of petroleum lease)

Section 123—

insert—

- ‘(3A) The conditions of the lease may include an Australian market supply condition applying to all or part of the area of the lease.’.

15 Amendment of s 127 (Call for tenders)

Section 127(2)(e)—

insert—

- ‘(v) if any part of the proposed area of the lease is to be subject to an Australian market supply condition—the part of the proposed area and the condition.’.

16 Insertion of new ch 2, pt 2A

Chapter 2—

insert—

**‘Part 2A Prospective Gas Production
Land Reserve**

‘175A Meaning of *Australian market supply condition*

‘An *Australian market supply condition*, for land, is a condition under which—

- (a) gas produced from the land must not be supplied other than to the Australian market; and
- (b) any contract or other arrangement for the supply of the gas must include a condition that the gas must not be further supplied other than to the Australian market.

‘175B Meaning of *Australian market*

‘*Australian market*, in relation to the supply of gas, means an entity or entities that will—

- (a) consume the gas within Australia; or
- (b) supply the gas to an entity or entities that will consume the gas within Australia.

‘175C Supply of gas from PGPLR land

‘(1) The holder of a petroleum tenure for PGPLR land—

- (a) must not supply gas produced from the land other than to the Australian market; and
- (b) must include in any contract or other arrangement for the supply of the gas a condition that the gas must not be further supplied other than to the Australian market.

Maximum penalty—1000 penalty units.

[s 16]

- ‘(2) However, if the application of the Australian market supply condition to the land has been suspended under section 175G(1) for a stated period, subsection (1) does not apply to the holder for the stated period.
- ‘(3) An entity to which gas produced from PGPLR land is supplied—
- (a) must not further supply the gas other than to the Australian market; and
 - (b) must include in any contract or other arrangement for the supply of the gas a condition that the gas must not be further supplied other than to the Australian market.

Maximum penalty—1000 penalty units.

- ‘(4) However, if the entity holds an exemption under section 175G(2) for a stated period in relation to the land, subsection (3) does not apply to the entity, for the stated period, in relation to gas produced from the land.
- ‘(5) Subsection (3)(a) applies subject to section 175D.

‘175D Urgent exemption from application of s 175C(3)(a)

- ‘(1) Subsection (2) applies if—
- (a) an entity is a consumer of gas; and
 - (b) because of technical or operational problems, the entity is unable to consume gas produced from PGPLR land and supplied to the entity; and
 - (c) the entity has taken all reasonable steps to supply the gas to the Australian market but the entity considers it is not commercially viable to do so; and
 - (d) the entity supplies the gas other than to the Australian market; and
 - (e) the entity gives notice of the supply of the gas, the reason for the supply and the date the technical or operational problem arose, to the chief executive within 5 days after starting to supply the gas.

Example of a technical or operational problem for paragraph (b)—
the failure of the entity's plant or machinery

- '(2) Section 175C(3)(a) does not apply to the entity for 30 days after the technical or operational problem arises.

'175E Suspension of application of, or exemption from, Australian market supply condition

- '(1) The holder of a petroleum tenure for PGPLR land may apply to the Minister for a suspension, for a stated period, of the application of the Australian market supply condition to the land if—
- (a) market analysis indicates that, during the stated period, sufficient gas may be produced from existing and proposed petroleum tenures in the State to supply both the Australian market and export demand; or
 - (b) the holder has taken all reasonable steps to supply the gas produced from the PGPLR land to the Australian market but it is not commercially viable to do so.
- '(2) An entity to which gas produced from PGPLR land is supplied may apply to the chief executive for an exemption, for a stated period, from section 175C(3) in relation to the land if—
- (a) market analysis indicates that, during the stated period, sufficient gas may be produced from existing and proposed petroleum tenures in the State to supply both the Australian market and export demand; or
 - (b) the entity has taken all reasonable steps to supply the gas produced from the PGPLR land to the Australian market but it is not commercially viable to do so.

'175F Assessing commercial viability

'In assessing commercial viability of the supply of gas produced from PGPLR land for section 175E, the Minister or the chief executive may have regard to the following—

[s 16]

- (a) whether the rate of return on the investment of money required to produce gas from the land and supply it to the Australian market at least meets the rate of return considered acceptable by a reasonable petroleum producer or a lender to a petroleum producer;
- (b) the market conditions at the time the application is made under section 175E including, for example, access to markets, the expected duration of a contract or other arrangement for the supply of the gas, the price likely to be paid for the gas and the certainty and timing of market opportunities;
- (c) whether, if commercial viability is dependent on the applicant reaching agreement with another entity or using the other entity's facilities or technology, the applicant can complete the agreement or use the facilities or technology on terms the applicant considers provide a reasonable rate of return for the applicant.

'175G Deciding application

- '(1) The Minister may grant an application mentioned in section 175E(1) only if the Minister is satisfied about a matter mentioned in section 175E(1)(a) or (b).
- '(2) The chief executive may grant an application mentioned in section 175E(2) only if the chief executive is satisfied about a matter mentioned in section 175E(2)(a) or (b).
- '(3) If the Minister or chief executive refuses to grant an application, the applicant must be given an information notice for the decision.

'175H Requirement to keep and give records

- '(1) This section applies to the following (each a *selling entity*)—
 - (a) the holder of a petroleum lease for PGPLR land who supplies gas produced from the land;
 - (b) another entity that supplies gas produced from PGPLR land.

-
- ‘(2) A selling entity must, for the period and in the way prescribed under a regulation, keep the records prescribed under a regulation for each supply by the selling entity of gas produced from PGPLR land.

Maximum penalty—500 penalty units.

- ‘(3) If the chief executive gives a selling entity a notice asking for a copy of a record kept under subsection (2), the selling entity must give a copy of the record to the chief executive within the reasonable period stated in the notice.

Maximum penalty—500 penalty units.

‘175I Order to enforce compliance with s 175C

- ‘(1) This section applies if, on the application of the chief executive, the District Court is satisfied—

- (a) the holder of a petroleum tenure for PGPLR land is supplying gas produced from the land other than to the Australian market, contrary to section 175C(1)(a); or
- (b) an entity to which gas produced from PGPLR land was supplied is further supplying the gas other than to the Australian market, contrary to section 175C(3)(a).

- ‘(2) The court may make either or both of the following orders—

- (a) an order granting an injunction, on terms the court considers appropriate, restraining the holder or other entity from supplying the gas other than to the Australian market;
- (b) another order the court considers appropriate.

- ‘(3) The court may decide not to make an order under this section in relation to the holder if the court considers that section 790(1)(b) or (c) provides a more appropriate way of dealing with the issue.’.

[s 17]

17 Amendment of s 306 (Content requirements for CSG statement)

Section 306(1)(b), ‘the coal’—

omit, insert—

‘a coal’.

18 Amendment of s 399 (What is *pipeline land* for a pipeline licence)

Section 399—

insert—

‘(3) If the Coordinator-General acquires an easement over land for a purpose that includes providing for the construction and operation of a pipeline to transport petroleum, the only owner of the land, for a permission mentioned in subsection (1)(b)(ii), is the Coordinator-General.

‘(4) In this section—

acquires means acquires under the *State Development and Public Works Organisation Act 1971*.’.

19 Omission of s 592A (Definition for pt 2)

Section 592A—

omit.

20 Amendment of s 593 (Application of pt 2)

Section 593(1), ‘quarter’—

omit, insert—

‘royalty return period’.

21 Amendment of s 594 (Obligation to lodge royalty return)

(1) Section 594(2), ‘quarter’—

omit, insert—

‘royalty return period’.

- (2) Section 594(2), note—

omit.

22 Amendment of s 599 (Annual royalty returns)

- (1) Section 599(1) to (3), ‘royalty return period’—

omit, insert—

‘annual return period’.

- (2) Section 599(4), ‘*royalty return period*’—

omit, insert—

‘*annual return period*’.

- (3) Section 599(4), definition *annual return period*, paragraphs (b) and (d), ‘royalty return period’—

omit, insert—

‘annual return period’.

23 Amendment of s 842 (Substantial compliance with application requirements may be accepted)

Section 842—

insert—

- ‘(2) Subsection (1) does not apply to an application the chief executive has refused to receive under section 118(2).’.

24 Amendment of s 843 (Additional information may be required about application)

- (1) Section 843(1), ‘the decider may’—

omit, insert—

‘the chief executive (or if the decider is the chief inspector, the chief inspector) may’.

[s 25]

- (2) Section 843(1)(a), example, ‘Minister’—
omit, insert—
‘chief executive’.

25 Amendment of s 910 (Renewal application provisions apply for making and deciding grant application)

Section 910(1)(a)(i), ‘section 83’—
omit, insert—
‘sections 81(2), 82(1)(a) and (j) and 83’.

26 Insertion of new ch 15, pt 11

Chapter 15—
insert—

‘Part 11 Transitional provisions for Gas Security Amendment Act 2011

‘952 Definition for pt 11

‘In this part—
amending Act means the *Gas Security Amendment Act 2011*.

‘953 Application of s 118 to existing applications

‘Section 118, as amended by the amending Act, applies only to applications made after the commencement of this section.

‘954 Date of effect of amendment of s 910

‘Section 910(1)(a)(i), as amended by the amending Act, is taken to have had effect from 31 December 2004.

‘955 Effect of regulation amendment

‘The amendment of the *Petroleum and Gas (Production and Safety) Regulation 2004* by the amending Act does not affect the power of the Governor in Council to further amend the regulation or to repeal it.’.

27 Amendment of sch 1 (Reviews and appeals)

- (1) Schedule 1, table 1—

insert—

‘175G(3) Refusal to grant application for exemption under section 175E(2)’.

- (2) Schedule 1, table 2, after item for section 164—

insert—

‘175G(3) Refusal to grant application for suspension Land Court’.
under section 175E(1)

28 Amendment of sch 2 (Dictionary)

- (1) Schedule 2, definition *quarter*—

omit.

- (2) Schedule 2—

insert—

‘annual return period see section 599(4).

Coordinator-General see the *State Development and Public Works Organisation Act 1971*, schedule 2.

royalty return period means the period, prescribed under a regulation, for which a royalty return must be lodged under chapter 6, part 2.’.

- (3) Schedule 2—

insert—

‘146A Royalty return period

‘For the Act, schedule 2, definition *royalty return period*, the period prescribed is a quarterly period.’.

33 Amendment of s 147 (Petroleum royalty)

Section 147(2) and (3), ‘quarterly period’—

omit, insert—

‘royalty return period’.

34 Amendment of s 148 (Working out wellhead value of petroleum)

- (1) Section 148(1), (3), example and (4), first, second and third mentions, ‘quarterly period’—

omit, insert—

‘royalty return period’.

- (2) Section 148(4)(b)—

omit, insert—

‘(b) the negative wellhead value may be deducted under subsection (1)(b)(ii) in a later royalty return period in the same annual return period.’.

- (3) Section 148(6)—

omit.

35 Amendment of s 148A (Definition for sdiv 2)

Section 148A, definition *component*, ‘quarterly period’—

omit, insert—

‘royalty return period’.

[s 36]

36 Amendment of s 149 (Information to be contained in royalty return)

Section 149(1)(a) and (d), ‘quarterly period’—

omit, insert—

‘royalty return period’.

37 Amendment of sch 9 (Fees)

Schedule 9, part 1, item 8, ‘s 118(e)’—

omit, insert—

‘s 118(g)’.

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