

I hereby certify that this PUBLIC BILL has finally passed the
Legislative Assembly of Queensland.

Legislative Assembly Chamber,
Brisbane,

The Clerk of the Parliament.

29 March 2019

In the name and on behalf of the Queen, I assent to this Bill.

Paul de Jersey

Government House,

Brisbane,

29 March 2019



Queensland

No. 7 of 2019

A BILL for

An Act to amend the Aboriginal Land Act 1991, the Cape York Peninsula Heritage Act 2007, the Explosives Act 1999, the Explosives Regulation 2017, the Foreign Ownership of Land Register Act 1988, the Land Act 1994, the Land and Other Legislation Amendment Act 2017, the Land Regulation 2009, the Land Title Act 1994, the Mineral and Energy Resources (Common Provisions) Act 2014, the Mineral Resources Act 1989, the Petroleum and Gas (Production and Safety) Act 2004, the State Penalties Enforcement Regulation 2014, the Torres Strait Islander Land Act 1991 and the legislation mentioned in schedule 1 for particular purposes



Queensland

Land, Explosives and Other Legislation Amendment Bill 2019

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2019

A Bill

for

An Act to amend the *Aboriginal Land Act 1991*, the *Cape York Peninsula Heritage Act 2007*, the *Explosives Act 1999*, the *Explosives Regulation 2017*, the *Foreign Ownership of Land Register Act 1988*, the *Land Act 1994*, the *Land and Other Legislation Amendment Act 2017*, the *Land Regulation 2009*, the *Land Title Act 1994*, the *Mineral and Energy Resources (Common Provisions) Act 2014*, the *Mineral Resources Act 1989*, the *Petroleum and Gas (Production and Safety) Act 2004*, the *State Penalties Enforcement Regulation 2014*, the *Torres Strait Islander Land Act 1991* and the legislation mentioned in schedule 1 for particular purposes

[s 1]

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Land, Explosives and Other Legislation Amendment Act 2019*.

2 Commencement

(1) The following provisions commence on 1 October 2019—

- (a) part 9, division 3;
- (b) schedule 1, part 2.

(2) The following provisions commence on a day to be fixed by proclamation—

- (a) parts 4 to 6;
- (b) part 12, division 3;
- (c) schedule 1, part 3.

Part 2 Amendment of Aboriginal Land Act 1991

3 Act amended

This part amends the *Aboriginal Land Act 1991*.

Note—

See also the amendments in schedule 1, part 1.

4 Amendment of s 10 (Lands that are transferable lands)

Section 10(1)(h)—

omit.

5 Amendment of s 32B (Definitions for pt 2A)

Section 32B, definition *interest holder*, paragraph (d),
'registered lease'—

omit, insert—

registered sublease

6 Amendment of s 32R (Dwelling on available land)

(1) Section 32R(5)—

omit, insert—

(5) If the dwelling notice states the housing chief executive consents to the applicant making the application, the trustee must decide the price of the dwelling—

(a) by agreement with the housing chief executive; or

(b) by using a methodology agreed between the trustee and the housing chief executive.

(2) Section 32R(6), 'valuation'—

omit.

7 Amendment of s 32T (Offer to allocate available land)

Section 32T(3), 'value'—

omit, insert—

price

[s 8]

8 Amendment of s 40 (Appointment of grantee to hold land for benefit of Aboriginal people)

Section 40(3)—

omit, insert—

- (3) However, the Minister may appoint a CATSI corporation that is a registered native title body corporate as the grantee of the land under subsection (2) only if—
- (a) under the Commonwealth Native Title Act, a determination has been made that native title exists in relation to all or a part of the land and the CATSI corporation is the registered native title body corporate for the determination; or
 - (b) a determination has not been made under the Commonwealth Native Title Act that native title exists in relation to all or a part of the land, but the Minister is satisfied it is appropriate in all the circumstances to appoint the CATSI corporation as the grantee of the land.

Examples of when it is appropriate to appoint the CATSI corporation as the grantee of the land—

- 1 The appointment of the CATSI corporation is supported by consultation with Aboriginal people particularly concerned with the land.
- 2 The land is within the external boundaries of an area of land the subject of a native title determination and the CATSI corporation is the registered native title body corporate for the determination.
- 3 An ILUA has been entered into for the land and the CATSI corporation is nominated in the ILUA as the proposed grantee for the land under this Act.
- 4 Anthropological research supports the CATSI corporation as being the appropriate grantee.

9 Amendment of s 93 (Transfer to entity to hold for benefit of Aboriginal people)

Section 93(3)(a) and (b)—

omit, insert—

- (a) under the Commonwealth Native Title Act, a determination has been made that native title exists in relation to all or a part of the land and the CATSI corporation is the registered native title body corporate for the determination; or
- (b) a determination has not been made under the Commonwealth Native Title Act that native title exists in relation to all or a part of the land, but the Minister is satisfied it is appropriate in all the circumstances for the land to be transferred to the CATSI corporation.

Examples of when it is appropriate for the land to be transferred to the CATSI corporation—

- 1 The transfer to the CATSI corporation is supported by consultation with Aboriginal people particularly concerned with the land.
- 2 The land is within the external boundaries of an area of land the subject of a native title determination and the CATSI corporation is the registered native title body corporate for the determination.
- 3 An ILUA has been entered into for the land and the CATSI corporation is nominated in the ILUA as the proposed transferee for the land under this Act.
- 4 Anthropological research supports the CATSI corporation as being the appropriate transferee.

10 Amendment of s 104 (Transfer of Aboriginal land)

(1) Section 104(2)—

[s 11]

omit.

- (2) Section 104(3)—
renumber as section 104(2).

11 Amendment of s 105 (Application for approval to transfer)

- (1) Section 105(2)(b), ‘section 106(1)(a), (b) or (c)’—
omit, insert—
section 106(1)(a) or (b)
- (2) Section 105(2)(c), ‘the matters mentioned in section 106(1)(c)’—
omit, insert—
each matter mentioned in section 106(1)(c) or (d)
that applies to the transfer

12 Amendment of s 106 (Minister’s approval to transfer)

- (1) Section 106(1)—
insert—
- (ca) if the transferee is a CATSI corporation that is a registered native title body corporate—
- (i) under the Commonwealth Native Title Act, a determination has been made that native title exists in relation to all or a part of the land and the CATSI corporation is the registered native title body corporate for the determination; or
- (ii) a determination has not been made under the Commonwealth Native Title Act that native title exists in relation to all or a part of the land, but it is appropriate in all the circumstances for

the land to be transferred to the CATSI corporation; and

Examples of when it is appropriate for the land to be transferred to the CATSI corporation—

- 1 The transfer to the CATSI corporation is supported by consultation with Aboriginal people particularly concerned with the land.
- 2 The land is within the external boundaries of an area of land the subject of a native title determination and the CATSI corporation is the registered native title body corporate for the determination.
- 3 An ILUA has been entered into for the land and the CATSI corporation is nominated in the ILUA as the proposed transferee for the land under this Act.
- 4 Anthropological research supports the CATSI corporation as being the appropriate transferee.

(2) Section 106(1)(ca) and (d)—

renumber as section 106(1)(d) and (e).

(3) Section 106(3), ‘section 104(3)(d)(i)’—

omit, insert—

section 104(2)(d)(i)

13 Amendment of s 109 (Transfer of Aboriginal land)

(1) Section 109(2)—

omit.

(2) Section 109(3)—

renumber as section 109(2).

[s 14]

14 Amendment of s 111 (Minister's approval to transfer)

(1) Section 111(1)—

insert—

(ba) if the transferee is a CATSI corporation that is a registered native title body corporate—

(i) under the Commonwealth Native Title Act, a determination has been made that native title exists in relation to all or a part of the land and the CATSI corporation is the registered native title body corporate for the determination; or

(ii) a determination has not been made under the Commonwealth Native Title Act that native title exists in relation to all or a part of the land, but it is appropriate in all the circumstances for the land to be transferred to the CATSI corporation; and

Examples of when it is appropriate for the land to be transferred to the CATSI corporation—

- 1 The transfer to the CATSI corporation is supported by consultation with Aboriginal people particularly concerned with the land.
- 2 The land is within the external boundaries of an area of land the subject of a native title determination and the CATSI corporation is the registered native title body corporate for the determination.
- 3 An ILUA has been entered into for the land and the CATSI corporation is nominated in the ILUA as the proposed transferee for the land under this Act.
- 4 Anthropological research supports the CATSI corporation as being the appropriate transferee.

- (2) Section 111(1)(ba) and (c)—
renumber as section 111(1)(c) and (d).

15 Amendment of s 128 (Additional conditions and requirements for social housing dwelling)

- (1) Section 128(2)—
omit, insert—
- (2) Before the lease is granted, the lessor must decide the price of the dwelling—
- (a) by agreement with the housing chief executive; or
- (b) by using a methodology agreed between the lessor and the housing chief executive.
- (2) Section 128(3), (4)(b) and (6), note, ‘value’—
omit, insert—
price

16 Amendment of s 288 (Dealing with particular trust property)

- Section 288(1) and (3), ‘value’—
omit, insert—
price

17 Amendment of sch 1 (Dictionary)

- (1) Schedule 1—
insert—
- native title determination***, in relation to land, means a determination under the Commonwealth Native Title Act that native title exists in relation to all or a part of the land.

[s 21]

21 Replacement of long title

Long title—

omit, insert—

An Act to regulate the handling of and access to explosives, and for other purposes

22 Insertion of new s 2A

After section 2—

insert—

2A Purpose of Act

- (1) The purpose of this Act is to regulate the handling of, and access to, explosives to protect public health and safety, property and the environment.
- (2) The purpose is achieved primarily by—
 - (a) enabling explosives to be declared as authorised explosives or prohibited explosives; and
 - (b) requiring an authority for the handling of explosives; and
 - (c) ensuring that persons who hold an authority in relation to a security sensitive explosive also hold a security clearance; and
 - (d) ensuring explosives are accessed only by persons—
 - (i) who hold a security clearance; or
 - (ii) who are under the direct supervision of a person who holds a security clearance; and
 - (e) imposing a duty of care and other obligations on persons who handle explosives; and

- (f) enabling investigations and inquiries to be carried out for explosives incidents.

23 Amendment of pt 3, hdg (Authorities)

Part 3, heading, after ‘Authorities’—

insert—

and security clearances

24 Insertion of new pt 3, div 1AA

Part 3, before division 1—

insert—

Division 1AA Security clearances

Subdivision 1 Applications for security clearances

12A Making applications for security clearances

- (1) An individual may apply to the chief inspector for a security clearance.
- (2) The application must—
 - (a) be in the approved form; and
 - (b) be accompanied by the fee prescribed by regulation; and
 - (c) include or be accompanied by the information prescribed by regulation.

12B Criteria for deciding applications

- (1) The chief inspector may decide to give a security clearance to the applicant only if satisfied the applicant is a suitable person to hold the security

[s 24]

clearance.

- (2) In deciding whether the applicant is a suitable person to hold the security clearance, the chief inspector—
 - (a) must consider—
 - (i) the applicant’s criminal history; and
 - (ii) whether the applicant has, at any time, been named as the respondent in a domestic violence order or police protection notice; and
 - (iii) whether release conditions have, at any time, been imposed on the applicant under the *Domestic and Family Violence Protection Act 2012*, section 125; and
 - (b) may consider—
 - (i) the applicant’s mental health; and
 - (ii) information about the applicant that indicates the applicant is a risk to public safety or it would be contrary to the public interest for the applicant to hold the security clearance; and
 - (iii) anything else relevant to the applicant’s suitability to hold the security clearance.
- (3) The applicant is not a suitable person to hold the security clearance if—
 - (a) the applicant is named as the respondent in a domestic violence order, or police protection notice, that is in force; or
 - (b) release conditions have been imposed on the applicant under the *Domestic and Family Violence Protection Act 2012*, section 125 and the release conditions are in force.

12C Deciding applications

- (1) The chief inspector must, after considering the application and any other information obtained in relation to the application, decide to—
 - (a) give the security clearance; or
 - (b) refuse to give the security clearance.

Note—

See also section 123AC(2).

- (2) If the chief inspector decides to give the security clearance, the chief inspector must promptly give the applicant the security clearance.
- (3) If the chief inspector decides to refuse to give the security clearance, the chief inspector must promptly give the applicant an information notice for the decision.

12D Form of security clearances

A security clearance must—

- (a) be in the approved form; and
- (b) include a digital photo, and digitised signature, of the holder of the security clearance.

12E Term of security clearances

- (1) A security clearance is given for the term, of not more than 5 years, stated in the security clearance.
- (2) The security clearance expires at the end of the stated term.

12F Renewal of security clearances

- (1) The holder of a security clearance may apply for the renewal of the security clearance.

[s 24]

- (2) The application must be made to the chief inspector before the security clearance expires.
- (3) Sections 12A(2) to 12E apply to the application as if—
 - (a) a reference in the sections to an application for a security clearance were a reference to an application to renew a security clearance; and
 - (b) a reference in the sections to the giving of a security clearance were a reference to the renewal of a security clearance; and
 - (c) a reference in sections 12D and 12E to a security clearance were a reference to a renewed security clearance.

Subdivision 2 Information about applicants and security clearance holders

12G Reports about criminal history and other matters

- (1) This section applies in relation to the following persons—
 - (a) an applicant for a security clearance;
 - (b) the holder of a security clearance.
- (2) The chief inspector may ask the commissioner for a written report about—
 - (a) the person's criminal history, including a brief description of the nature of any offence giving rise to a conviction or charge mentioned in the person's criminal history; and

- (b) whether the person has, at any time, been named as the respondent in a domestic violence order or police protection notice; and
 - (c) whether release conditions have, at any time, been imposed on the person under the *Domestic and Family Violence Protection Act 2012*, section 125.
- (3) The commissioner must give the report to the chief inspector.
- (4) However, the report is required to contain only information about the matters mentioned in subsection (2)—
- (a) in the commissioner’s possession; or
 - (b) to which the commissioner has access.

12H Commissioner must give notice of particular matters

- (1) This section applies if—
- (a) the commissioner reasonably suspects a person is—
 - (i) an applicant for a security clearance; or
 - (ii) the holder of a security clearance; and
 - (b) any of the following events happens after the application is made or during the term of the security clearance—
 - (i) the person’s criminal history changes;
 - (ii) the person is named as the respondent in a domestic violence order or police protection notice;
 - (iii) release conditions are imposed on the person under the *Domestic and Family*

[s 24]

Violence Protection Act 2012, section 125.

- (2) The commissioner must give the chief inspector a written notice about the event.
- (3) The notice must—
 - (a) state—
 - (i) the person's name and any other name the commissioner believes the person may use or may have used; and
 - (ii) the person's date and place of birth; and
 - (b) if subsection (1)(b)(i) applies—include a brief description of the nature of the offence or alleged offence giving rise to the conviction or charge to which the change relates; and
 - (c) if subsection (1)(b)(ii) or (iii) applies—be accompanied by a copy of the domestic violence order, police protection notice or release conditions.
- (4) The chief inspector may confirm the suspicions of the commissioner mentioned in subsection (1)(a).
- (5) For a person who does not have a criminal history, there is taken to be a change in the person's criminal history if the person acquires a criminal history.

12I Requests for information about mental health

- (1) This section applies in relation to the following persons—
 - (a) an applicant for a security clearance;
 - (b) the holder of a security clearance.
- (2) The chief inspector may, by written notice given

to the person, ask the person to give the chief inspector further information the chief inspector reasonably needs about the person's mental health to decide whether the person is a suitable person to hold, or to continue to hold, a security clearance.

- (3) Without limiting subsection (2), the chief inspector may ask the person to give the chief inspector a report from a doctor or psychologist about the person's mental health.
- (4) The notice must state that the information must be given within the period, of at least 28 days after the notice is given, stated in the notice.
- (5) If the chief inspector is given a report mentioned in subsection (3), the chief inspector may—
 - (a) make information about the person having access to explosives available to the doctor or psychologist who prepared the report; and
 - (b) ask the doctor or psychologist to give the chief inspector a further report about the person's mental health.
- (6) The chief inspector may make the information available to the doctor or psychologist only if the chief inspector reasonably considers—
 - (a) the doctor or psychologist was not aware of the information; and
 - (b) the information may influence the doctor's or psychologist's opinion about the person's mental health.
- (7) If the chief inspector makes the information available to the doctor or psychologist, the chief inspector must advise the person of that fact.
- (8) The chief inspector may make the information available to the doctor or psychologist despite any

[s 24]

other Act.

12J Failure to give information about mental health

- (1) This section applies if an applicant for a security clearance, or the renewal of a security clearance, does not comply with a notice given to the applicant under section 12I(2).
- (2) The applicant is taken to have withdrawn the application for the security clearance or the renewal of the security clearance.

12K Use of information obtained under s 12G, 12H or 12I

- (1) Information about a person given to the chief inspector under section 12G or 12H may be used only for making a decision—
 - (a) under section 12B about whether the person is a suitable person to hold a security clearance; or
 - (b) under section 24 or 25 about—
 - (i) whether to suspend or cancel the person's security clearance on a ground mentioned in section 23A(1)(b) or (c); or
 - (ii) whether to suspend or cancel an authority held by the person on the ground mentioned in section 23(1)(c).
- (2) Information about a person given to the chief inspector under section 12I may be used only—
 - (a) for making a decision under section 12B about whether the person is a suitable person to hold a security clearance; or
 - (b) for making a decision under section 24 or 25 about whether to suspend or cancel the

-
- person's security clearance on a ground mentioned in section 23A(1)(c); or
- (c) to investigate or prosecute an offence against this Act.
- (3) Subsection (4) applies if, in making a decision mentioned in subsection (1), the chief inspector is considering information about—
- (a) the commission of an offence by the person; or
- (b) the alleged or possible commission of an offence by the person.
- (4) The chief inspector must also consider—
- (a) when the offence was committed, is alleged to have been committed or may possibly have been committed; and
- (b) the nature of the offence, or alleged or possible offence, and its relevance to the person holding, or continuing to hold, a security clearance or authority; and
- (c) any other matter the chief inspector considers relevant to the decision.
- (5) This section is subject to section 132.

25 Amendment of s 15 (Inquiries about person's appropriateness)

- (1) Section 15(2A), from 'inquires' to 'health,'—
omit, insert—
- inquiries about the person's identity, character,
physical health
- (2) Section 15(3)(a)(i) to (iii)—
omit, insert—
- (i) the person's physical health; and

[s 25]

- (ii) whether the person has stated anything in, or in relation to, an application for an authority or the renewal of an authority the person knows is false or misleading in a material particular; or
- (3) Section 15(3)(b)(i), ‘insolvent under administration’—
omit, insert—
an insolvent under administration under the Corporations Act
- (4) Section 15(3)(b)—
insert—
 - (iv) information that indicates it would be contrary to the public interest for the corporation to hold an authority.
- (5) Section 15(5) and (6)—
omit.
- (6) Section 15(8)(a), ‘subsection (4)’—
omit, insert—
subsection (5)
- (7) Section 15(8)(c), after ‘safety’—
insert—
and security
- (8) Section 15(9), ‘subsection (8)(a)’—
omit, insert—
subsection (7)(a)
- (9) Section 15(10)—
omit.
- (10) Section 15(2A) to (9)—
renumber as section 15(3) to (8).

26 Insertion of new s 15A

After section 15—

insert—

15A Persons who are not appropriate persons

- (1) This section applies to a person who is an applicant for, or the holder of, a security sensitive authority.
- (2) The person is not an appropriate person to hold, or to continue to hold, the security sensitive authority if an employee of the person—
 - (a) has or will have unsupervised access to an explosive in the course of the employee's employment; and
 - (b) does not hold a security clearance.
- (3) For this section, an employee of the person has or will have unsupervised access to an explosive if the employee is or will be able to access the explosive other than in the presence, and under the direct supervision, of a person who holds a security clearance.

27 Amendment of s 16 (Additional information)

- (1) Section 16(1), from 'or mental'—

omit, insert—

health.

- (2) Section 16—

insert—

- (1A) Without limiting subsection (1), the chief inspector may ask the person to give the chief inspector a report from a doctor about the person's physical health.
- (3) Section 16(3) to (6)—

[s 28]

omit.

- (4) Section 16(1A) to (8)—
renumber as section 16(2) to (5).

28 Insertion of new s 16A

After section 16—

insert—

16A Other information for application

The chief inspector may, by written notice given to an applicant for an authority, require the applicant to give any other information the chief inspector reasonably needs to decide the application.

29 Amendment of s 17 (How chief inspector may deal with application)

- (1) Section 17(1)—

insert—

Note—

See also section 123AC(2).

- (2) Section 17—

insert—

- (1A) If the application is for a security sensitive authority, the chief inspector must refuse to issue the authority unless—
- (a) if the applicant is an individual—the applicant holds a security clearance; or
 - (b) if the applicant is a listed corporation—
 - (i) the corporation has a responsible person; and

- (ii) the responsible person holds a security clearance; or
 - (c) if the applicant is a corporation other than a listed corporation—each executive officer of the corporation holds a security clearance; or
 - (d) if the applicant is a partnership—each partner holds a security clearance.
- (3) Section 17(1A) to (3)—
renumber as section 17(2) to (4).

30 Insertion of new s 18A

After section 18—

insert—

18A Form of authority

An authority must—

- (a) be in the approved form; and
- (b) if the authority is an occupational authority—include a digital photo, and digitised signature, of the holder of the authority.

31 Amendment of s 20 (Transfer of authority)

Section 20(1)—

omit, insert—

- (1) A licence, other than an occupational authority, may be transferred with the written approval of the chief inspector.

[s 32]

32 Amendment of pt 3, div 2, hdg (Suspension and cancellation of authorities)

Part 3, division 2, heading, after ‘authorities’—

insert—

and security clearances

33 Insertion of new pt 3, div 2, sdiv 1, hdg

Before section 23—

insert—

Subdivision 1 Suspensions and cancellations generally

34 Amendment of s 23 (Grounds for suspension or cancellation)

(1) Section 23, heading, ‘suspension or cancellation’—

omit, insert—

suspending or cancelling authorities

(2) Section 23(c), ‘has committed’—

omit, insert—

is convicted of or charged with

(3) Section 23(f)—

omit, insert—

(f) the level of safety under which an activity is carried out under the authority is inadequate for ensuring the safety of a person;

(g) the measures used at a place at which an activity is carried out under the authority are inadequate for keeping an explosive at the place secure from access by a person who should not have access to the explosive;

- (h) the holder of the authority has not complied with section 33(2);
 - (i) if the holder of the authority is an individual—the holder’s security clearance has expired, or been cancelled, suspended or surrendered;
 - (j) if the holder of the authority is a listed corporation—
 - (i) there is not a responsible person for the corporation; or
 - (ii) the security clearance held by the responsible person for the corporation has expired, or been cancelled, suspended or surrendered;
 - (k) if the holder of the authority is a corporation other than a listed corporation—the security clearance held by an executive officer of the corporation has expired, or been cancelled, suspended or surrendered;
 - (l) if the holder of the authority is a partnership—the security clearance held by a partner has expired, or been cancelled, suspended or surrendered.
- (4) Section 23—
insert—
- (2) However, subsection (1)(i) to (l) applies only if the authority is a security sensitive authority.

35 Insertion of new s 23A

After section 23—

insert—

23A Grounds for suspending or cancelling security clearances

- (1) Each of the following is a ground for the suspension or cancellation of a security clearance—
 - (a) the security clearance was obtained because of incorrect or misleading information;
 - (b) the holder of the security clearance is, in Queensland or elsewhere, convicted of or charged with a relevant offence;
 - (c) the holder of the security clearance is no longer a suitable person to continue to hold the security clearance.
- (2) In deciding whether the holder of a security clearance is no longer a suitable person to continue to hold the security clearance, the chief inspector may have regard to the matters mentioned in section 12B(2).
- (3) In this section—

relevant offence means an offence—

 - (a) involving a prescribed activity; or
 - (b) involving violence or threatened violence; or
 - (c) involving the use, carriage, discharge or possession of a firearm; or
 - (d) relating to the misuse of drugs; or
 - (e) involving breaking and entering into premises, burglary, robbery, stealing or receiving stolen property; or
 - (f) involving fraud, the fabrication of evidence, perjury or the making of a false declaration or statement.

36 Amendment of s 24 (Procedure for suspension or cancellation)

- (1) Section 24(1), (3) and (7), after ‘authority’—
insert—
or security clearance
- (2) Section 24(2), (4), (5) and (6), ‘authority holder’—
omit, insert—
holder of the authority or security clearance
- (3) Section 24(2)(d), ‘authority—’—
omit, insert—
authority or security clearance—
- (4) Section 24(5), ‘authority,’—
omit, insert—
authority or security clearance,

37 Amendment of s 25 (Procedure for urgent suspension or cancellation of authority)

- (1) Section 25, heading, ‘authority’—
omit, insert—
authorities and security clearances
- (2) Section 25(1)(b) and (2), after ‘an authority’—
insert—
or security clearance
- (3) Section 25(2), (3) and (4), ‘authority holder’—
omit, insert—
holder of the authority or security clearance

[s 38]

38 Insertion of new pt 3, div 2, sdiv 2

After section 25—

insert—

Subdivision 2 Immediate suspensions and cancellations

25A Immediate suspension in particular circumstances

- (1) This section applies to the holder of an authority or security clearance if—
 - (a) the holder is named as the respondent in—
 - (i) a temporary protection order; or
 - (ii) a police protection notice; or
 - (b) release conditions are imposed on the holder under the *Domestic and Family Violence Protection Act 2012*, section 125.
- (2) The authority or security clearance is suspended—
 - (a) if the holder is named as the respondent in a temporary protection order and is present in court when the order is made—while the order is in force; or
 - (b) if release conditions are imposed on the holder—while the release conditions are in force; or
 - (c) otherwise—from when the holder is served with the temporary protection order or police protection notice until the order or notice is no longer in force.
- (3) In this section—

temporary protection order means—

- (a) a temporary protection order under the *Domestic and Family Violence Protection Act 2012*; or
- (b) an interstate domestic violence order corresponding to a temporary protection order mentioned in paragraph (a).

25B Immediate cancellation if protection order made

- (1) This section applies to the holder of an authority or security clearance if the holder is named as the respondent in a protection order.
- (2) The authority or security clearance is cancelled—
 - (a) if the holder is present in court when the protection order is made—when the order is made; or
 - (b) otherwise—when the holder is served with the protection order.
- (3) In this section—

protection order means—

 - (a) a protection order under the *Domestic and Family Violence Protection Act 2012*; or
 - (b) an interstate domestic violence order corresponding to a protection order mentioned in paragraph (a).

39 Insertion of new pt 3, div 2, sdiv 3, hdg

Before section 26—

insert—

Subdivision 3 Provisions about suspended and cancelled

[s 40]

authorities and security clearances

40 Amendment of s 26 (Return of authority)

(1) Section 26, heading, ‘authority’—

omit, insert—

authorities and security clearances

(2) Section 26(1), after ‘authority’—

insert—

or security clearance

(3) Section 26(2), after ‘suspended authority’—

insert—

or security clearance

(4) Section 26(2), ‘authority holder’—

omit, insert—

holder of the authority or security clearance

41 Insertion of new s 26A

Part 3, division 2, subdivision 3—

insert—

26A Surrender of explosives

(1) This section applies to a person whose authority is suspended or cancelled under this division.

(2) The person must immediately arrange with an inspector to give to an inspector any explosives the person has, as soon as practicable, but no later than 1 day, after the suspension or cancellation takes effect, unless the person has a reasonable excuse.

Maximum penalty—40 penalty units.

- (3) The person must comply with the arrangement under subsection (2), unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

42 Amendment of pt 3, div 3, hdg (Other provisions about authorities)

Part 3, division 3, heading, after ‘authorities’—

insert—

and security clearances

43 Amendment of s 27 (Replacement of authority)

- (1) Section 27, heading, ‘authority’—

omit, insert—

authorities and security clearances

- (2) Section 27(1), ‘An authority holder’—

omit, insert—

The holder of an authority or security clearance

- (3) Section 27(1), after ‘destroyed authority’—

insert—

or security clearance

- (4) Section 27(2) and (3), after ‘authority’—

insert—

or security clearance

- (5) Section 27(4), ‘the authority,’—

omit, insert—

the authority or security clearance,

- (6) Section 27(4), ‘authority holder’—

omit, insert—

[s 44]

holder of the authority or security clearance

44 Amendment of s 28 (Amendment of authority on application)

(1) Section 28(2), before paragraph (a)—

insert—

(aa) be made in the approved form; and

(2) Section 28(2)(aa) to (b)—

renumber as section 28(2)(a) to (c).

45 Insertion of new s 30A

After section 30—

insert—

30A Reporting loss, destruction or theft of authorities and security clearances

- (1) This section applies if an authority or security clearance is lost, destroyed or stolen.
- (2) The holder of the authority or security clearance must immediately notify the chief inspector or an authorised officer, as required by subsection (3), about the loss, destruction or theft.
Maximum penalty—50 penalty units.
- (3) The notification may be given—
 - (a) by notice in the approved form; or
 - (b) orally.
- (4) If the notification is given orally, the holder of the authority or security clearance must also give the chief inspector or an authorised officer notice in the approved form within 7 days after the loss, destruction or theft.

Maximum penalty—50 penalty units.

46 Amendment of s 31 (Surrender of authority)

- (1) Section 31, heading, ‘authority’—

omit, insert—

authorities and security clearances

- (2) Section 31(1), ‘An authority holder’—

omit, insert—

The holder of an authority or security clearance

- (3) Section 31(1), after ‘the authority’—

insert—

or security clearance

- (4) Section 31(2) and (3), after ‘authority’—

insert—

or security clearance

47 Amendment of s 32 (General duty of care)

- (1) Section 32—

insert—

(1A) Without limiting subsection (1), the duty includes taking reasonable precautions and using reasonable care to ensure the explosives are kept secure from access by a person who should not have access to the explosives.

- (2) Section 32(1A) and (2)—

renumber as section 32(2) and (3).

48 Replacement of s 33 (Employer’s obligation about employees)

Section 33—

omit, insert—

[s 49]

33 Employers' obligations about employees

- (1) An employer must not allow an employee to have access to an explosive unless—
 - (a) the employee is the age prescribed by regulation; and
 - (b) for an employer who holds a security sensitive authority—
 - (i) the employee holds a security clearance; or
 - (ii) the access is within the course of the employee's employment and in the presence, and under the direct supervision, of a person who holds a security clearance.

Maximum penalty—50 penalty units.

- (2) Before an employer asks or allows an employee to carry out an activity involving the handling of explosives, the employer must be reasonably satisfied the employee has the qualifications, experience and expertise prescribed by regulation for the carrying out of the activity.

Note—

See also section 23(1)(h).

49 Amendment of s 38 (Explosive to be manufactured under authority)

- (1) Section 38(2)(a)—

omit, insert—

- (a) manufacturing an explosive if—
 - (i) the explosive is not more than the amount prescribed by regulation or, if an amount is not prescribed, 50g; and

- (ii) the person is manufacturing and using the explosive in a laboratory that is part of an educational or research facility under the direct supervision of a competent adult; and
- (iii) the explosive is for use in a chemical experiment by the person; or

(2) Section 38—

insert—

(5) In this section—

competent adult means an adult with sufficient knowledge and experience to identify hazards and risks associated with manufacturing and using explosives.

50 Amendment of s 40, hdg (Safety at factories)

Section 40, heading, after ‘Safety’—

insert—

and security

52 Amendment of s 48, hdg (Safety at magazines)

Section 48, heading, after ‘Safety’—

insert—

and security

53 Amendment of s 50 (Transporting explosives)

(1) Section 50(1), ‘or boat’—

omit.

(2) Section 50—

insert—

[s 54]

- (1A) However, subsection (1) does not apply to a person transporting an explosive—
- (a) if—
- (i) the amount of the explosive is not more than the amount prescribed by regulation; and
- (ii) the person complies with the conditions prescribed by regulation for transporting the explosive; or
- (b) in the circumstances prescribed by regulation.
- (3) Section 50(3)—
omit.
- (4) Section 50(6), ‘subsection (1)’—
omit, insert—
this section
- (5) Section 50(1A) and (2)—
renumber as section 50(2) and (3).

54 Insertion of new s 51A

After section 51—
insert—

51A Regulation may be made about particular matters

- (1) A regulation may—
- (a) make provision about the recognition of laws of other jurisdictions about transporting explosives, things done under those laws and giving effect to those things; or

- (b) provide that the chief inspector may make a decision (a **determination**) under the regulation about the safe and secure transport of an explosive.
- (2) Without limiting subsection (1)(b), the regulation may prescribe—
- (a) the process for making a determination, including the process for making and deciding an application for an administrative determination; or
 - (b) the effect a determination has on a provision of the regulation about the transport of explosives; or
 - (c) the process for amending, suspending or cancelling an administrative determination; or
 - (d) the information about a determination that must be kept publicly available.
- (3) In this section—
- administrative determination** means a determination made on the application of a person that applies to—
- (a) the person; or
 - (b) the person and other persons named in the application.

55 Replacement of ss 55 and 56

Sections 55 and 56—

omit, insert—

55 Meaning of **relevant person**

A **relevant person**, for explosives involved in an explosives incident, means—

[s 55]

- (a) if a person other than the holder of the authority for the explosives was in custody or control of the explosives at the time of the incident—that person; or
- (b) otherwise—the holder of the authority for the explosives.

56 Notification of explosives incidents

- (1) The relevant person for explosives involved in an explosives incident must immediately after the incident notify the chief inspector of the incident—
 - (a) by giving the chief inspector notice in the approved form; or
 - (b) orally.

Maximum penalty—170 penalty units.

- (2) If the notification is given orally, the relevant person must also give the chief inspector notice in the approved form within 48 hours after the incident.

Maximum penalty—50 penalty units.

56A Isolation of site of explosives incidents

- (1) This section applies if an inspector reasonably believes it is necessary to preserve evidence after an explosives incident happens.
- (2) The inspector may isolate the site of the explosives incident to prevent interference with the site.
- (3) Also, the inspector may, by written notice given to the relevant person for the explosives or orally, require the relevant person to do the following—

-
- (a) mark the boundaries of the site by signs or other means in a way that—
 - (i) identifies the site as the site of an explosives incident; and
 - (ii) prohibits entry to the site;
 - (b) remain at the site for a reasonable stated time.
- (4) If the requirement is given orally under subsection (3), the chief inspector must also, as soon as practicable, give the relevant person a written notice confirming the requirement.
- (5) The relevant person must comply with the requirement.
- Maximum penalty for subsection (5)—200 penalty units.

56 Amendment of s 58 (Investigation by chief inspector or authority holder)

- (1) Section 58(1)(b)—
insert—
- (iii) to give the report to the chief inspector.
- (2) Section 58—
insert—
- (1A) After receiving a report under subsection (1)(b)(iii), the chief inspector may, by written notice given to the authority holder, require the authority holder to—
- (a) carry out further investigations; or
 - (b) give the chief inspector further information about the explosives incident.
- (3) Section 58(2), ‘The notice given under subsection (1)(b)’—
omit, insert—

[s 57]

A notice given under subsection (1)(b) or (2)

- (4) Section 58(3), ‘the notice’—

omit, insert—

a notice given under subsection (1)(b) or (2)

- (5) Section 58(4), penalty, ‘subsection (4)’—

omit, insert—

subsection (5)

- (6) Section 58(1A) to (4)—

renumber as section 58(2) to (5).

57 Amendment of s 59 (Person must answer question about explosives incident)

- (1) Section 59(2), penalty, ‘Maximum penalty’—

omit, insert—

Maximum penalty for subsection (2)

- (2) Section 59(2)—

insert—

Note—

See also sections 59A and 59B in relation to self-incrimination.

- (3) Section 59(3)—

omit.

58 Insertion of new ss 59A and 59B

Part 5, division 1—

insert—

59A Abrogation of privilege against self-incrimination

- (1) This section applies if a person is required to

answer a question under section 59.

- (2) The person is not excused from answering the question on the ground the answer to the question may tend to incriminate the person or expose the person to a penalty.
- (3) However, the answer to a question given by an individual, and other evidence directly or indirectly derived from the answer, is not admissible as evidence against the individual in civil or criminal proceedings other than proceedings arising out of the false or misleading nature of the answer.

59B Warning to be given by inspector

- (1) Before requiring a person to answer a question under section 59, an inspector must—
 - (a) warn the person that failure to answer the question without reasonable excuse would constitute an offence; and
 - (b) warn the person about the effect of section 59A.
- (2) It is not an offence for an individual to refuse to answer a question put by the inspector on the ground the question might tend to incriminate the individual, unless the individual was first given the warning mentioned in subsection (1)(b).
- (3) Nothing in this section prevents an inspector from obtaining and using evidence given to the inspector voluntarily by a person.

59 Amendment of s 60 (Minister may establish board of inquiry)

Section 60(3), from 'had'—
omit, insert—

[s 60]

, the chief inspector or the holder of an authority has previously inquired into or investigated the incident.

60 Replacement of s 61 (Membership of board of inquiry)

Section 61—

omit, insert—

61 Membership of board of inquiry

- (1) A board of inquiry is constituted by the following members appointed by the Minister—
 - (a) a magistrate or an appropriately qualified lawyer;
 - (b) either—
 - (i) the chief inspector; or
 - (ii) an appropriately qualified person who has knowledge of or experience in explosives;
 - (c) if, having regard to the nature of the serious explosives incident, the Minister considers it appropriate for the board of inquiry to include persons with special knowledge relevant to the incident—not more than 3 persons with appropriate special knowledge.
- (2) The member of the board of inquiry appointed under subsection (1)(a) is the chairperson of the board.
- (3) A member of a board of inquiry who is not an inspector is taken, for the inquiry, to have the powers of an inspector.

61 Insertion of new ss 62A and 62B

After section 62—

insert—

62A Conditions of appointment

- (1) A member of the board of inquiry is entitled to be paid the remuneration and allowances decided by the Minister.
- (2) A member holds office on the other conditions decided by the Minister.

62B Chief executive to arrange for services of staff for board of inquiry

As soon as practicable after the board of inquiry is established, the chief executive must, in consultation with the chairperson of the board, arrange for the services of public service employees employed in the department, or other persons, to be made available to the board for the conduct of the inquiry.

62 Amendment of s 63 (Procedure)

Section 63(4)—

omit.

63 Amendment of s 72 (Offences by witnesses)

(1) Section 72(2)—

insert—

Note—

See also sections 74A and 74B in relation to self-incrimination.

(2) Section 72(3)—

omit.

[s 64]

64 Insertion of new ss 74A and 74B

After section 74—

insert—

74A Abrogation of privilege against self-incrimination

- (1) A person is not excused from answering a question or producing a document or thing under this division on the ground the answer to the question or the document or thing may tend to incriminate the person or expose the person to a penalty.
- (2) However, the answer to a question or a document or thing given by an individual, and other evidence directly or indirectly derived from the answer, document or thing, is not admissible as evidence against the individual in civil or criminal proceedings other than proceedings arising out of the false or misleading nature of the answer, document or thing.

74B Warning to be given by board of inquiry

- (1) Before requiring a person to answer a question or produce a document or thing under this division, the board of inquiry must—
 - (a) warn the person that failure to comply with the requirement without reasonable excuse constitutes an offence; and
 - (b) warn the person about the effect of section 74A.
- (2) It is not an offence for an individual to refuse to answer a question put by the board or produce a document or thing to the board under this division on the ground the question, document or thing might tend to incriminate the individual, unless the individual was first given the warning

mentioned in subsection (1)(b).

- (3) Nothing in this section prevents the board from obtaining and using evidence given to the board voluntarily by a person.

65 Amendment of s 75 (Contempt of board)

- (1) Section 75—

insert—

(ba) impede or obstruct the board in the exercise of its powers; or

- (2) Section 75, penalty—

omit, insert—

Maximum penalty—200 penalty units.

- (3) Section 75(ba) to (d)—

renumber as section 75(c) to (e).

66 Replacement of s 80A (Function of inspector)

Section 80A—

omit, insert—

80A Functions of inspectors

- (1) An inspector has the following functions—

- (a) to investigate and enforce compliance with this Act;
- (b) to inspect and monitor the handling of, and access to, explosives by holders of authorities and other persons;
- (c) to audit systems for safety and security required by regulation;
- (d) to give advice and help to others, including applicants for authorities, holders of

[s 67]

- authorities, government entities, the public and other persons, in dangerous situations involving explosives;
- (e) to recover and dispose of explosives for the health and safety of the public;
 - (f) to give advice and make recommendations to the chief inspector about—
 - (i) applications for authorities and security clearances; and
 - (ii) the investigation and enforcement of compliance with this Act; and
 - (iii) other matters about explosives as required by the chief inspector;
 - (g) to collect information about explosives incidents for reporting to the chief inspector or the department and recording statistics;
 - (h) to liaise with persons from the explosives industry for promoting and improving the safe and secure handling of explosives.
- (2) In this section—
government entity see the *Public Service Act 2008*, section 24.

67 Insertion of new ss 90A–90C

After section 90—

insert—

90A Power to secure seized thing

- (1) Having seized a thing under this subdivision, an inspector may—
 - (a) leave it at the place it was seized (the *place of seizure*) and take reasonable action to restrict access to it; or

- (b) move it from the place of seizure.
- (2) For subsection (1)(a), the inspector may, for example—
 - (a) seal the thing, or entrance to the place of seizure, and mark the thing or place to show access to the thing or place is restricted; or
 - (b) for equipment—make it inoperable.

Example—

make it inoperable by dismantling it or removing a component without which the equipment can not be used

90B Powers to support seizure

- (1) To enable a thing to be seized, an inspector may require a person the inspector reasonably believes is in control of the thing or a place of seizure for the thing—
 - (a) to both—
 - (i) take it to a stated reasonable place by a stated reasonable time; and
 - (ii) if necessary, remain in control of it at the stated place for a reasonable time; or
 - (b) to do an act mentioned in section 90A(2)(a) or (b) or anything else an inspector could do under section 90A(1)(a).
- (2) The requirement—
 - (a) must be made by written notice; or
 - (b) if for any reason it is not practicable to give written notice, may be made orally and confirmed by written notice as soon as practicable.
- (3) A person must comply with a requirement made

[s 68]

of the person under subsection (1) unless the person has a reasonable excuse.

Maximum penalty for subsection (3)—100 penalty units.

90C Offence to interfere

(1) If access to a seized thing is restricted under section 90A, a person must not tamper with the thing or with anything used to restrict access to the thing without—

- (a) an inspector's approval; or
- (b) a reasonable excuse.

Maximum penalty—100 penalty units.

(2) If access to a place is restricted under section 90A, a person must not enter the place in contravention of the restriction or tamper with anything used to restrict access to the place without—

- (a) an inspector's approval; or
- (b) a reasonable excuse.

Maximum penalty—100 penalty units.

68 Amendment of s 93 (Access to seized things)

Section 93—

insert—

- (3) For this section, if an inspector has, under section 90B(1)(a), required a person to move a thing from the place of seizure, the inspector may require the person to return the thing to the place of seizure.
- (4) The person must return the thing at the person's expense.

69 Amendment of s 94 (Forfeiture of seized things)

- (1) Section 94(1), from ‘A seized thing’ to ‘the thing’—

omit, insert—

The chief inspector may decide a seized thing is forfeited to the State if an inspector or an authorised officer

- (2) Section 94(2)(a) and (b), after ‘the inspector’—

insert—

or authorised officer

70 Amendment of s 97 (Power to require attendance of persons before an inspector to answer questions)

Section 97(1)(b), ‘safety and health’—

omit, insert—

health, safety or security

71 Replacement of s 99 (False or misleading statements to inspector)

Section 99—

omit, insert—

99 False or misleading information

- (1) A person must not, in relation to the administration of this Act, give an inspector or authorised officer information the person knows is false or misleading in a material particular.

Maximum penalty—20 penalty units.

- (2) Subsection (1) does not apply to a person if the person, when giving information in a document—
- (a) tells the inspector or authorised officer, to the best of the person’s ability, how the document is false or misleading; and

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- (b) if the person has, or can reasonably obtain, the correct information—gives the correct information.

99A Person not to encourage or influence refusal to answer questions

- (1) A person must not encourage or influence, or attempt to encourage or influence, another person to refuse to answer questions asked of the person by an inspector or authorised officer.

Maximum penalty—40 penalty units.

- (2) To remove any doubt, it is declared that subsection (1) does not apply to the provision of legal advice to a person by a lawyer.

72 Omission of s 101 (False or misleading documents to inspector)

Section 101—

omit.

73 Amendment of pt 6, div 2, sdiv 6, hdg (General enforcement offence)

Part 6, division 2, subdivision 6, heading, ‘enforcement offence’—

omit, insert—

offences

74 Insertion of new s 105AA

Part 6, division 2, subdivision 6—

insert—

105AA Impersonating inspectors or authorised officers

A person must not impersonate an inspector or an authorised officer.

Maximum penalty—100 penalty units.

75 Insertion of new pt 6, div 2, sdiv 7

Part 6, division 2—

insert—

Subdivision 7 Additional power of chief inspector

105A Definition for subdivision

In this subdivision—

Public Safety Preservation Act declaration means an emergency under the *Public Safety Preservation Act 1986*.

105B Power to direct action in emergency

- (1) This section applies if—
 - (a) the chief inspector reasonably believes there is a dangerous situation; and
 - (b) the dangerous situation is happening within, or partly within—
 - (i) an area for which a disaster situation is in force under the *Disaster Management Act 2003*; or
 - (ii) an area for which a Public Safety Preservation Act declaration is in force.
- (2) The chief inspector may direct an inspector to take any of the following actions the chief

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inspector reasonably believes necessary to prevent, remove or minimise the danger—

- (a) give an explosive to another person;
 - (b) purchase an explosive;
 - (c) give equipment used in connection with explosives to another person;
 - (d) give advice about explosives to another person;
 - (e) use an explosive.
- (3) An inspector directed by the chief inspector under subsection (2) to take an action is authorised to take that action.

105C Relationship to Public Safety Preservation Act 1986

- (1) A commander, for a Public Safety Preservation Act declaration, may give directions about the circumstances in which the power under section 105B may be exercised by the chief inspector during the period the declaration is in force.

Note—

See the *Disaster Management Act 2003*, section 9, for the relationship between section 105B and that Act.

- (2) However, the commander must not give directions about the way in which the power may be exercised.
- (3) A direction under subsection (1) may be given only if it is necessary for effective management of the situation for which the Public Safety Preservation Act declaration is in force.
- (4) In this section—

CBR emergency see the *Public Safety Preservation Act 1986*, section 12(1).

commander, for a Public Safety Preservation Act declaration, means—

- (a) for an emergency situation declared under the *Public Safety Preservation Act 1986*, section 5—the emergency commander who declared the existence of the emergency situation; or
- (b) for a terrorist emergency—a terrorist emergency commander, terrorist emergency forward commander or TERC commander for the terrorist emergency under the *Public Safety Preservation Act 1986*; or
- (c) for a CBR emergency—a CBRE commander for the CBR emergency under the *Public Safety Preservation Act 1986*.

terrorist emergency see the *Public Safety Preservation Act 1986*, schedule.

76 Insertion of new pt 6, div 2A

Part 6—

insert—

Division 2A Authorised officers

105D Appointments

The chief inspector may, by instrument in writing, appoint a public service employee as an authorised officer.

105E Appointment conditions and limit on powers

- (1) An authorised officer holds office on the conditions stated in—
 - (a) the officer's instrument of appointment; or

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- (b) a signed notice given to the officer; or
 - (c) a regulation.
- (2) The instrument of appointment, a signed notice given to the authorised officer or a regulation may limit the officer's powers.
- (3) An authorised officer is subject to the directions of the Minister and the chief inspector.
- (4) In this section—
- signed notice* means a notice signed by the chief inspector.

105F Functions of authorised officers

An authorised officer has the following functions—

- (a) to investigate and enforce compliance with this Act;
- (b) to inspect and monitor the handling of, and access to, explosives by holders of authorities and other persons;
- (c) to give advice about the handling of, and access to, explosives to protect public safety, property and the environment;
- (d) to recover and dispose of explosives to protect public health and safety;
- (e) to make recommendations to the chief inspector about—
 - (i) applications for security clearances and authorities; or
 - (ii) the investigation and enforcement of compliance with this Act; or
 - (iii) other matters about explosives as required by the chief inspector.

105G Authorised officer's identity card

- (1) The chief inspector must give each authorised officer an identity card.
- (2) The identity card must—
 - (a) contain a recent photo of the authorised officer; and
 - (b) be signed by the authorised officer; and
 - (c) identify the person as an authorised officer under this Act; and
 - (d) state an expiry date for the card.
- (3) A person who stops being an authorised officer must return the person's identity card to the chief inspector as soon as possible (but within 21 days) after the person stops being an authorised officer, unless the person has a reasonable excuse.
Maximum penalty—20 penalty units.
- (4) This section does not prevent the giving of a single identity card to a person for this Act and other Acts or for other purposes.

77 Amendment of s 111 (Application for external review)

- (1) Section 111—
insert—
 - (1A) An applicant for a security clearance may apply, as provided under the QCAT Act, for an external review of the chief inspector's decision to refuse to give the security clearance.
- (2) Section 111(4)(d)—
omit.
- (3) Section 111(4)(e) and (f)—
renumber as section 111(4)(d) and (e).

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(4) Section 111—

insert—

- (4A) The holder of a security clearance may apply, as provided under the QCAT Act, for an external review of any of the following decisions of the chief inspector—
- (a) a decision to suspend or cancel the security clearance;
 - (b) a decision to refuse to renew the security clearance;
 - (c) a decision to refuse to replace the security clearance.

(5) Section 111(1A) to (5)—

renumber as section 111(2) to (7).

78 Insertion of new pt 8, div 1A

Part 8—

insert—

Division 1A Biometric information

123AA Application of division

- (1) This division applies if a person makes any of the following applications (each a *relevant application*)—
- (a) an application under section 12A for a security clearance;
 - (b) an application under section 12F to renew a security clearance;
 - (c) an application under section 14 for an occupational authority;

- (d) an application under section 22 to renew an occupational authority;
 - (e) an application under section 27 to replace an occupational authority or security clearance;
 - (f) an application under section 28 to amend an occupational authority.
- (2) Also, this division applies if an occupational authority held by a person is amended under section 29.

123AB Definitions for division

In this division—

biometric information, for a person, means—

- (a) a digital photo of the person; and
- (b) the person's digitised signature.

destroy, in relation to biometric information, includes—

- (a) delete an electronic copy of the information; and
- (b) end the way in which the information may be accessed electronically.

relevant application see section 123AA(1).

take, in relation to biometric information, includes obtain biometric information.

123AC Taking biometric information for use under this Act

- (1) The person must allow the chief inspector to take and keep for use under this Act the person's biometric information.
- (2) If the person does not comply with subsection (1), the chief inspector must, if the person is an

[s 78]

applicant for a relevant application, refuse the application.

123AD Using biometric information

- (1) The chief inspector may use the person's biometric information—
 - (a) if the biometric information is taken in relation to a relevant application—to help identify the person for assessing and deciding the application; or
 - (b) to reproduce the biometric information on an occupational authority or security clearance given to the person; or
 - (c) in an investigation by the chief inspector of an explosives incident under part 5, division 1, if the chief inspector reasonably suspects the person was involved in the incident; or
 - (d) in an investigation of, or proceeding for, an offence against this Act alleged to have been committed by the person.
- (2) Also, a board of inquiry established under part 5, division 2 for a serious explosives incident may use the person's biometric information for its inquiry into the incident, if the board reasonably suspects the person was involved in the incident.

123AE Biometric information must be destroyed if relevant application refused or withdrawn

- (1) This section applies if—
 - (a) the person's relevant application is withdrawn; or
 - (b) the chief inspector decides to refuse the person's relevant application.
- (2) The chief inspector must, as soon as practicable

after the relevant application is withdrawn or refused, destroy the person's biometric information kept by the chief inspector.

123AF When biometric information must be destroyed if authority or security clearance given

- (1) This section applies if the chief inspector—
 - (a) gives the person an occupational authority or security clearance; or
 - (b) amends the person's occupational authority under section 29.
- (2) The chief inspector must destroy the person's biometric information kept by the chief inspector as soon as practicable after the later of the following days—
 - (a) the day the occupational authority or security clearance expires;
 - (b) if the biometric information is relevant to an investigation, inquiry or proceeding mentioned in section 123AD—the day the investigation, inquiry or proceeding ends.

79 Amendment of s 123A (Treatment of partnerships)

Section 123A(2)(a), 'sections 15 and 16'—

omit, insert—

sections 15 to 16A

80 Amendment of s 126 (Disclosure by doctors and psychologists of certain information)

Section 126(1)—

omit, insert—

[s 81]

- (1) This section applies if—
 - (a) a doctor or psychologist is of the opinion a patient is not a suitable person to hold, or to continue to hold, a security clearance—
 - (i) because of the patient’s mental condition; or
 - (ii) because the patient may be a danger to the patient or another person; or
 - (b) a doctor is of the opinion a patient is not an appropriate person to hold, or to continue to hold, an authority or to have access to explosives—
 - (i) because of the patient’s physical condition; or
 - (ii) because the patient may be a danger to the patient or another person.

81 Insertion of new s 126AA

After section 126—

insert—

126AA Effect of appeals against domestic violence orders

- (1) This section applies if—
 - (a) a person is named as the respondent in a domestic violence order; and
 - (b) the person appeals against the decision to make the domestic violence order under—
 - (i) the *Domestic and Family Violence Protection Act 2012*, section 164; or
 - (ii) a law of another State or New Zealand that provides for the same matter as that section; and

- (c) the decision to make the domestic violence order is set aside under—
 - (i) the *Domestic and Family Violence Protection Act 2012*, section 169; or
 - (ii) a law of another State or New Zealand that provides for the same matter as that section.
- (2) For this Act, the domestic violence order is taken not to have been made.
- (3) Subsection (4) applies if, before the decision to make the domestic violence order is set aside, the chief inspector decides to refuse to give the person a security clearance, or to refuse to renew the person's security clearance, on the ground the person is not a suitable person to hold the security clearance because the person is named as the respondent in the domestic violence order.
- (4) Subsection (2) does not affect the validity of the chief inspector's decision.

82 Amendment of s 126A (Protection from reprisal)

- (1) Section 126A(1)(a) and (b), 'explosives safety issue'—
omit, insert—
explosives issue
- (2) Section 126A(7), definition *explosives safety issue*—
omit, insert—
explosives issue means an issue about—
 - (a) the safety or health of a person while handling an explosive; or
 - (b) the security of an explosive from access by a person who should not have access to the explosive.

[s 83]

83 Amendment of s 126C (Public statements)

(1) Section 126C(2)(c), after ‘inspectors’—

insert—

or authorised officers

(2) Section 126C(2)(d)—

omit, insert—

(d) the suspension or cancellation of an authority or security clearance under this Act.

84 Insertion of new s 126D

After section 126C—

insert—

126D Chief inspector may issue safety and security alerts

- (1) If the chief inspector believes there is a specific issue in relation to the safety or security of explosives, the chief inspector may issue an explosives alert to particular persons or to the general public about the issue.
- (2) The explosives alert is advisory only and may recommend that the persons or the general public do or not do something.
- (3) An explosives alert is issued by—
 - (a) if the alert is to particular persons—giving the persons a written notice; or
 - (b) if the alert is to the general public—publishing a notice on the department’s website; or
 - (c) if a person gives the chief inspector a unique electronic address for the person—by using

electronic communication to send the alert to the address.

(4) In this section—

communication network means a network—

- (a) capable of electronic communication; and
- (b) designed to enable a user of the network to communicate with a specific person or a group of people.

Examples—

a telephone network or computer network

unique electronic address, for a person, means a fixed designation on a communication network assigned to the person for the person to receive information.

Examples—

an email address, mobile phone number or user account

85 Replacement of s 130 (Delegation by chief inspector)

Section 130—

omit, insert—

130 Delegation by chief inspector

- (1) The chief inspector may delegate the chief inspector's powers under this Act to an inspector or authorised officer.
- (2) However, the chief inspector may not delegate the chief inspector's power under section 105B.

86 Amendment of s 132 (Disclosure of information)

(1) Section 132(1)(c)—

omit, insert—

- (c) in an investigation or a proceeding under this Act

[s 87]

or a report about the investigation or proceeding;
or

(2) Section 132(2), from ‘Act to’—

omit, insert—

Act to—

- (a) a chief executive of a department or the head of a public service office under the *Public Service Act 2008*; or
- (b) an officer of a department or agency of the Commonwealth or another State responsible for administering a law about explosives.

87 Insertion of new s 132A

After section 132—

insert—

132A Additional requirements for disclosure to particular persons

A person given information under section 132(2)—

- (a) must not give it to another person unless authorised, in writing, by the chief inspector to do so; and
- (b) must ensure the information is used only for the purpose for which it was given under that section.

88 Amendment of s 133 (Evidentiary provision)

(1) Section 133(1), ‘or the former Act’—

omit.

(2) Section 133(2), after ‘inspector’—

insert—

or an authorised officer

- (3) Section 133(2)(b), after ‘power’—

insert—

or the authorised officer’s power

- (4) Section 133(3), ‘or an inspector’—

omit, insert—

, an inspector or an authorised officer

- (5) Section 133(4)(a)—

insert—

(ia) a security clearance or a copy of a security clearance; or

- (6) Section 133(4)(a)(ii), after ‘order,’—

insert—

determination,

- (7) Section 133(4)(a)(ia) to (v)—

renumber as section 133(4)(a)(ii) to (vi).

- (8) Section 133(4)(b), from ‘holder of’—

omit, insert—

holder of—

(i) an authority or a stated authority; or

(ii) a security clearance or a stated security clearance;

- (9) Section 133(4)(c) and (d), ‘authority’—

omit, insert—

authority, security clearance or determination

89 Insertion of new ss 133A and 133B

After section 133—

insert—

133A Expert reports

- (1) This section applies to a proceeding under this Act, other than a proceeding under part 7.
- (2) An expert report is admissible in evidence.
- (3) However, if the person making the report (the *expert*) does not attend to give oral evidence in the proceeding, the report is admissible only with the court's leave.
- (4) In deciding whether to grant leave, the court must have regard to—
 - (a) the content of the report; and
 - (b) the reason the expert is not attending to give oral evidence; and
 - (c) the risk the admission in evidence or exclusion from evidence of the expert report will result in unfairness to a party, in particular having regard to the party's ability to dispute the content of the report if the expert does not give oral evidence; and
 - (d) any other relevant circumstance.
- (5) An expert report admitted in evidence is evidence of any fact or opinion stated in the report of which the expert could have given oral evidence.
- (6) In this section—

expert report means a report made by a person that deals entirely or mainly with issues on which the person is qualified to give expert evidence, but does not include an analyst's report.

133B Analysts' reports

- (1) This section applies to a proceeding under this Act, other than a proceeding under part 7.

- (2) The production by a party to the proceeding of a signed analyst's report stating any of the following matters is evidence of the matters—
- (a) the analyst's qualifications;
 - (b) the analyst took, or received from a stated person, the sample mentioned in the report;
 - (c) the analyst analysed the sample on a stated day, or during a stated period, at a stated place;
 - (d) the results of the analysis.

90 Amendment of s 135 (Regulation-making power)

- (1) Section 135(2)—

insert—

- (da) the appointment of a person to be the manager of a government magazine and the functions and powers of the manager;

- (2) Section 135(2)(da) to (j)—

renumber as section 135(2)(e) to (k).

91 Insertion of new pt 10, div 6

Part 10—

insert—

**Division 6 Transitional provisions for
Land, Explosives and
Other Legislation
Amendment Act 2019**

148 Definitions for division

In this division—

[s 91]

amendment Act means the *Land, Explosives and Other Legislation Amendment Act 2019*.

existing application see section 149(1).

former, in relation to a provision, means as in force immediately before the provision was amended or repealed by the amendment Act.

149 Existing applications for or to renew authorities

- (1) This section applies in relation to the following applications (each an *existing application*)—
 - (a) an application for an authority made, but not decided, before the commencement;
 - (b) an application to renew an authority made, but not decided, before the commencement.
- (2) Former part 3, division 1 continues to apply in relation to the application as if the amendment Act had not commenced.
- (3) To remove any doubt, it is declared that—
 - (a) for deciding the application, section 15A does not apply to the applicant; and
 - (b) former sections 15 and 16 continue to apply in relation to the applicant and an employee of the applicant until the application is decided.

150 Particular authority holders taken to hold security clearances

- (1) This section applies in relation to a security sensitive authority that—
 - (a) was in effect immediately before the commencement; or

- (b) is given after the commencement for an existing application.
- (2) If the holder of the security sensitive authority is an individual, the holder is, on the relevant day, taken to be the holder of a security clearance.
 - (3) If the holder of the security sensitive authority is a corporation other than a listed corporation, each executive officer of the corporation is taken, on the relevant day, to be the holder of a security clearance.
 - (4) If the holder of the security sensitive authority is a partnership, each partner is taken, on the relevant day, to be the holder of a security clearance.
 - (5) Subsections (6) and (7) apply if the holder of the security sensitive authority is a listed corporation.
 - (6) Within 2 months after the relevant day, the listed corporation must, by written notice given to the chief inspector, nominate an executive officer or employee of the corporation as the responsible person for the corporation for matters relating to explosives.

Maximum penalty—50 penalty units.

- (7) On the day the nomination is received by the chief inspector, the responsible person for the listed corporation is taken to be the holder of a security clearance.
- (8) Despite section 12E, a security clearance mentioned in subsection (2), (3), (4) or (7) expires on the earlier of the following—
 - (a) the day the security sensitive authority expires or is cancelled or surrendered or, if the authority is renewed, the day the renewed authority expires or is cancelled or surrendered;

[s 91]

- (b) the day that is 5 years after the security clearance takes effect.
- (9) In this section—
- relevant day* means—
- (a) in relation to an authority that was in effect immediately before the commencement—the day this section commences; or
 - (b) in relation to an authority given after the commencement for an existing application—the day the authority takes effect.

151 Application of s 15A to particular persons

- (1) This section applies in relation to the holder of a security sensitive authority—
 - (a) that was in effect immediately before the commencement; or
 - (b) that is given after the commencement for an existing application; or
 - (c) mentioned in paragraph (a) or (b) that is renewed after the commencement.
- (2) Section 15A does not apply in relation to a person employed by the holder of the authority immediately before the commencement during the period—
 - (a) starting on the commencement; and
 - (b) ending on the day that is 2 years after the commencement.

152 Application of s 33 to particular persons

Section 33(1)(b) does not apply in relation to a person employed by the holder of a security sensitive authority immediately before the

commencement during the period—

- (a) starting on the commencement; and
- (b) ending on the day that is 2 years after the commencement.

153 Application of explosives incident provisions

For an explosives incident that happened before the commencement, former sections 55, 56 and 58 apply to the incident.

92 Amendment of sch 2 (Dictionary)

- (1) Schedule 2, definitions *boat*, *dangerous situation*, *domestic violence order*, *place* and *vehicle*—
omit.
- (2) Schedule 2—
insert—

authorised officer means a person who is appointed as an authorised officer under this Act.

biometric information, for a person, for part 8, division 1A, see section 123AB.

blasting explosive means an explosive used for blasting or producing a similar effect.

Examples of a blasting explosive—

- a booster within the meaning of AS 2187.0—1998 (Explosives—Storage, transport and use, Part 0: Terminology)
- a cartridge, plug or stick within the meaning of AS 2187.0—1998 (Explosives—Storage, transport and use, Part 0: Terminology)
- a detonator
- a detonating cord

[s 92]

- an explosive that consists of a mixture of ammonium nitrate and fuel oil in a proportion that achieves blasting
- TNT

charge, for an offence, means a charge in any form, including, for example, the following—

- (a) a charge on an arrest;
- (b) a notice to appear served under the *Police Powers and Responsibilities Act 2000*, section 382;
- (c) a complaint under the *Justices Act 1886*;
- (d) a charge by a court under the *Justices Act 1886*, section 42(1A) or another provision of an Act;
- (e) an indictment.

criminal history, of a person—

- (a) means the person's criminal history within the meaning of the *Criminal Law (Rehabilitation of Offenders) Act 1986*; and
- (b) despite sections 6, 8 and 9 of that Act, includes a conviction of the person to which any of the sections applies; and
- (c) despite section 5 of that Act, includes a charge made against the person for an offence, unless the charge has been dealt with by a court, or withdrawn or otherwise discontinued.

dangerous situation means a situation that is likely to result in the death of or injury to a person, damage to property or harm to the environment if action is not taken to prevent, remove or minimise the danger.

destroy, in relation to biometric information, for part 8, division 1A, see section 123AB.

determination see section 51A(1)(b).

digital photo, of a person, means the person's facial image encoded in a digital form.

digitised signature, of a person, means the person's signature encoded in a digital form.

domestic violence order means—

- (a) a domestic violence order under the *Domestic and Family Violence Protection Act 2012*; or
- (b) an interstate domestic violence order.

firework means an explosive containing a pyrotechnic substance used for producing a visual or aural effect for the purposes of entertainment.

handle, an explosive, includes—

- (a) bring the explosive into the State from another country or send the explosive from the State to another country; and
- (b) manufacture, possess, sell, store, transport or use the explosive.

interstate domestic violence order means an interstate order or registered foreign order under the *Domestic and Family Violence Protection Act 2012*, part 6, whether or not the order is a recognised interstate order under that Act.

listed corporation see the Corporations Act, section 9.

occupational authority means an authority prescribed by regulation that is held by an individual.

place includes the following—

- (a) premises;
- (b) vacant land;

[s 92]

- (c) a place in Queensland waters;
- (d) a place held under more than 1 title or by more than 1 owner;
- (e) the land or water on or in which a building or other structure, or a group of buildings or other structures, is situated.

place of seizure see section 90A(1)(a).

police protection notice means—

- (a) a police protection notice under the *Domestic and Family Violence Protection Act 2012*; or
- (b) an interstate domestic violence order given by a police officer.

premises includes the following—

- (a) a building or other structure;
- (b) a part of a building or other structure;
- (c) a caravan or vehicle;
- (d) a cave or tent;
- (e) premises held under more than 1 title or by more than 1 owner.

prescribed activity means an activity that is, or is associated with, the handling of explosives.

propellant powder means an explosive, used to launch or propel a device, that is—

- (a) a dry explosive containing potassium or sodium nitrate, charcoal and sulfur that, under normal conditions, burns rather than explodes; or
- (b) a granular powder containing—
 - (i) nitrocellulose and other ingredients; or

- (ii) nitrocellulose, nitroglycerine and other ingredients.

Public Safety Preservation Act declaration, for part 6, division 2, subdivision 7, see section 105A.

pyrotechnic substance means a substance used to produce an effect by heat, light, sound, gas or smoke as a result of an exothermic chemical reaction that does not rely on oxygen from an external source to sustain the reaction.

release conditions see the *Domestic and Family Violence Protection Act 2012*, section 125(2).

relevant application, for part 8, division 1A, see section 123AA(1).

relevant person, for explosives involved in an explosives incident, see section 55.

responsible person, for a listed corporation, means an executive officer or employee of the corporation who is nominated, by written notice given to the chief inspector, by the corporation as the responsible person for the corporation for matters relating to explosives.

security clearance means a security clearance under part 3, division 1AA.

security sensitive authority means an authority in relation to a security sensitive explosive.

security sensitive explosive means—

- (a) ammunition, other than small arms ammunition, that contains an explosive; or
- (b) a blasting explosive; or
- (c) a firework, other than a firework prescribed by regulation; or
- (d) a propellant powder; or

[s 92]

- (e) a pyrotechnic substance used in a firework;
or
- (f) another explosive prescribed by regulation that—
 - (i) if used, could cause the death of a person or serious personal injury; or
 - (ii) could be readily adapted for use in a device that, if used, could cause the death of a person or serious personal injury.

small arms ammunition means—

- (a) ammunition for—
 - (i) a shotgun; or
 - (ii) another firearm with a calibre of no more than 25.4mm; or
- (b) primers (cap type) used for reloading the ammunition.

take, in relation to biometric information, for part 8, division 1A, see section 123AB.

vehicle includes any thing capable of transporting people or things by road, rail, air or water, including a hovercraft, and it does not matter how the thing is moved or propelled.

- (3) Schedule 2, definition *explosives incident*—

insert—

- (aa) the attempted theft of an explosive or another incident that threatens the security of an explosive from access by a person who should not have access to the explosive;

- (4) Schedule 2, definition *explosives incident*, paragraph (e), ‘paragraphs (a) to (d)’—

omit, insert—

paragraphs (a) to (e)

- (5) Schedule 2, definition *explosives incident*, paragraphs (aa) to (e)—

renumber as paragraphs (b) to (f).

- (6) Schedule 2, definition *official*—

insert—

(g) an authorised officer.

- (7) Schedule 2, definition *unlawfully enter*, paragraph (a)—

omit, insert—

(a) without the permission of—

(i) the holder of an authority in relation to the explosives factory or magazine; or

(ii) the person in charge of the explosives factory or magazine; or

(iii) another person prescribed by regulation; or

Part 5 **Amendment of Explosives Regulation 2017**

93 Regulation amended

This part amends the *Explosives Regulation 2017*.

Note—

See also the amendments in schedule 1, part 3.

94 Insertion of new s 8A

After section 8—

insert—

[s 95]

8A Security sensitive explosives—Act, sch 2

- (1) For schedule 2 of the Act, definition *security sensitive explosive*, paragraph (c), an unrestricted firework is prescribed.
- (2) For schedule 2 of the Act, definition *security sensitive explosive*, paragraph (f), security sensitive ammonium nitrate is prescribed.

95 Amendment of s 9 (Alternative safety measures)

Section 9, after ‘safety’—

insert—

and security

96 Insertion of new pts 2A and 2B

After section 18—

insert—

Part 2A Obligations of employers generally

18A Age of employees—Act, s 33

- (1) For section 33(1)(a) of the Act, the following ages are prescribed—
 - (a) for an employee who is employed to drive a vehicle that is transporting explosives—21 years or more;
 - (b) otherwise—18 years or more.
- (2) This section does not apply in relation to an employee who is employed to work at a mine.

Part 2B Security clearances

18B Notification requirements for security clearance holders

- (1) This section applies if any of the following events (each a *notifiable event*) happens during the term of a security clearance—
- (a) the holder of the security clearance is, in Queensland or elsewhere, convicted of or charged with a relevant offence;
 - (b) the holder of the security clearance is named as the respondent in a domestic violence order or police protection notice;
 - (c) release conditions are imposed on the holder of the security clearance under the *Domestic and Family Violence Protection Act 2012*, section 125;
 - (d) the holder of the security clearance becomes aware of another change in circumstances that affects the holder's suitability to continue to hold the security clearance;
- Example for paragraph (d)—*
- a change in the holder's mental health
- (e) the name or address of the holder of the security clearance changes.
- (2) The holder of the security clearance must, as soon as practicable after the holder becomes aware the notifiable event has happened, give the chief inspector a notice about the event, unless the holder has a reasonable excuse.

Maximum penalty—

- (a) for a notifiable event mentioned in subsection (1)(d)—50 penalty units; or
- (b) for a notifiable event mentioned in subsection (1)(e)—20 penalty units; or
- (c) otherwise—200 penalty units.

[s 97]

97 Amendment of s 19 (Authorities that may be issued—Act, s 13)

Section 19, after ninth dot point—

insert—

- explosives driver licence

98 Insertion of new s 23A

Part 3, division 1—

insert—

23A Occupational authorities—Act, sch 2

For schedule 2 of the Act, definition *occupational authority*, each of the following authorities is prescribed—

- an explosives driver licence;
- a fireworks operator licence;
- a shotfirer licence;
- a licence to use explosives;
- a licence to collect ammunition.

99 Amendment of s 31 (Licence to transport explosives)

Section 31(1)—

omit, insert—

- (1) A licence to transport explosives authorises the holder of the licence to—
 - operate a business of transporting the explosives stated in the licence in the way stated in the licence; and
 - possess the explosives for the purpose of operating a business of transporting the explosives under the licence.

100 Insertion of new s 31A

After section 31—

insert—

31A Explosives driver licence

An explosives driver licence authorises the holder of the licence to transport explosives by driving a vehicle that, under a licence to transport explosives, is a vehicle in which explosives of that class may be transported.

101 Insertion of new s 36A

Part 3, division 3—

insert—

36A Explosives driver licence

- (1) A person is an appropriate person for the issue of an explosives driver licence if—
 - (a) the person—
 - (i) is 21 years or more; and
 - (ii) holds a valid driver licence; and
 - (iii) has, within the 3 year period ending on the day the application for the licence is made, been assessed by a registered training organisation as having attained the specific competencies in the transporting of explosives contained in the industry training packages approved by the chief inspector and published on the department's website; and
 - (b) the chief inspector is reasonably satisfied the person—
 - (i) is physically able to drive a vehicle transporting explosives; and

[s 102]

- (ii) is suitable having regard to the person's driving history; and
 - (iii) is, in all the circumstances, an appropriate person for the issue of an explosives driver licence.
- (2) In this section—
- valid**, in relation to a driver licence, means—
- (a) the licence has not expired; and
 - (b) the licence has not been cancelled or suspended; and
 - (c) the person is not disqualified, by order of an Australian court, from holding or obtaining a driver licence.

102 Amendment of s 37 (Shotfirer licence)

Section 37(1)(d)(ii), from 'safe handling procedures'—
omit, insert—

the procedures and methods for safely and securely handling the explosive;

103 Amendment of s 39 (Fireworks operator licence)

Section 39(1)(d)(ii), from 'safe handling procedures'—
omit, insert—

the procedures and methods for safely and securely handling the firework;

104 Amendment of s 40 (Other authorities)

Section 40, 'sections 37'—
omit, insert—

sections 36A

105 Amendment of s 43 (Notification requirements for all authority holders)

- (1) Section 43(1)(a), example, ‘or mental’—
omit.
- (2) Section 43(1)(b) and (c)—
omit.
- (3) Section 43(1)(e)—
omit, insert—
- (e) if the holder of the authority is a corporation—
 - (i) there is a change to the corporation’s executive officers; or
 - (ii) the corporation becomes an externally administered corporation;
 - (f) if the holder of the authority is a corporation other than a listed corporation—there is a change to the corporation’s shareholders;
 - (g) if the authority is not a security sensitive authority or the holder of the authority is a corporation—the holder is, in Queensland or elsewhere, convicted of or charged with an offence involving a prescribed activity.
- (4) Section 43(1)(d) to (g)—
renumber as section 43(1)(b) to (e).
- (5) Section 43(2), from ‘becoming’ to ‘unless’—
omit, insert—
- the holder becomes aware the prescribed event has happened, give the chief inspector a notice about the event, unless
- (6) Section 43(2), penalty, paragraph (a)—
omit, insert—

[s 106]

- (a) for a prescribed event mentioned in subsection (1)(b)(i) or (ii)—20 penalty units; or
- (7) Section 43(3), definition *listed corporation*—
omit.

106 Insertion of new s 43A

After section 43—

insert—

43A Notification requirements for holders of security sensitive authorities

- (1) This section applies if any of the following events (each a *prescribed event*) happens during the term of a security sensitive authority—
 - (a) if the holder of the authority is a listed corporation—
 - (i) the responsible person for the corporation stops being employed or engaged by the corporation; or
 - (ii) the responsible person for the corporation is, in Queensland or elsewhere, convicted of or charged with a relevant offence; or
 - (iii) the responsible person for the corporation is named as the respondent in a domestic violence order or police protection notice; or
 - (iv) release conditions are imposed on the responsible person for the corporation under the *Domestic and Family Violence Protection Act 2012*, section 125;
 - (b) if the holder of the authority is a corporation other than a listed corporation—

- (i) an executive officer of the corporation is, in Queensland or elsewhere, convicted of or charged with a relevant offence; or
 - (ii) an executive officer of the corporation is named as the respondent in a domestic violence order or police protection notice; or
 - (iii) release conditions are imposed on an executive officer of the corporation under the *Domestic and Family Violence Protection Act 2012*, section 125.
- (2) The holder of the security sensitive authority must, as soon as practicable after the holder becomes aware the prescribed event has happened, give the chief inspector a notice about the event, unless the holder has a reasonable excuse.

Maximum penalty—200 penalty units.

107 Omission of s 46 (Requirement to have and give effect to safety management system)

Section 46—

omit.

108 Insertion of new pt 3, div 5A

Part 3—

insert—

**Division 5A Safety and security
requirements**

46 Definitions for division

In this division—

emergency event includes the following—

- (a) an explosion;
- (b) a fire;
- (c) a security breach at a place at which an activity is carried out under a prescribed authority;
- (d) an event that requires a response to a security threat;

Examples of an event for paragraph (d)—

a security lockdown or an attack relating to national security

- (e) a flood;
- (f) a cyclone.

national counter terrorism alert level means the current level of alert for Australia of a terrorist act being carried out as published by the Commonwealth Government.

prescribed authority means the following—

- (a) a licence to import explosives;
- (b) a licence to export explosives;
- (c) a licence to manufacture explosives;
- (d) a licence to sell explosives;
- (e) a licence to store explosives;
- (f) a licence to transport explosives;
- (g) a licence to use explosives;
- (h) a shotfirer licence;
- (i) a fireworks contractor licence.

safety and security management system means a

document that sets out a system that incorporates risk management elements and practices to—

- (a) protect the safety and health of persons who may be affected by activities carried out under a prescribed authority; and
- (b) ensure explosives handled under the authority are kept securely so that the explosives cannot be accessed by persons who should not have access.

46A Requirement for safety and security management system

- (1) This section applies to the holder of a prescribed authority if 1 or more employees of the holder carry out activities under the authority.
- (2) The holder of the authority must have and give effect to a safety and security management system that complies with subsections (3) and (4).

Maximum penalty—100 penalty units.

- (3) For subsection (2), the safety and security management system is to relate to—
 - (a) if a place is stated in the prescribed authority as a place at which an activity may be carried out under the authority—the place; or
 - (b) if an activity is carried out under the prescribed authority other than at a place mentioned in paragraph (a)—the activity.

Examples of a place for paragraph (a)—

- an explosives factory
- premises where explosives are stored

Examples of an activity for paragraph (b)—

- blasting activities carried out under a prescribed authority at various locations

[s 108]

- transporting explosives
- (4) The safety and security management system must include the following—
- (a) a description of the holder’s safety and security policy;
 - (b) details of the organisational structure of the holder’s operations, including details of the personnel responsible for performing all the functions provided for under the system;
 - (c) a system procedure for each matter stated in schedule 3, part 1;
 - (d) an operational procedure for each matter stated in schedule 3, part 2 that applies to the place or activity to which the system applies;
 - (e) a security plan that complies with section 46C;
 - (f) an emergency response plan to manage risk to the safety and health of persons and the security of explosives in an emergency event;
 - (g) a process for ongoing consultation with employees and contractors of the holder who are engaged in carrying out activities under the prescribed authority, at least once in each month, about safety and security in relation to the activities.

46B Safety and security requirements under other legislation

To remove any doubt, it is declared that the safety and security management system may be part of a safety and security management system (however called) required under another Act.

Example—

The safety and security management system may be part of a safety and health management system for a coal mine required under the *Coal Mining Safety and Health Act 1999*.

46C Contents of security plan

A security plan must—

- (a) identify security risks for explosives that may affect an individual, property and information kept by the holder of a prescribed authority about explosives; and
- (b) adopt processes that deal with identified security risks for explosives activities, that ensure—
 - (i) the explosives are kept securely; and
 - (ii) records are kept that are sufficient to allow the inspector to assess whether the plan has been complied with; and
 - (iii) methods are used that identify when explosives have been accessed and identify access to explosives by a person who should not have access to explosives; and
 - (iv) the chain of possession of the explosives can be traced from the holder of the authority to the holder of another prescribed authority; and
 - (v) the explosives are delivered to a person authorised in the security plan to have access to the explosives and to receive the explosives; and
 - (vi) records are kept that identify the persons who, in the scope of their

employment, are allowed unsupervised access to explosives.

46D Requirement to review security plan

The holder of the prescribed authority must review the security plan—

- (a) annually; and
- (b) if any of the following happens—
 - (i) a change in the national counter terrorism alert level or level of risk;
 - (ii) there is a loss of explosives;
 - (iii) there is unauthorised entry, or attempted unauthorised entry, to the place where the explosives are stored;
 - (iv) an explosives stock discrepancy cannot be reconciled with records kept by the holder;
 - (v) an explosive has been stolen;
 - (vi) an explosive has been fraudulently obtained;
 - (vii) an explosive or an explosive facility has been intentionally damaged;
 - (viii) information kept by the holder in relation to explosives has been lost or stolen;
 - (ix) an explosive has been accessed by a person who should not have access to the explosive;
 - (x) an explosive has been sold and has not been delivered by the expected delivery day.

Maximum penalty—100 penalty units.

109 Amendment of s 54 (Condition of explosives)

Section 54(a), after ‘safe’—

insert—

and secure

110 Amendment of s 65 (Requirements for handling explosives at port)

Section 65(1)(b)(ii), after ‘safety’—

insert—

and security

111 Amendment of s 66 (Port authority or port operator to prepare explosives limits document)

Section 66(a), after ‘safely’—

insert—

and securely

112 Omission of s 70 (Prescribed amount of explosive—Act, s 38)

Section 70—

omit.

113 Amendment of s 71 (Prescribed explosives and conditions—Act, s 38)

(1) Section 71(1)(a)—

omit, insert—

(a) an explosive that—

(i) consists of a mixture of ammonium nitrate and fuel oil in a proportion that achieves blasting; and

[s 114]

- (ii) may include a dye colouring agent;
- (2) Section 71(2)(b)—
omit, insert—
- (b) for an explosive mentioned in subsection (1)(a)—the explosive must be manufactured as required under AS 2187, part 2 or alternative safety and security measures for the standard;

114 Amendment of s 73 (Manufacturing explosives)

Section 73, after ‘safety’—

insert—

and security

115 Amendment of s 76 (Persons to whom explosives may be supplied)

Section 76, penalty—

omit, insert—

Maximum penalty—100 penalty units.

116 Amendment of s 79 (Person must comply with instructions and procedures)

Section 79(b), after ‘safety’—

insert—

and security

117 Amendment of s 81 (Prohibited conduct)

Section 81(a)(i), ‘safety’—

omit, insert—

safely and securely handling explosives

118 Amendment of s 83 (Persons to whom explosives may be sold)

Section 83—

insert—

- (f) an inspector to whom a direction has been given by the chief inspector under section 105B of the Act to purchase the explosive.

119 Omission of s 86 (Employer's obligations about employees engaged in selling explosives—Act, s 33)

Section 86—

omit.

120 Amendment of s 88 (Restriction on holder of licence selling security sensitive explosive to new client)

Section 88—

insert—

- (8) This section does not apply if the person to whom the explosives are proposed to be sold is an inspector to whom a direction has been given by the chief inspector under section 105B of the Act to purchase the explosives.

121 Amendment of s 89 (Restriction on holder of licence selling security sensitive explosive to existing client)

Section 89—

insert—

- (8) This section does not apply if the person to whom the explosives are proposed to be sold is an inspector to whom a direction has been given by the chief inspector under section 105B of the Act to purchase the explosives.

[s 122]

122 Omission of s 92 (Security plan obligations of holder of licence to sell explosives)

Section 92—

omit.

123 Amendment of s 105 (Requirements for storing explosives)

Section 105(1)(d), after ‘safety’—

insert—

or security

124 Amendment of s 114 (Duties)

(1) Section 114—

insert—

(ca) ensure explosives at the magazine are secure from access by a person who should not have access to the explosives; and

(2) Section 114(ca) to (f)—

renumber as section 114(d) to (g).

125 Amendment of s 115 (Powers)

(1) Section 115, heading—

omit, insert—

115 Powers to inspect, take samples of and repackage explosives

(2) Section 115(1), ‘subsections (2) and (3)’—

omit, insert—

this section

(3) Section 115—

insert—

- (2A) The manager may inspect the explosive to decide whether the explosive is in a secure condition for storage and transport.
- (4) Section 115(3)(b)(ii), after ‘safe’—
insert—
and secure
- (5) Section 115(2A) and (3)—
renumber as section 115(3) and (4).

126 Insertion of new s 115A

Part 8, division 4, subdivision 2—

insert—

115A Manager may authorise magazine employees to give instructions

- (1) The manager of a government magazine may, by notice given to a magazine employee, authorise the employee to give instructions to other persons at the magazine, including other magazine employees, that are necessary to ensure compliance with the Act.
- (2) The notice must state—
- the name of the magazine employee to whom the authorisation is given; and
 - the day the authorisation is given; and
 - any conditions to which the authorisation is subject.
- (3) The manager of the government magazine may authorise the magazine employee to give instructions under subsection (1) only if the manager is satisfied the employee is appropriately qualified to give the instructions.

[s 127]

127 Replacement of s 116 (Entry to government magazine)

Section 116—

omit, insert—

116 Entry to government magazines

For schedule 2 of the Act, definition *unlawfully enter*, paragraph (a)(iii), the following persons are prescribed—

- (a) the manager of the magazine;
- (b) an inspector.

116A Entry to areas within government magazines

- (1) The manager of a government magazine or an inspector may direct a person not to enter an area within a government magazine if the manager or inspector considers the direction is reasonably necessary to ensure—
 - (a) the safety of the person or another person; or
 - (b) the security of an explosive at the magazine from access by a person who should not have access to the explosive.
- (2) A person given a direction under subsection (1) must comply with the direction.

Maximum penalty—50 penalty units.

- (3) The manager of a government magazine or an inspector may take reasonable steps to remove a person from an area within a government magazine if the person entered the area in contravention of a direction given to the person under subsection (1).

128 Amendment of s 118 (How manager must deal with request)

- (1) Section 118(2)(g)(ii), after ‘safe’—

insert—

and secure

- (2) Section 118(4), after ‘safely’—

insert—

and securely

129 Amendment of s 119 (Requirements for storing explosive)

Section 119(1)(d)(ii), after ‘safe’—

insert—

and secure

130 Amendment of s 129 (Person must comply with instructions and procedures)

- (1) Section 129(a)—

omit, insert—

(a) the lawful instructions of—

(i) a prescribed person; or

(ii) for a government magazine—a person authorised under section 115A to give instructions to another person at the government magazine; and

- (2) Section 129(b), after ‘safety’—

insert—

and security

- (3) Section 129(c), from ‘approved’ to ‘the magazine’—

omit, insert—

in relation to explosives approved by the chief inspector for the magazine

- (4) Section 129—

[s 131]

insert—

- (2) For subsection (1)(a), a lawful instruction does not include a direction given to a person under section 116A(1).

131 Amendment of s 131 (Prohibited conduct)

Section 131(a)(i), ‘safety’—

omit, insert—

safely and securely storing explosives

132 Amendment of s 133 (Explosives exempt from s 50(1) of Act)

Section 133—

insert—

- (c) an explosive on board a boat, the owner or master of which is subject to the *Transport Operations (Marine Safety) Regulation 2016*, section 88(1) or (2), for the explosive.

133 Amendment of s 134 (Requirements for consignors and consignees of particular explosives)

Section 134—

insert—

- (3) However, the person is not required to comply with a provision of the Australian dangerous goods code, or the Australian explosives code, if—
- (a) a determination applying to the person states that the determination applies for this section instead of the provision; and
- (b) the person complies with the determination.

134 Amendment of s 135 (Explosives that may be transported under s 50(3) of Act)

(1) Section 135, heading—

omit, insert—

135 Amounts of explosives—Act, s 50

(2) Section 135(1)—

omit.

(3) Section 135(2), ‘section 50(3)(a)’—

omit, insert—

section 50(2)(a)(i)

(4) Section 135(2) and (3)—

renumber as section 135(1) and (2).

135 Amendment of s 136 (Conditions for transporting explosives under s 50(3) of Act)

(1) Section 136, heading, from ‘explosives’—

omit, insert—

explosives—Act, s 50

(2) Section 136(1), ‘section 50(3)(b)’—

omit, insert—

section 50(2)(a)(ii)

(2A) Section 136(1), note, ‘section 50(3)’—

omit, insert—

section 50(2)

(3) Section 136(2), ‘section 135(2)(a) or (b)’—

omit, insert—

section 135(1)(a) or (b)

(4) Section 136(3), ‘section 135(2)(c)’—

[s 136]

omit, insert—

section 135(1)(c)

- (5) Section 136(3), after ‘safety’—

insert—

and security

- (6) Section 136—

insert—

(3A) However, a person mentioned in subsection (2) or (3) is not required to comply with a provision of the Australian dangerous goods code, or the Australian explosives code, if—

- (a) a determination applying to the person states that the determination applies for this section instead of the provision; and
(b) the person complies with the determination.

- (7) Section 136(4), after ‘safety’—

insert—

and security

- (8) Section 136(4)(b), (c)(ii), (e) and (f)(i), ‘or boat’—

omit.

- (9) Section 136(4)(f)(iii), after ‘safely’—

insert—

and securely

- (10) Section 136(3A) and (4)—

renumber as section 136(4) and (5).

136 Insertion of new s 136A

Part 9, division 2—

insert—

136A Transport of explosives by persons employed at mines—Act, s 50

For section 50(2)(b) of the Act, section 50(1) of the Act does not apply to a person transporting an explosive by driving a vehicle if the person—

- (a) is employed to work at a mine; and
- (b) is transporting the explosive at the mine and in the course of the person's employment.

137 Amendment of s 137 (General requirements for transporting explosives)

- (1) Section 137(1), 'section 50(2)(a)'—

omit, insert—

section 50(3)(a)

- (2) Section 137—

insert—

- (3) Also, a person mentioned in subsection (1) is not required to comply with a provision of the Australian dangerous goods code, or the Australian explosives code, if—
- (a) a determination applying to the person states that the determination applies for this section instead of the provision; and
 - (b) the person complies with the determination.

138 Insertion of new s 138A

Part 9, division 3—

insert—

138A Licence must be available for inspection

The holder of an explosives driver licence must, unless the holder has a reasonable excuse—

[s 139]

- (a) have the licence available for inspection when driving a vehicle to transport explosives; and
- (b) if asked by an inspector, produce the licence for inspection by the inspector.

Maximum penalty—20 penalty units.

139 Amendment of s 140 (Person must comply with instructions, notices and procedures)

Section 140(b), after ‘safety’—

insert—

and security

140 Amendment of s 142 (Prohibited conduct)

- (1) Section 142(a)(i), ‘safety’—

omit, insert—

safely and securely handling explosives

- (2) Section 142(a)(iii), after ‘safety’—

insert—

and security

141 Amendment of s 143 (Application of division)

Section 143, after ‘authority’—

insert—

, other than an explosives driver licence,

142 Insertion of new pt 9, divs 6 and 7

Part 9—

insert—

Division 6 Competent authority

145A Chief inspector is competent authority—Act, s 51A

For section 51A(1)(a) of the Act, the chief inspector is the competent authority for this part.

Division 7 Determinations

Subdivision 1 Making and effect of determinations

145B Competent authority may make determinations—Act, s 51A

- (1) For section 51A(1)(b) of the Act, the competent authority may make a determination about the safe and secure transport of an explosive.
- (2) A determination under subsection (1) must be made by notice.

Note—

A notice under subsection (2) is declared to be subordinate legislation under the *Statutory Instruments Regulation 2012*, section 2(3) and schedule 1.

- (3) Subsection (2) does not apply to an administrative determination.

145C Offences relating to determinations

- (1) If a determination permits the doing of something subject to a condition, a person to whom the determination applies must, if the person does the thing, comply with the condition.

Maximum penalty—40 penalty units.

[s 142]

- (2) If a determination prohibits the doing of something, a person to whom the determination applies must not do the thing.

Maximum penalty—100 penalty units.

- (3) If a determination requires the doing of something, a person to whom the determination applies must do the thing.

Maximum penalty—100 penalty units.

- (4) It is a defence to a prosecution for an offence against this section that the person did not know, and could not reasonably have been expected to know, of the determination, or that the determination applied to the person.

Subdivision 2 Administrative determinations

145D Applications for administrative determinations or amendments

- (1) A person may apply to the competent authority for—
- (a) an administrative determination; or
 - (b) an amendment of an administrative determination.
- (2) The application must—
- (a) be in the approved form; and
 - (b) if the application is for an amendment of an administrative determination—be accompanied by the determination.
- (3) The competent authority may, by notice given to the applicant, ask the applicant to give to the competent authority the additional information reasonably necessary to decide the application.

145E Deciding applications

- (1) The competent authority must, after considering the application, decide—
 - (a) to make the administrative determination, or amendment, with or without conditions; or
 - (b) to refuse to make the administrative determination or amendment.
- (2) The competent authority must not make the administrative determination or amendment unless satisfied the determination or amendment ensures the safe and secure transport of the explosive the subject of the determination.

145F Notice of decision

- (1) If the competent authority decides to make an administrative determination or amendment, the competent authority must give the administrative determination or amended administrative determination to—
 - (a) the applicant; and
 - (b) any other person to whom the determination applies.
- (2) If the competent authority refuses to make the administrative determination or amendment, or makes the administrative determination or amendment subject to conditions, the competent authority must give an information notice for the decision to—
 - (a) the applicant; and
 - (b) any other person—
 - (i) to whom the determination applies; or
 - (ii) who is named in the application as a person to whom the determination is to apply.

145G Form and term of administrative determinations

- (1) An administrative determination must—
 - (a) be in writing; and
 - (b) state—
 - (i) the person to whom the administrative determination applies; and
 - (ii) the explosive to which the administrative determination relates; and
 - (iii) the provisions of this part, and of the Australian dangerous goods code or the Australian explosives code, to which the administrative determination relates; and
 - (iv) any conditions to which the administrative determination is subject; and
 - (v) the term of the administrative determination.
- (2) At the end of the stated term, the administrative determination expires.

145H Replacement administrative determinations

The competent authority must give the holder of an administrative determination a replacement administrative determination if—

- (a) the administrative determination is amended under section 145K; or
- (b) the competent authority is satisfied the determination has been defaced, destroyed, lost or stolen.

145I Grounds for amending, suspending or cancelling administrative determinations

Each of the following is a ground for amending, suspending or cancelling an administrative determination—

- (a) the administrative determination was made because of incorrect or misleading information;
- (b) the holder of the administrative determination—
 - (i) contravenes a condition of the determination; or
 - (ii) is convicted of or charged with an offence against the Act or an Act of another State about explosives or another offence involving the use of explosives;
- (c) public safety has been endangered, or is likely to be endangered, because of the administrative determination;
- (d) a change in circumstances happened after the administrative determination was made and, had the changed circumstances existed when the determination was made, the determination would not have been made;
- (e) the amendment, suspension or cancellation is otherwise necessary in the public interest.

145J Notice of proposed action

- (1) This section applies if the competent authority considers there is a ground to amend, suspend or cancel an administrative determination (the *proposed action*).
- (2) Before taking the proposed action, the competent authority must give the holder of the

[s 142]

administrative determination a notice that states—

- (a) the proposed action; and
 - (b) the grounds for the proposed action; and
 - (c) if the proposed action is to amend the administrative determination—the proposed amendment; and
 - (d) if the proposed action is to suspend the administrative determination—the proposed period of the suspension; and
 - (e) that the holder may show, within a stated reasonable period (the *submission period*) of at least 28 days after the notice is given to the holder, why the proposed action should not be taken.
- (3) This section does not apply in relation to—
- (a) the amendment or cancellation of an administrative determination asked for by the holder of the determination; or
 - (b) the amendment of an administrative determination—
 - (i) for a formal or clerical reason; or
 - (ii) in another way that does not adversely affect the interests of the holder of the determination.

145K Amending, suspending or cancelling administrative determinations generally

- (1) If, after considering any written representations made within the submission period, the competent authority still considers a ground exists to take the proposed action, the competent authority may—

- (a) if the proposed action was to amend the administrative determination—amend the determination; or
 - (b) if the proposed action was to suspend the administrative determination for a stated period—suspend the determination for no longer than the stated period; or
 - (c) if the proposed action was to cancel the administrative determination—
 - (i) amend the administrative determination; or
 - (ii) suspend the administrative determination for a period; or
 - (iii) cancel the administrative determination.
- (2) The competent authority must give the holder of the administrative determination a notice about the decision (a *decision notice*).
- (3) If the competent authority decides to amend, suspend or cancel the administrative determination, the decision notice must be an information notice for the decision.
- (4) The decision takes effect on the day the decision notice is given to the holder or, if a later day is stated in the notice, the later day.

145L Suspension on conditions

- (1) This section applies if—
- (a) an administrative determination is suspended under section 145K(1)(c)(ii); and
 - (b) the grounds for taking action under that section are capable of being remedied by the holder of the administrative determination.
- (2) The suspension may be on condition that—

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- (a) the holder remedy the grounds to the competent authority's reasonable satisfaction within a reasonable time before the period of the suspension ends; and
 - (b) if the holder does not remedy the grounds under paragraph (a), the competent authority may cancel the administrative determination under section 145M.
- (3) If a condition is imposed under subsection (2), the decision notice must state that the administrative determination may be cancelled under section 145M if the holder does not comply with the condition.

145M Cancellation for failure to take remedial action

- (1) This section applies if the competent authority—
 - (a) suspends an administrative determination on the condition mentioned in section 145L(2); and
 - (b) reasonably believes the holder of the administrative determination has not complied with the condition.
- (2) The competent authority may, by information notice given to the holder, cancel the administrative determination.
- (3) The cancellation takes effect on the day the information notice is given to the holder or, if a later day is stated in the notice, the later day.

145N Immediate suspension of administrative determinations

- (1) This section applies if the competent authority considers it necessary in the public interest to immediately suspend an administrative

determination.

- (2) The competent authority may immediately suspend the administrative determination without giving notice of the proposed suspension under section 145J(2).
- (3) However, the competent authority must immediately inform the holder of the administrative determination about the decision by giving the holder an information notice for the decision.
- (4) The suspension—
 - (a) takes effect on the day the information notice is given to the holder of the administrative determination or, if a later day is stated in the notice, the later day; and
 - (b) ends on the earlier of the following—
 - (i) the day the competent authority, after complying with sections 145J(2) and 145K(1), gives the holder a decision notice;
 - (ii) the day that is 56 days after the day the information notice is given to the holder under subsection (3).

Subdivision 3 Register of determinations

1450 Register of determinations—Act, s 51A

- (1) For section 51A(2)(d) of the Act, the competent authority must keep a register of determinations.
- (2) The register must include the following information for each determination—
 - (a) the day the determination was made;

[s 143]

- (b) the explosive the subject of the determination;
 - (c) the provisions of this part, and of the Australian dangerous goods code or the Australian explosives code, to which the determination relates;
 - (d) whether the determination is an administrative determination and, if so, the provisions of the determination;
 - (e) if the determination is amended—the day the amendment was made and details of the amendment;
 - (f) if the determination is suspended—the period of the suspension;
 - (g) if the determination is cancelled—the day it was cancelled.
- (3) The register must be kept in the way decided by the competent authority.
- (4) The competent authority must ensure the register is available for inspection by the public, including, for example, by ensuring there is reasonable access to—
- (a) copies of information in the register; or
 - (b) a computer terminal to inspect the register.

143 Amendment of s 147 (Employer’s obligations about employees engaged in using explosives)

- (1) Section 147(2)(a) and (e)—
omit.
- (2) Section 147(2)(b) to (d)—
renumber as section 147(2)(a) to (c).

144 Amendment of s 152 (Use of blasting explosives)

Section 152(a)(ii), after ‘safety’—

insert—

and security

145 Amendment of s 160 (Meaning of *organise* fireworks display)

Section 160(b), ‘safety requirements’—

omit, insert—

safety and security requirements

146 Amendment of s 162 (Meaning of *safety requirements* for fireworks displays)

(1) Section 162, ‘safety requirements’—

omit, insert—

safety and security requirements

(2) Section 162(a)(ii), ‘alternative safety measures’—

omit, insert—

alternative safety and security measures

147 Amendment of s 166 (Prohibition on allowing unsafe fireworks display to be staged)

(1) Section 166, heading—

omit, insert—

166 Display hosts’ obligations about safety and security of fireworks displays

(2) Section 166, ‘safety requirements’—

omit, insert—

safety and security requirements

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148 Amendment of s 168 (Fireworks contractor’s obligations about safety of fireworks display)

(1) Section 168, heading, after ‘safety’—

insert—

and security

(2) Section 168, ‘safety requirements’—

omit, insert—

safety and security requirements

149 Amendment of s 184 (Application for external review)

(1) Section 184(2), definition *reviewable decision*—

insert—

(fa) a decision under section 145E to refuse to make or amend an administrative determination;

(fb) a decision under section 145E to make or amend an administrative determination subject to conditions;

(fc) a decision under section 145K, 145M or 145N to amend, suspend or cancel an administrative determination;

(2) Section 184(2), definition *reviewable decision*, paragraphs (fa) to (g)—

renumber as paragraphs (g) to (j).

150 Amendment of s 185 (Period for keeping records)

Section 185, after ‘safety’—

insert—

and security

151 Insertion of new pt 14, div 1, hdg

Before section 193—

insert—

**Division 1 Transitional provisions for
SL No. 150 of 2017**

152 Amendment of s 193 (Definitions for part)

Section 193, ‘part’—

omit, insert—

division

153 Insertion of new pt 14, div 2

After section 209—

insert—

**Division 2 Transitional provisions for
Land, Explosives and
Other Legislation
Amendment Act 2019**

210 Existing licence to transport explosives

- (1) This section applies to a licence to transport explosives in force immediately before the commencement.
- (2) From the commencement—
 - (a) the licence is taken to authorise the authority holder to operate a business of transporting the explosives stated in the licence in the vehicles stated in the licence; and

[s 154]

- (b) the licence does not authorise the authority holder to drive a vehicle to transport explosives.

211 Employees of holder of licence to transport explosives

- (1) This section applies to a person who—
 - (a) on the commencement, is an employee of the holder of a licence to transport explosives; and
 - (b) is employed to drive a vehicle, stated in the licence as a vehicle to transport explosives, to transport explosives.
- (2) From the commencement, the person is taken to be the holder of an explosives driver licence.
- (3) However, this section does not apply to a person who—
 - (a) is employed to work at a mine; and
 - (b) is transporting the explosives at the mine and in the course of the person's employment.
- (4) This section stops having effect on the day that is 1 year after the commencement.

154 Amendment of sch 3 (Matters to be included in safety management system)

- (1) Schedule 3, heading, 'safety management system'—
omit, insert—
safety and security management system
- (2) Schedule 3, authorising provision, 'section 46(4)'—
omit, insert—
section 46A(4)

- (3) Schedule 3, part 1, item 1—

omit, insert—

- 1 Establishing and maintaining an explosives safety and security management system to deal with hazard and risk identification, risk assessment and risk control.

- (4) Schedule 3, part 1, item 6—

insert—

- (l) alternative safety and security measures used.

- (5) Schedule 3, part 1, item 9—

omit.

155 Amendment of sch 7 (Dictionary)

- (1) Schedule 7, definitions *alternative safety measures, ANFO, blasting explosive, firework, handle, propellant powder, pyrotechnic substance, safety management system, safety requirements, security sensitive explosive* and *small arms ammunition—*

omit.

- (2) Schedule 7—

insert—

administrative determination see section 51A(3) of the Act.

alternative safety and security measures see section 9(2).

decision notice see section 145K(2).

emergency event, for part 3, division 5A, see section 46.

holder, of an administrative determination, means a person to whom the determination applies.

[s 156]

national counter terrorism alert level, for part 3, division 5A, see section 46.

prescribed authority, for part 3, division 5A, see section 46.

proposed action see section 145J(1).

relevant offence see section 23A(3) of the Act.

safety and security management system, for part 3, division 5A, see section 46.

safety and security requirements, for a fireworks display, see section 162.

submission period see section 145J(2)(e).

Part 6 **Amendment of Foreign Ownership of Land Register Act 1988**

156 **Act amended**

This part amends the *Foreign Ownership of Land Register Act 1988*.

157 **Amendment of s 4 (Interpretation)**

(1) Section 4(2)—

omit, insert—

(2) For the purposes of this Act, the time of acquisition of an interest in land is taken to be—

(a) if the interest is acquired as the result of the granting of a lease of unallocated State land—the time when the lease commences;
or

- (b) if the interest is acquired under an agreement—the time of entry into possession of the interest; or
- (c) otherwise—the time when the event that gave rise to the acquisition occurred.

(2) Section 4(4)—
omit.

158 Omission of ss 5–10

Sections 5 to 10—
omit.

159 Replacement of s 11 (Register)

Section 11—
omit, insert—

11 Register

- (1) The registrar must maintain a register called the Foreign Ownership of Land Register.
- (2) The register may be kept in the form the registrar considers appropriate including, for example, in electronic form.
- (3) A prescribed form lodged with the registrar forms part of the register.
- (4) The registrar may do the following things in relation to the register—
 - (a) make a copy, in a way approved by the Minister for this section, of any part of the register;
 - (b) move particulars recorded in a particular part of the register to another part;

[s 160]

- (c) delete particulars recorded in a particular part of the register if the registrar is satisfied the particulars have been accurately recorded in another part;
 - (d) destroy a prescribed form if a copy of the prescribed form has been made under paragraph (a).
- (5) A copy of a part of the register made under subsection (4)(a) and certified by the registrar as an accurate copy of that part of the register forms part of the register.
- (6) A copy of a prescribed form made under subsection (4)(a) and certified by the registrar as an accurate copy of the prescribed form is admissible as evidence of the prescribed form and the things in it.

160 Omission of s 12 (Accurately completed prescribed forms)

Section 12—

omit.

161 Amendment of s 14 (Access to information in register)

- (1) Section 14(1), from ‘Subject’ to ‘and upon’—

omit, insert—

A person may, on payment of the prescribed fee and during the hours and on

- (2) Section 14(1)(c), ‘upon the giving of’—

omit, insert—

on giving

- (3) Section 14(2)—

omit.

162 Omission of s 17 (Disclosure of present interest)

Section 17—

omit.

163 Replacement of ss 18–21

Sections 18 to 21—

omit, insert—

18 Disclosure of acquisition

- (1) A foreign person who acquires the legal estate of an interest in land must complete and lodge with the registrar a notification of ownership in relation to the interest not later than 90 days after the day of the acquisition.
- (2) However, a foreign person is not required to comply with subsection (1) if the legal estate of the interest in land is vested in the person as personal representative of a deceased person.
- (3) Also, a person beneficially entitled to an interest in land because of the death of a person is not required to comply with subsection (1) until all documents resulting in the interest vesting in the person have been lodged with the relevant registering authority.

18A Disclosure of disposal of interest

- (1) Subsection (2) applies if—
 - (a) the legal estate of an interest in land is registered in the register, or recorded in the records of a relevant registering authority, in the name of a foreign person; and
 - (b) the foreign person disposes of the interest.
- (2) The foreign person must complete and lodge with the registrar a notification, in the prescribed form,

in relation to the disposal not later than 90 days after the day on which the disposal takes place.

19 Notification of ceasing to be a foreign person

- (1) This section applies if, on 30 June in a year—
 - (a) the legal estate of an interest in land is registered in the register, or recorded in the records of a relevant registering authority, in the name of a foreign person; and
 - (b) the person is no longer a foreign person; and
 - (c) the person has not completed, and lodged with the registrar, a notification of ownership, in the prescribed form, in relation to the cessation.
- (2) The person must complete, and lodge with the registrar, a notification, in the prescribed form, in relation to the cessation by 30 September in the year.

Maximum penalty—20 penalty units.

20 Notification of becoming a foreign person

- (1) This section applies if, on 30 June in a year—
 - (a) the legal estate of an interest in land is recorded in the records of a relevant registering authority in the name of a person; and
 - (b) the person is a foreign person; and
 - (c) the person has not completed, and lodged with the registrar, a notification of ownership, in the prescribed form, in relation to the interest.
- (2) The person must complete, and lodge with the registrar, a notification of ownership, in the

prescribed form, in relation to the interest by 30 September in the year.

Maximum penalty—20 penalty units.

164 Amendment of s 23 (Registrar may enter information)

Section 23(a) and (b), ‘or trustee notification of ownership’—
omit.

165 Amendment of s 24 (Offence not to comply with s 22)

(1) Section 24(2), ‘shall’—

omit, insert—

must

(2) Section 24(5), ‘Where’—

omit, insert—

If

(3) Section 24(7), ‘Where’—

omit, insert—

If

(4) Section 24(8), ‘Where a court makes an order under subsection (7), it shall’—

omit, insert—

If a court makes an order under subsection (7), the court must

(5) Section 24(11), from ‘When’ to ‘shall’—

omit, insert—

If a person is convicted of an offence under subsection (1) and the court makes an order under subsection (7), the person must

[s 166]

166 Amendment of s 25 (False or misleading statements)

- (1) Section 25(1) and (2), ‘shall’—

omit, insert—

must

- (2) Section 25(3), from ‘shall not’ to ‘or trustee notification of ownership’—

omit, insert—

must not, in giving the registrar information by completing a notification of ownership

- (3) Section 25(6), ‘ownership, trustee notification of’—

omit.

167 Omission of pt 5 (Forfeiture and restraint)

Part 5—

omit.

168 Replacement of ss 41–42

Sections 41 to 42—

omit, insert—

41 Searches

- (1) An officer responsible for keeping or maintaining records available to be searched by the public must allow the registrar, or a person authorised by the registrar, to search the records and make copies of or take extracts from a relevant record, free of charge.
- (2) In this section—
- relevant record*** means—
- (a) a document of title; or
- (b) a document or other record relating to—

- (i) the acquisition or disposal of an interest in land; or
- (ii) another matter in which the registrar is or may, for the purposes of this Act, be interested.

42 Service of documents

- (1) This section applies if—
 - (a) a document is required or permitted under this Act to be served on a corporation; and
 - (b) the corporation is not likely to receive the document if it is served in a way provided for under the *Acts Interpretation Act 1954*, part 10.
- (2) The document may be served on the corporation by—
 - (a) delivering it personally to each of 2 directors of the corporation who reside in the State; or
 - (b) sending it by post to each of 2 directors of the corporation who reside in the State at the address of the directors last known to the person serving the document; or
 - (c) by sending it electronically to the email address of the corporation in accordance with the *Electronic Transactions (Queensland) Act 2001*.

169 Amendment of s 43 (Evidentiary provisions)

Section 43(c)(ii), 'of the'—

omit, insert—

the

[s 170]

170 Insertion of new s 44B

After section 44A—

insert—

44B Particular trustees to give information about beneficiaries

- (1) This section applies to a person who holds an interest, other than the legal estate, in land as trustee for another person (a *beneficiary*).
- (2) The person must, for the purposes of this Act, on request of a legal estate trustee for the land, give the legal estate trustee the following details for each beneficiary—
 - (a) the beneficiary's name;
 - (b) the beneficiary's usual place of residence;
 - (c) details of the interest held for the beneficiary;
 - (d) whether or not the beneficiary is a foreign person.
- (3) In this section—

legal estate trustee, in relation to land mentioned in subsection (1), means a person who holds the legal estate of an interest in the land.

171 Insertion of new pt 7

After part 6—

insert—

Part 7

Transitional provisions for Land, Explosives and Other Legislation Amendment Act 2019

46 Definitions for part

In this part—

amended, in relation to a section, means as in force from the commencement.

amended Act means the Act as in force from the commencement.

previous, in relation to a section, means as in force immediately before the commencement.

previous Act means the Act as in force immediately before the commencement.

repealed, in relation to a section, means as in force immediately before its repeal.

47 Declarations under repealed section 6(2) continued in force

- (1) This section applies to a person—
 - (a) in relation to whom the Minister made a declaration under repealed section 6(2) in relation to a particular interest; and
 - (b) who, immediately before the commencement, was not a foreign person in relation to the interest because of the declaration; and
 - (c) who, at the commencement, would otherwise be a foreign person under the amended Act.
- (2) The declaration continues in force for the person in relation to the particular interest.
- (3) While the declaration continues in force, the person is taken not to be a foreign person in relation to the interest.
- (4) The person must notify the registrar of any change in the circumstances on which the declaration was

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based as soon as practicable after the change happens.

- (5) The Minister may cancel the declaration if satisfied that, because of a change in the circumstances on which the declaration was based, it is no longer appropriate for the person to be taken not to be a foreign person.

48 Applications for declarations under s 6(4)

- (1) This section applies to an application under repealed section 6(4) made, but not decided, before the commencement.
- (2) The application is taken to be withdrawn.

49 Obligation to notify under repealed s 17 continued

- (1) Despite its repeal, repealed section 17 continues to apply to a person in relation to the legal estate of an interest in land if, immediately before the commencement, the person had not complied with a requirement under the section to lodge a notification of ownership in relation to the interest.
- (2) For the purpose of subsection (1), a reference in repealed section 17(3) to a trustee notification of ownership is taken to be a reference to a notification of ownership.

50 Obligation to notify under repealed s 18 continued

- (1) Despite its repeal, repealed section 18 continues to apply to a person who acquired an interest in land before the commencement if, immediately before the commencement, the person had not complied with a requirement under the section to

lodge a notification of ownership in relation to the interest.

- (2) For the purpose of subsection (1), a reference in repealed section 18(3) to a trustee notification of ownership is taken to be a reference to a notification of ownership.

51 Application of s 19 to particular persons

- (1) This section applies if—
 - (a) at the commencement, the legal estate of an interest in land is registered in the register, or recorded in the records of a relevant registering authority, in a person's name; and
 - (b) on the commencement, the person ceases to be a foreign person in relation to the interest.
- (2) Section 19 applies to the foreign person as if a reference in section 19(2) to the day on which the person ceases to be a foreign person were a reference to the day on which the person becomes aware the person ceased to be a foreign person under the amended Act.

52 Application of s 20 to particular persons

- (1) This section applies if—
 - (a) immediately before the commencement, the legal estate of an interest in land was recorded in the records of a registering authority in the name of a person who was not a foreign person under the unamended Act; and
 - (b) on the commencement, the person is a foreign person in relation to the interest.

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- (2) Section 20 applies to the person as if a reference in section 20(2) to the day on which the person becomes a foreign person were a reference to the day on which the person becomes aware the person is a foreign person under the amended Act.

172 Amendment of sch 1 (Dictionary)

- (1) Schedule 1, definitions *corporation*, *foreign corporation*, *foreign natural person*, *foreign person*, *foreign trust*, *last accounting date*, *officer*, *share* and *year of income*—
omit.
- (2) Schedule 1—
insert—

corporation see the Corporations Act, section 57A.

foreign person see the *Duties Act 2001*, section 234.

foreign trust see the *Duties Act 2001*, section 237.

notification of ownership means a notice in the approved form about an interest in land held by a foreign person.

unallocated State land see the *Land Act 1994*.

voting power see the *Foreign Acquisitions and Takeovers Act 1975* (Cwlth), section 22.

Part 7 Amendment of Land Act 1994

173 Act amended

This part amends the *Land Act 1994*.

Note—

See also the amendments in schedule 1, part 1.

174 Insertion of new ch 4, pt 3, div 2, sdiv 1AA

Chapter 4, part 3, division 2, before subdivision 1—

insert—

**Subdivision 1AA Improvements reports
and notices and related
matters**

**156 Lessee must give improvements report and
other information**

- (1) This section applies if, before the relevant day—
 - (a) a lessee of a term lease has not made a renewal application; or
 - (b) if the lessee has made a renewal application—the application has been refused.
- (2) The lessee must, within 1 month after the relevant day, give the Minister a report (an ***improvements report***) that states the following information for each building or other structure on the lease land—
 - (a) the nature of the building or structure;
 - (b) the condition of the building or structure;
 - (c) the location of the building or structure;
 - (d) whether the lessee proposes to remove the building or structure before the lease expires.
- (3) The improvements report may also include representations about why the Minister should not give the lessee an improvements notice requiring the lessee to take action under section 156A.
- (4) The Minister may also, by notice given to the lessee, require the lessee, within a stated reasonable period, to—

[s 174]

- (a) give the Minister information, or further information, about a building or other structure on the lease land; or
 - (b) give the Minister a report, prepared by a person with a stated qualification or expertise and at the lessee's expense, about the condition of the buildings and other structures on the lease land.
- (5) If the lessee fails to comply with a requirement made under subsection (4)(b)—
- (a) the Minister may obtain the report; and
 - (b) the cost of obtaining the report may be recovered from the lessee as a debt due to the State.
- (6) In this section—
- relevant day***, in relation to a lease, means the day that is—
- (a) for a lease that has a term of 5 years or more—1 year before the expiry of the lease; or
 - (b) otherwise—6 months before the expiry of the lease.

156A Minister may give improvements notice

- (1) The Minister may, before the relevant day, give the lessee a notice (an ***improvements notice***) requiring the lessee, within a stated period after the lease expires, to—
- (a) carry out repairs to bring a stated building or another structure on the lease land into a good and substantial state of repair; or
 - (b) remove a stated building or another structure from the lease land; or

- (c) remediate the lease land to the reasonable standard stated in the notice.
- (2) For subsection (1), the stated period must be a reasonable period, of not less than 3 months, having regard to the nature of the action required under the improvements notice.
- (3) An improvements notice may require the repair of a building or another structure only if the Minister is satisfied the building or structure is not in a good and substantial state of repair.
- (4) An improvements notice may require the removal of a building or another structure only if the Minister is satisfied—
 - (a) 1 or more of the following applies for the building or structure—
 - (i) the building or structure is not consistent with the purpose for which the lease was originally issued or, if the purpose has been changed under section 154, the purpose of the lease as changed;
 - (ii) the presence of the building or structure on the lease land may substantially hinder options for the future use or allocation of the land;
 - (iii) the presence of the building or structure on the lease land, or the condition of the building or structure, is likely to create a substantial liability for the State;
 - (iv) the building or structure is not in a good and substantial state of repair and it is not practicable to bring the building or structure into a good and substantial state of repair; and

[s 174]

- (b) the lease is not subject to a condition requiring the building or structure to remain on the lease land or prohibiting its removal.
- (5) An improvements notice may require the remediation of the lease land only if the Minister is satisfied—
 - (a) the land has been affected by a building or another structure on the land; or
 - (b) the land has been, or is likely to be, affected by the removal of a building or another structure from the land.
- (6) In deciding whether to give the lessee an improvements notice, the Minister must consider any representations included in an improvements report given by the lessee.
- (7) The improvements notice must be accompanied by or include an information notice about the decision to give the improvements notice.
- (8) The Minister may also give the lessee an improvements notice after the relevant day, but not later than 6 months after the lease expires, if the lessee—
 - (a) fails to give the Minister an improvements report under section 156; or
 - (b) gives the Minister an improvements report that is false or misleading in a material particular; or
 - (c) fails to comply with a requirement made under section 156(4)(a) or (b).
- (9) In this section—

relevant day, in relation to a lease, means the day that is—

- (a) for a lease that has a term of 5 years or more—6 months before the expiry of the lease; or
- (b) otherwise—4 months before the expiry of the lease.

156B Person must comply with improvements notice

- (1) A person to whom an improvements notice is given (the *recipient*) must comply with the notice.

Note—

See section 156C for the consequences of failing to comply with the notice.

- (2) For taking action to comply with the improvements notice, the recipient, or another person (the *contractor*) taking the action for the recipient, may enter the land to which the notice applies only—
- (a) with the consent of the Minister; or
 - (b) if the recipient or contractor has given the Minister a notice about the proposed entry at least 5 business days before the entry.
- (3) The notice under subsection (2)(b) must inform the Minister about—
- (a) the intention to enter the land; and
 - (b) the purpose of the entry; and
 - (c) the days and times the entry is to be made.
- (4) In taking the action, the recipient or contractor must take all reasonable steps to ensure the recipient or contractor does as little damage as is practicable in the circumstances.
- (5) If a person incurs loss or damage because of action taken by the recipient or contractor, the person is entitled to be paid by the recipient or

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contractor the reasonable compensation because of the loss or damage that is—

- (a) agreed between the recipient or contractor and the person; or
 - (b) failing agreement, decided by a court having jurisdiction for the recovery of amounts up to the amount of compensation claimed.
- (6) The court may make an order about costs it considers just.

156C Noncompliance with improvements notice

- (1) This section applies if a person to whom an improvements notice is given fails to comply with the notice.
- (2) The State may—
 - (a) take the action required under the improvements notice; and
 - (b) recover from the person the reasonable costs of taking the action as a debt due to the State.
- (3) For subsection (2)(b), the costs of removing a building or other structure include costs reasonably incurred in disposing of the building or structure or part of it.

Examples of disposal costs—

transport costs, dump fees, storage costs, costs of sale

175 Amendment of s 157 (Expiry of lease)

Section 157(2), after ‘Subject to’—

insert—

subdivision 1AA and

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

(1) Section 164(1)(a), '(a *tourism lease*)'—

omit.

(2) Section 164(3)—

insert—

tourism lease means a term lease, or a perpetual lease, for tourism purposes for land on a regulated island.

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

Section 164A(1)—

omit, insert—

- (1) The Minister may approve a lease as a rolling term lease as mentioned in section 164(1)(b)(ii) only if improvements on the lease land facilitate the tourism purposes of the tourism lease mentioned in section 164(1)(b)(i).

178 Insertion of new ss 180B and 180C

After section 180A—

insert—

180B Chief executive may require report and other information

- (1) This section applies if a permittee makes an application under section 180A(5) to surrender the permit.
- (2) The chief executive may, by notice given to the permittee, require the permittee, within a stated reasonable period, to give the chief executive a report that states the following information for each building or other structure on the permit land—

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- (a) the nature of the building or structure;
 - (b) the condition of the building or structure;
 - (c) the location of the building or structure;
 - (d) whether, if the permit is surrendered, the permittee proposes to apply under section 180H(1) to remove the building or structure.
- (3) The chief executive may also, by notice given to the permittee, require the permittee, within a stated reasonable period, to—
- (a) give the chief executive information, or further information, about a building or other structure on the permit land; or
 - (b) give the chief executive a report, prepared by a person with a stated qualification or expertise and at the permittee's expense, about the condition of the buildings and other structures on the permit land.
- (4) If the permittee fails to comply with a requirement made under subsection (3)(b)—
- (a) the chief executive may obtain the report; and
 - (b) the cost of obtaining the report may be recovered from the permittee as a debt due to the State.

180C Chief executive may require improvements report and other information

- (1) The chief executive may, at any time before a permit is cancelled, by notice given to the permittee, require the permittee, within a stated reasonable period, to give the chief executive a report (an *improvements report*) that states the following information for each building or other structure on the permit land—

-
- (a) the nature of the building or structure;
 - (b) the condition of the building or structure;
 - (c) the location of the building or structure;
 - (d) whether, if the permit is cancelled, the permittee proposes to apply under section 180H(1) to remove the building or structure.
- (2) The permittee must comply with the notice.
- (3) The improvements report may include representations about why the chief executive should not give the permittee an improvements notice requiring the permittee to take action under section 180I.
- (4) The chief executive may also, by notice given to the permittee, require the permittee, within a stated reasonable period, to—
- (a) give the chief executive information, or further information, about a building or other structure on the permit land; or
 - (b) give the chief executive a report, prepared by a person with a stated qualification or expertise and at the permittee's expense, about the condition of the buildings and other structures on the permit land.
- (5) If the permittee fails to comply with a requirement made under subsection (4)(b)—
- (a) the chief executive may obtain the report; and
 - (b) the cost of obtaining the report may be recovered from the permittee as a debt due to the State.

179 Amendment of s 180H (Dealing with improvements)

Section 180H(1), after 'may'—

[s 180]

insert—

, within 14 days after the permit is cancelled or surrendered,

180 Insertion of new ss 180I–180K

Chapter 4, part 4—

insert—

180I Chief executive may give improvements notice

- (1) The chief executive may, within 3 months after a permit is cancelled, give the person who, immediately before the cancellation, was the permittee for the permit a notice (an *improvements notice*) requiring the person, within a stated period, to—
 - (a) carry out repairs to bring a stated building or another structure on the relevant land into a good and substantial state of repair; or
 - (b) remove a stated building or another structure from the relevant land; or
 - (c) remediate the relevant land to the reasonable standard stated in the notice.
- (2) For subsection (1), the stated period must be a reasonable period, of not less than 3 months, having regard to the nature of the action required under the improvements notice.
- (3) An improvements notice may require the repair of a building or another structure only if the chief executive is satisfied the building or structure is not in a good and substantial state of repair.
- (4) An improvements notice may require the removal of a building or another structure only if the chief executive is satisfied—

- (a) 1 or more of the following applies for the building or structure—
 - (i) the building or structure is not consistent with the purpose for which the permit was issued;
 - (ii) the presence of the building or structure on the relevant land may substantially hinder options for the future use or allocation of the land;
 - (iii) the presence of the building or structure on the relevant land, or the condition of the building or structure, is likely to be a substantial liability for the State;
 - (iv) the building or structure is not in a good and substantial state of repair and it is not practicable to bring the building or structure into a good and substantial state of repair; and
 - (b) the permit was not subject to a condition requiring the building or structure to remain on the relevant land or prohibiting its removal.
- (5) An improvements notice may require the remediation of the relevant land only if the chief executive is satisfied—
- (a) the land has been affected by a building or another structure on the land; or
 - (b) the land has been, or is likely to be, affected by the removal of a building or another structure from the land.
- (6) In deciding whether to give the person an improvements notice, the chief executive must consider any representations included in an improvements report given by the person.

[s 180]

- (7) The improvements notice must be accompanied by or include an information notice about the decision to give the improvements notice.
- (8) In this section—
relevant land, in relation to a permit that has been cancelled, means the land that was subject to the permit before its cancellation.

180J Person must comply with improvements notice

- (1) A person to whom an improvements notice is given (the *recipient*) must comply with the notice.

Note—

See section 180K for the consequences of failing to comply with the notice.

- (2) For taking action to comply with the improvements notice, the recipient, or another person (the *contractor*) taking the action for the recipient, may enter the land to which the notice applies only—
 - (a) with the consent of the chief executive; or
 - (b) if the recipient or contractor has given the chief executive a notice about the proposed entry at least 5 business days before the entry.
- (3) The notice under subsection (2)(b) must inform the chief executive about—
 - (a) the intention to enter the land; and
 - (b) the purpose of the entry; and
 - (c) the days and times the entry is to be made.
- (4) In taking the action, the recipient or contractor must take all reasonable steps to ensure the recipient or contractor does as little damage as is practicable in the circumstances.

- (5) If a person incurs loss or damage because of action taken by the recipient or contractor, the person is entitled to be paid by the recipient or contractor the reasonable compensation because of the loss or damage that is—
 - (a) agreed between the recipient or contractor and the person; or
 - (b) failing agreement, decided by a court having jurisdiction for the recovery of amounts up to the amount of compensation claimed.
- (6) The court may make an order about costs it considers just.

180K Noncompliance with improvements notice

- (1) This section applies if a person to whom an improvements notice is given fails to comply with the notice.
- (2) The State may—
 - (a) take the action required under the improvements notice; and
 - (b) recover from the person the reasonable costs of taking the action as a debt due to the State.
- (3) For subsection (2)(b), the costs of removing a building or other structure include costs reasonably incurred in disposing of the building or structure or part of it.

Examples of disposal costs—

transport costs, dump fees, storage costs, costs of sale

181 Insertion of new s 199B

After section 199A—

insert—

[s 182]

199B Conditions relating to buildings and other structures

All leases and permits are subject to the conditions that the lessee or permittee—

- (a) must keep all buildings and other structures on the lease land or permit land in a good and substantial state of repair; and
- (b) must not erect on the lease land or permit land a building or other structure that is not consistent with—
 - (i) for a lease—the purpose for which the lease was originally issued or, if the purpose is changed under section 154, the purpose of the lease as changed; or
 - (ii) for a permit—the purpose for which the permit was issued.

182 Amendment of s 214 (Minister's power to give remedial action notice)

(1) Section 214—

insert—

- (2A) If the notice relates to a lease and is given on the ground the Minister is satisfied the lessee has breached a condition of the lease applying under section 199B, the remedial action may require the lessee to—
 - (a) for the breach of a condition applying under section 199B(a)—carry out repairs to bring a stated building or another structure into a good and substantial state of repair; or
 - (b) for the breach of a condition applying under section 199B(b)(i) or (ii)—remove or demolish a stated building or another structure.

-
- (2) Section 214(2A) to (4)—
renumber as section 214(3) to (5).

183 Insertion of new s 214G

Chapter 5, part 2, division 5—

insert—

214G Noncompliance with particular remedial action notice

- (1) This section applies if a lessee fails to comply with a remedial action notice requiring the lessee to take remedial action mentioned in section 214(3)(a) or (b) in relation to a stated building or another structure, whether or not the lessee has been convicted of an offence against section 214D(1) for the noncompliance.
- (2) The State may—
 - (a) take the remedial action required under the remedial action notice; or
 - (b) if the remedial action required is the repair of a building or another structure—remove or demolish the building or structure if it would not be in the public interest for the State to carry out the repairs to the building or structure.
- (3) Also, the State may recover from the person the reasonable costs of taking the action under subsection (2)(a) or (b) as a debt due to the State.
- (4) Further, the Minister may decide whether it is appropriate in the circumstances to forfeit the lease.
- (5) Without limiting subsection (4), the Minister may decide it is appropriate to forfeit the lease if—

[s 184]

- (a) the action required under the remedial action notice is the removal or demolition of a stated building or another structure; and
- (b) the building or structure is integral to the purpose for which the lease has been issued or, if the purpose has been changed under section 154, the purpose as changed.

184 Insertion of new ch 5, pt 2, div 6

Chapter 5, part 2—

insert—

Division 6 Compliance notices

214H Authorised officer may give compliance notice to permittee

- (1) This section applies if an authorised officer reasonably believes a permittee is breaching, or has breached, a condition of the person's permit.
- (2) The authorised officer may give the permittee a notice (a *compliance notice*) requiring the permittee to remedy the breach, including by refraining from doing an act.
- (3) The compliance notice must be accompanied by or include an information notice about the decision to give the compliance notice.
- (4) However, if it is not practicable to comply with subsection (3), the authorised officer must give the permittee the information notice as soon as practicable after the compliance notice is given.

214I Requirements for compliance notice

- (1) A compliance notice must state the following matters—

- (a) that the authorised officer reasonably believes the permittee to whom the notice is given is breaching, or has breached, a condition of the person's permit;
 - (b) the condition the authorised officer believes is being, or has been, breached;
 - (c) the nature of the breach;
 - (d) the reasonable steps the permittee must take to remedy the breach;
 - (e) the reasonable period within which the permittee must take the steps to remedy the breach.
- (2) If the compliance notice requires the permittee to carry out work, it must also give details of the work involved.
- (3) If the compliance notice requires the permittee to refrain from doing an act, it must also state—
- (a) the period for which the requirement applies; or
 - (b) that the requirement applies until further notice.

214J Failure to comply with compliance notice

- (1) A person to whom a compliance notice is given under this division must comply with the notice unless the person has a reasonable excuse.
- Maximum penalty—400 penalty units.
- (2) If a person is convicted of an offence against subsection (1), the court may, as well as imposing a penalty for the offence, make—
- (a) an order (a *compliance order*) that the person comply with all or part of the compliance notice within a stated period; and

[s 184]

- (b) any other orders the court considers appropriate.
- (3) Without limiting subsection (2)(b), if the compliance notice requires the person to remove a thing from the land to which the person's permit relates, the court may order that the thing be forfeited to the State if the person fails to remove the thing within the period stated in the compliance order.

214K State may take action and recover costs

- (1) This section applies if a person subject to a compliance order does not comply with the order within the period stated in the order.
- (2) The State may—
 - (a) take the action required under the compliance order; and
 - (b) recover from the person the reasonable costs of taking the action as a debt due to the State.

214L How forfeited property may be dealt with

- (1) This section applies if a thing is forfeited to the State because of a person's noncompliance with a compliance order.
- (2) The chief executive may deal with the thing as the chief executive considers appropriate, including, for example, by destroying it, giving it away or otherwise disposing of it.
- (3) However, the chief executive must not deal with the thing in a way that could prejudice the outcome of an appeal against the making of the compliance order.
- (4) The State may recover from the person the

reasonable costs of disposing of the thing as a debt due to the State.

Examples of disposal costs—

transport costs, dump fees, storage costs, costs of sale

- (5) If the chief executive sells the thing or any part of it, the amount for which the thing or part is sold must be offset against—
 - (a) the amount the State may otherwise recover under subsection (4); and
 - (b) any amount the State may otherwise recover under section 214K for doing a thing required under the compliance order.
- (6) If the amount for which the thing or part is sold is greater than the total of the amounts mentioned in subsection (5)(a) and (b), the chief executive must, after deducting the total of those amounts, make reasonable efforts to return the proceeds of the sale to the person.

185 Amendment of s 234 (When lease may be forfeited)

- (1) Section 234(b)—

omit, insert—

- (b) if the lessee breaches a condition of the lease, other than—
 - (i) a condition of the lease applying under section 199B(a) or (b); or
 - (ii) a condition that the lessee comply with a land management agreement for the lease; or

Note—

A breach of a condition mentioned in subparagraph (i) or (ii) may be dealt with by a remedial action notice.

[s 186]

- (ba) if the lessee fails to comply with a remedial action notice requiring the lessee to take remedial action to remedy a breach of a condition of the lease applying under section 199B(a) or (b); or
- (2) Section 234(ba) to (d)—
renumber as section 234(c) to (e).

186 Insertion of new s 242A

After section 242—

insert—

242A Minister may require improvements report and other information

- (1) This section applies if the Minister has given a lessee a notice under section 235(1) or 238(3).
- (2) The Minister may, by notice given to the lessee, require the lessee to give the Minister, within a stated reasonable period, a report (an *improvements report*) that states the following information for each building or other structure on the lease land—
 - (a) the nature of the building or structure;
 - (b) the condition of the building or structure;
 - (c) the location of the building or structure;
 - (d) whether, if the lease is forfeited, the lessee proposes to apply under section 243(1A) to remove the building or structure.
- (3) The lessee must comply with the notice.
- (4) The improvements report may include representations about why the Minister should not give the lessee an improvements notice requiring the lessee to take action under section 244.
- (5) The Minister may also, by notice given to the

lessee, require the lessee, within a stated reasonable period, to—

- (a) give the Minister information, or further information, about a building or other structure on the lease land; or
 - (b) give the Minister a report, prepared by a person with a stated qualification or expertise and at the lessee's expense, about the condition of the buildings and other structures on the lease land.
- (6) If the lessee fails to comply with a requirement made under subsection (5)(b)—
- (a) the Minister may obtain the report; and
 - (b) the cost of obtaining the report may be recovered from the lessee as a debt due to the State.

187 Amendment of s 243 (Improvements on forfeited lease)

Section 243(1A), after 'may'—

insert—

, within 14 days after the lease is forfeited,

188 Insertion of new ss 244–244B

After section 243—

insert—

244 Minister may give improvements notice

- (1) The Minister may, within 3 months after a lease is forfeited, give the person who, immediately before the forfeiture, was the lessee of the lease a notice (an *improvements notice*) requiring the person, within a stated period, to—

[s 188]

- (a) carry out repairs to bring a stated building or another structure on the relevant land into a good and substantial state of repair; or
 - (b) remove a stated building or another structure from the relevant land; or
 - (c) remediate the relevant land to the reasonable standard stated in the notice.
- (2) For subsection (1), the stated period must be a reasonable period, of not less than 3 months, having regard to the nature of the action required under the improvements notice.
- (3) An improvements notice may require the repair of a building or another structure only if the Minister is satisfied the building or structure is not in a good and substantial state of repair.
- (4) An improvements notice may require the removal of a building or another structure only if the Minister is satisfied—
- (a) 1 or more of the following applies for the building or structure—
 - (i) the building or structure is not consistent with the purpose for which the lease was originally issued or, if the purpose has been changed under section 154, the purpose of the lease as changed;
 - (ii) the presence of the building or structure on the relevant land may substantially hinder options for the future use or allocation of the relevant land;
 - (iii) the presence of the building or structure on the relevant land, or the condition of the building or structure, is likely to be a substantial liability for the State;

- (iv) the building or structure is not in a good and substantial state of repair and it is not practicable to bring the building or structure into a good and substantial state of repair; and
 - (b) the lease was not subject to a condition requiring the building or structure to remain on the lease land or prohibiting its removal.
- (5) An improvements notice may require the remediation of the relevant land only if the Minister is satisfied—
- (a) the land has been affected by a building or another structure on the land; or
 - (b) the land has been, or is likely to be, affected by the removal of a building or another structure from the land.
- (6) In deciding whether to give the person an improvements notice, the Minister must consider any representations included in an improvements report given by the person.
- (7) The improvements notice must be accompanied by or include an information notice about the decision to give the improvements notice.
- (8) In this section—
- relevant land*, in relation to a lease that has been forfeited, means the land that was subject to the lease before its forfeiture.

244A Person must comply with improvements notice

- (1) A person to whom an improvements notice is given (the *recipient*) must comply with the notice.

Note—

See section 244B for the consequences of failing to comply with the notice.

[s 188]

- (2) For taking action to comply with the improvements notice, the recipient, or another person (the *contractor*) taking the action for the recipient, may enter the land to which the notice applies only—
 - (a) with the consent of the Minister; or
 - (b) if the recipient or contractor has given the Minister a notice about the proposed entry at least 5 business days before the entry.
- (3) The notice under subsection (2)(b) must inform the Minister about—
 - (a) the intention to enter the land; and
 - (b) the purpose of the entry; and
 - (c) the days and times the entry is to be made.
- (4) In taking the action, the recipient or contractor must take all reasonable steps to ensure the recipient or contractor does as little damage as is practicable in the circumstances.
- (5) If a person incurs loss or damage because of action taken by the recipient or contractor, the person is entitled to be paid by the recipient or contractor the reasonable compensation because of the loss or damage that is—
 - (a) agreed between the recipient or contractor and the person; or
 - (b) failing agreement, decided by a court having jurisdiction for the recovery of amounts up to the amount of compensation claimed.
- (6) The court may make an order about costs it considers just.

244B Noncompliance with improvements notice

- (1) This section applies if a person to whom an improvements notice is given fails to comply with

the notice.

- (2) The State may—
- (a) take the action required under the improvements notice; and
 - (b) recover from the person the reasonable costs of taking the action as a debt due to the State.
- (3) For subsection (2)(b), the costs of removing a building or other structure include costs reasonably incurred in disposing of the building or structure or part of it.

Examples of disposal costs—

transport costs, dump fees, storage costs, costs of sale

189 Insertion of new s 280AA

After section 280A—

insert—

280AA Particulars that may be removed

The chief executive may remove from a register anything recorded under section 280 if—

- (a) the chief executive no longer considers the thing should be recorded to ensure the register is an accurate, comprehensive and useable record of the land and dealings to which the register relates; and
- (b) the removal of the thing will not prejudice the rights of the holder of an interest in a lease, licence, permit or reserve.

190 Insertion of new s 287A

After section 287—

insert—

[s 191]

287A Registration of, or dealing with, particular documents

- (1) This section applies if a document is lodged or deposited other than in compliance with a requirement under this Act.
- (2) The chief executive may register, or otherwise deal with, the document if the chief executive is satisfied it is reasonable not to require the compliance.

191 Amendment of s 294E (Registration of building management statement)

Section 294E—

insert—

- (3) A registered building management statement binds the successors in title to the lessee of each lot to which the statement applies.

192 Amendment of s 305 (Requisitions)

Section 305—

insert—

- (6) Also, subsections (7) and (8) apply in relation to a document that is lodged if the chief executive is satisfied—
 - (a) the document is not capable of registration; and
 - (b) the reason the document is not capable of registration is not a matter for which a requisition may be given under subsection (1).
- (7) The chief executive may give notice (also the ***requisition***) to the person who lodged the document, or to another person who reasonably

appears to the chief executive to be relevantly associated with the document, stating—

- (a) that the document is not capable of registration; and
 - (b) why the document is not capable of registration.
- (8) The requisition may, if it relates to an electronic conveyancing document, be accompanied by a copy of the document.

193 Amendment of s 306 (Rejecting document for failure to comply with requisition)

- (1) Section 306, heading, ‘for failure to comply with requisition’—

omit, insert—

after requisition given

- (2) Section 306(1)—

omit, insert—

- (1) The chief executive may reject a document to which a requisition relates and any document that depends on it for registration if—
- (a) for a requisition given under section 305(1)—the requisition is not complied with by a person within the time stated or extended by the chief executive; or
 - (b) the requisition is given under section 305(7).

- (3) Section 306(6), ‘rejected document’—

omit, insert—

document rejected under subsection (1)(a)

[s 194]

194 Insertion of new s 327D

After section 327C—

insert—

327D Minister may require report and other information

- (1) This section applies if a lessee makes an application under section 327C(1) to surrender all or part of a lease.
- (2) The Minister may, by notice given to the lessee, require the lessee, within a stated reasonable period, to give the Minister a report that states the following information for each building or other structure on the lease land—
 - (a) the nature of the building or structure;
 - (b) the condition of the building or structure;
 - (c) the location of the building or structure;
 - (d) whether, if the lease is surrendered, the lessee proposes to apply under section 327I(1) to remove the building or structure.
- (3) The Minister may also, by notice given to the lessee, require the lessee, within a stated reasonable period, to—
 - (a) give the Minister information, or further information, about a building or other structure on the lease land; or
 - (b) give the Minister a report, prepared by a person with a stated qualification or expertise and at the lessee's expense, about the condition of the buildings and other structures on the lease land.
- (4) If the lessee fails to comply with a requirement made under subsection (3)(b)—
 - (a) the Minister may obtain the report; and

- (b) the cost of obtaining the report may be recovered from the lessee as a debt due to the State.

195 Amendment of s 328 (Surrender of subleases)

- (1) Section 328(1), ‘an instrument’—

omit, insert—

a document

- (2) Section 328(3) and (5), ‘a surrender’—

omit, insert—

a document of surrender

- (3) Section 328(4)—

omit, insert—

(3A) Also, if a registered sublease (the *surrendered sublease*) has been wholly or partly surrendered by operation of law, the chief executive may register a document evidencing the surrender if satisfied every registered mortgagee and registered sub-sublessee of the sublessee under the surrendered sublease has been given notice of the surrender.

- (4) If a document of surrender of a sublease is lodged, the chief executive may register the document and record the date of surrender stated in the document in the leasehold land register.

- (4) Section 328(3A) to (6)—

renumber as section 328(4) to (7).

196 Amendment of s 373A (Covenant by registration)

- (1) Section 373A—

insert—

[s 196]

- (2A) Despite subsection (2)(c), non-freehold land the subject of a sublease may be made the subject of a covenant without the consent of the sublessee if—
- (a) the non-freehold land is—
 - (i) all or part of land the subject of a term lease, or perpetual lease, for tourism purposes on a regulated island (a *tourism lease*); or
 - (ii) all or part of land the subject of a lease that includes tidal water land (a *tidal water land lease*); and
 - (b) the covenant is for ensuring—
 - (i) for non-freehold land mentioned in paragraph (a)(i)—the tourism lease may be transferred to a person only if there is also transferred to the person a lease of other non-freehold land the subject of a tidal water land lease; or
 - (ii) for non-freehold land mentioned in paragraph (a)(ii)—the tidal water land lease may be transferred to a person only if there is also transferred to the person a lease of other non-freehold land the subject of a tourism lease.
- (2) Section 373A(4), ‘instrument’—
omit, insert—
document
- (3) Section 373A(5)(c), after ‘ensuring’—
insert—
a relevant interest in
- (4) Section 373A(5)(c)(i), before ‘other non-freehold land’—
insert—

a relevant interest in

- (5) Section 373A(5)(c)(iii), before ‘non-freehold land’—
insert—

a relevant interest in

- (6) Section 373A(6)—

omit.

- (7) Section 373A(12)—

insert—

relevant interest, in non-freehold land, means—

- (a) a lease of the land; or
- (b) a road licence issued over the land; or
- (c) an occupation licence issued over the land.

197 Amendment of s 377 (Registering personal representative)

- (1) Section 377(1), ‘lodge an application’—

omit, insert—

apply to the chief executive

- (2) Section 377(2)(a)—

omit, insert—

- (a) the person has obtained—
 - (i) a grant of representation in Queensland; or
 - (ii) the resealing in Queensland of a grant of representation; or

198 Amendment of s 380 (Applying for Supreme Court order)

Section 380(1)(c)—

insert—

[s 199]

- (iii) a lease, sublease or licence registered in the name of a person as personal representative.

Example of a person interested in a lease, sublease or licence mentioned in subparagraph (iii)—

a person claiming to be entitled to be appointed as personal representative in the place of the person in whose name the lease, sublease or licence is registered

199 Amendment of s 389C (Requirements of caveats)

- (1) Section 389C(2)(c)(ii)—

omit, insert—

- (ii) each other person whose interest or whose right to registration of a document is affected by the caveat; and

- (2) Section 389C—

insert—

- (2A) Without limiting subsection (2)(b), the address stated may be the address of a stated legal practitioner.

200 Replacement of s 389E (Notifying caveat)

Section 389E—

omit, insert—

389E Notifying caveat

The chief executive must give notice of the lodgement of a caveat to each person mentioned in section 389C(2)(c)(i) and (ii).

201 Amendment of s 389F (Effect of lodging caveat)

- (1) Section 389F(3)—

insert—

- (da) if the caveator is a person who has the benefit of an order mentioned in section 389D(1)(c)—a document for a dealing other than a dealing restrained by the order;

Example—

A caveat lodged by a person who has the benefit of an order mentioned in section 389D(1)(c) restrains the lessee of a lease issued under this Act from subleasing the lease. The lodgement of the caveat does not prevent registration of a mortgage of the lease.

- (2) Section 389F(3)(da) and (e)—
renumber as section 389F(3)(e) and (f).

202 Amendment of s 389I (Cancelling caveat)

- (1) Section 389I(2)—

insert—

- (d) if the caveator is a person who has the benefit of an order mentioned in section 389D(1)(c)—the proceeding in which the order was made has been discontinued or dismissed, or has otherwise ended.

- (2) Section 389I(4), ‘remove’—

omit, insert—

cancel

- (3) Section 389I—

insert—

- (5) Also, the chief executive may cancel a caveat lodged by a person who has the benefit of an order mentioned in section 389D(1)(c) if—

- (a) a document for a dealing other than a dealing restrained by the order is registered;
and

[s 203]

- (b) because of the registration of the document, the order can have no further effect to restrain dealings by the person subject to the order.

203 Insertion of new ch 6A

After chapter 6—

insert—

Chapter 6A Investigation and enforcement

Part 1 Preliminary

390C Definitions for chapter

In this chapter—

court means a Magistrates Court.

disposal order see section 390ZT(2).

document certification requirement see section 390ZW(6).

document production requirement see section 390ZW(2).

electronic document means a document of a type under the *Acts Interpretation Act 1954*, schedule 1, definition *document*, paragraph (c).

former owner see section 390ZQ(1).

general power see section 390ZD(1) and (2).

help requirement see section 390ZE(1).

occupier, of a place, includes the following—

- (a) if there is more than 1 person who apparently occupies the place—any 1 of the persons;
- (b) any person at the place who is apparently acting with the authority of a person who apparently occupies the place;
- (c) if no-one apparently occupies the place—
 - (i) for a place that is non-freehold land—the lessee, licensee, permittee or trustee of the land; or
 - (ii) for a place that is freehold land—any person who is a registered owner of the place.

of, a place, includes at or on the place.

offence warning, for a direction or requirement by an authorised officer, means a warning that, without a reasonable excuse, it is an offence for the person to whom the direction is given, or of whom the requirement is made, not to comply with it.

owner, of a thing that has been seized under this chapter, includes a person who would be entitled to possession of the thing had it not been seized.

personal details requirement see section 390ZU(5).

person in control—

- (a) of a vehicle, includes—
 - (i) the vehicle’s driver or rider; and
 - (ii) anyone who reasonably appears to be, claims to be, or acts as if he or she is, the vehicle’s driver or rider or the person in control of the vehicle; or
- (b) of another thing, includes anyone who reasonably appears to be, claims to be, or

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acts as if he or she is, the person in possession or control of the thing.

place includes the following—

- (a) freehold land;
- (b) non-freehold land;
- (c) premises;
- (d) a place in Queensland waters;
- (e) a place held under more than 1 title or by more than 1 owner;
- (f) the land or water on or in which a building or other structure, or a group of buildings or other structures, is situated.

premises includes—

- (a) a building or other structure; and
- (b) a part of a building or other structure; and
- (c) a caravan or vehicle; and
- (d) a cave or tent; and
- (e) premises held under more than 1 title or by more than 1 owner.

public place means a place, or part of a place—

- (a) that the public is entitled to use, whether or not on payment of money; or

Examples of a place that may be a public place under paragraph (a)—

a beach, a park, a road

- (b) the occupier of which allows, whether or not on payment of money, members of the public to enter.

Examples of a place that may be a public place under paragraph (b)—

a saleyard, a showground

vehicle—

- (a) means a vehicle under the *Transport Operations (Road Use Management) Act 1995*; and
- (b) includes a vessel under that Act.

Part 2 General provisions about authorised officers

Division 1 Appointment

390D Functions of authorised officers

An authorised officer has the following functions—

- (a) to investigate, monitor and enforce compliance with this Act;
- (b) to investigate or monitor whether an occasion has arisen for the exercise of powers under this Act;
- (c) to facilitate the exercise of powers under this Act.

390E Appointment and qualifications

- (1) The chief executive may, by instrument in writing, appoint any of the following persons as authorised officers—
 - (a) a public service employee; or
 - (b) another person prescribed by regulation.
- (2) However, the chief executive may appoint a person as an authorised officer only if the chief

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executive is satisfied the person is appropriately qualified.

390F Appointment conditions and limit on powers

- (1) An authorised officer holds office on any conditions stated in—
 - (a) the authorised officer's instrument of appointment; or
 - (b) a signed notice given to the authorised officer; or
 - (c) a regulation.
- (2) The instrument of appointment, a signed notice given to the authorised officer or a regulation may limit the authorised officer's powers.
- (3) In this section—

signed notice means a notice signed by the chief executive.

390G When office ends

- (1) The office of a person as an authorised officer ends if any of the following happens—
 - (a) the term of office stated in a condition of office ends;
 - (b) under another condition of office, the office ends;
 - (c) the authorised officer's resignation under section 390H takes effect.
- (2) Subsection (1) does not limit the ways the office of a person as an authorised officer ends.
- (3) In this section—

condition of office means a condition under which the authorised officer holds office.

390H Resignation

- (1) An authorised officer may resign by signed notice given to the chief executive.
- (2) However, if holding office as an authorised officer is a condition of the authorised officer holding another office, the authorised officer may not resign as an authorised officer without resigning from the other office.

Division 2 Identity cards

390I Issue of identity card

- (1) The chief executive must issue an identity card to each authorised officer.
- (2) The identity card must—
 - (a) contain a recent photo of the authorised officer; and
 - (b) contain a copy of the authorised officer's signature; and
 - (c) identify the person as an authorised officer under this Act; and
 - (d) state an expiry date for the card.
- (3) This section does not prevent the issue of a single identity card to a person for this Act and other purposes.

390J Production or display of identity card

- (1) In exercising a power in relation to a person in the person's presence, an authorised officer must—
 - (a) produce the authorised officer's identity card for the person's inspection before exercising the power; or

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- (b) have the identity card displayed so it is clearly visible to the person when exercising the power.
- (2) However, if it is not practicable to comply with subsection (1), the authorised officer must produce the identity card for the person's inspection at the first reasonable opportunity.
- (3) For subsection (1), an authorised officer does not exercise a power in relation to a person only because the authorised officer has entered a place as mentioned in section 390N(1)(b), (f) or (g).

390K Return of identity card

If the office of a person as an authorised officer ends, the person must return the person's identity card to the chief executive within 21 days after the office ends unless the person has a reasonable excuse.

Maximum penalty—10 penalty units.

Division 3 Miscellaneous provisions

390L References to exercise of powers

If—

- (a) a provision of this Act refers to the exercise of a power by an authorised officer; and
 - (b) there is no reference to a specific power;
- the reference is to the exercise of all or any authorised officers' powers under this chapter or a warrant, to the extent the powers are relevant.

390M Reference to document includes reference to reproductions from electronic document

A reference in this chapter to a document includes a reference to an image or writing—

- (a) produced from an electronic document; or
- (b) not yet produced, but reasonably capable of being produced, from an electronic document, with or without the aid of another article or device.

Part 3 Entry of places by authorised officers

Division 1 Power to enter

390N General power to enter places

- (1) An authorised officer may enter a place, for a purpose of this Act or the Vegetation Management Act, if—
 - (a) an occupier at the place consents under division 2 to the entry and section 390Q has been complied with for the occupier; or
 - (b) the place is unallocated State land or relevant trust land; or
 - (c) the place is non-freehold land subject to a trust, lease, licence or permit, or freehold land containing a reservation for a public purpose, and the authorised officer reasonably believes—
 - (i) the terms or conditions of the trust, lease, licence, permit or reservation applying to the land are not being complied with; or

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- (ii) this Act is not being complied with; or
- (d) the place is non-freehold land and the authorised officer reasonably suspects a building or other structure or equipment on the land is dangerous and poses a serious risk to the safety of the public; or

Note—

See chapter 7, part 1A in relation to safety notices.

- (e) the place is non-freehold land (other than unallocated State land or relevant trust land), or freehold land containing a reservation for a public purpose, and the entry is made at least 14 days after giving the occupier of the place a notice stating—
 - (i) the authorised officer's intention to enter the place; and
 - (ii) the proposed purpose of entering the place; and
 - (iii) the day and time, or the 48 hour period during which, the authorised officer proposes to enter the place; or
 - (f) the place is a public place and the entry is made when the place is open to the public; or
 - (g) the place is the place of business of a lessee, licensee or permittee and is—
 - (i) open for carrying on the business; or
 - (ii) otherwise open for entry; or
 - (h) the entry is authorised under a warrant and, if there is an occupier of the place, section 390X has been complied with for the occupier.
- (2) However, subsection (1)(a) to (g) does not authorise the entry of a part of the place consisting

of premises where a person resides.

- (3) If the power to enter arose only because an occupier of the place consented to the entry, the power is subject to any conditions of the consent and ceases if the consent is withdrawn.
- (4) If the power to enter is under a warrant, the power is subject to the terms of the warrant.
- (5) The consent may provide consent for re-entry and is subject to the conditions of consent.
- (6) If the power to re-enter is under a warrant, the re-entry is subject to the terms of the warrant.
- (7) In this section—
relevant trust land means—
 - (a) trust land of which the State is the trustee; or
 - (b) trust land for which there is no trustee.

Division 2 Entry by consent

390O Application of division

This division applies if an authorised officer intends to ask an occupier of a place to consent to the authorised officer or another authorised officer entering the place under section 390N(1)(a).

390P Incidental entry to ask for access

For the purpose of asking the occupier for the consent, an authorised officer may, without the occupier's consent or a warrant—

- (a) enter land around premises at the place to an extent that is reasonable to contact the occupier; or

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- (b) enter part of the place the authorised officer reasonably considers members of the public ordinarily are allowed to enter when they wish to contact an occupier of the place.

390Q Matters authorised officer must tell occupier

Before asking for the consent, the authorised officer must—

- (a) explain to the occupier the purpose of the entry, including the powers intended to be exercised; and
- (b) tell the occupier that—
 - (i) the occupier is not required to consent; and
 - (ii) the consent may be given subject to conditions and may be withdrawn at any time.

390R Consent acknowledgement

- (1) If the consent is given, the authorised officer may ask the occupier to sign an acknowledgement of the consent.
- (2) The acknowledgement must state—
 - (a) the purpose of the entry, including the powers to be exercised; and
 - (b) that the occupier has been given an explanation about the purpose of the entry, including the powers intended to be exercised; and
 - (c) that the occupier has been told—
 - (i) that the occupier is not required to consent; and

- (ii) that the consent may be given subject to conditions and may be withdrawn at any time; and
 - (d) that the occupier gives the authorised officer or another authorised officer consent to enter the place and exercise the powers; and
 - (e) the day and time the consent was given; and
 - (f) any conditions of the consent.
- (3) If the occupier signs the acknowledgement, the authorised officer must immediately give a copy to the occupier.
- (4) However, if it is not practicable to comply with subsection (3), the authorised officer must give the occupier a copy of the acknowledgement at the first reasonable opportunity.
- (5) If—
- (a) an issue arises in a proceeding about whether the occupier consented to the entry; and
 - (b) a signed acknowledgement complying with subsection (2) for the entry is not produced in evidence;
- the onus of proof is on the person relying on the lawfulness of the entry to prove the occupier consented.

Division 3 Entry under warrant

Subdivision 1 Obtaining warrant

390S Application for warrant

- (1) An authorised officer may apply to a magistrate

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for a warrant for a place.

- (2) The authorised officer must prepare a written application that states the grounds on which the warrant is sought.
- (3) The written application must be sworn.
- (4) The magistrate may refuse to consider the application until the authorised officer gives the magistrate all the information the magistrate requires about the application in the way the magistrate requires.

Example—

The magistrate may require additional information supporting the written application to be given by statutory declaration.

390T Issue of warrant

- (1) The magistrate may issue the warrant for the place only if the magistrate is satisfied there are reasonable grounds for suspecting there is at the place, or will be at the place within the next 7 days, a particular thing or activity that may provide evidence of—
 - (a) the commission of an offence against this Act; or
 - (b) the breach of a condition of a person's lease, licence or permit.
- (2) The warrant must state—
 - (a) the place to which the warrant applies; and
 - (b) that a stated authorised officer or any authorised officer may with necessary and reasonable help and force—
 - (i) enter the place and any other place necessary for entry to the place; and

- (ii) exercise the authorised officer's powers; and
- (c) particulars of the offence or breach of condition that the magistrate considers appropriate; and
- (d) the name of the person suspected of having committed the offence or having breached the condition unless the name is unknown or the magistrate considers it inappropriate to state the name; and
- (e) the evidence that may be seized under the warrant; and
- (f) the hours of the day or night when the place may be entered; and
- (g) the magistrate's name; and
- (h) the day and time of the warrant's issue; and
- (i) the day, within 14 days after the warrant's issue, the warrant ends.

390U Electronic application

- (1) An application under section 390S may be made by phone, fax, email, radio, videoconferencing or another form of electronic communication if the authorised officer reasonably considers it necessary because of—
 - (a) urgent circumstances; or
 - (b) other special circumstances, including, for example, the authorised officer's remote location.
- (2) The application—
 - (a) may not be made before the authorised officer prepares the written application under section 390S(2); but

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- (b) may be made before the written application is sworn.

390V Additional procedure if electronic application

- (1) For an application made under section 390U, the magistrate may issue the warrant (the *original warrant*) only if the magistrate is satisfied—
 - (a) it was necessary to make the application under section 390U; and
 - (b) the way the application was made under section 390U was appropriate.
- (2) After the magistrate issues the original warrant—
 - (a) if there is a reasonably practicable way of immediately giving a copy of the warrant to the authorised officer, including, for example, by sending a copy by fax or email, the magistrate must immediately give a copy of the warrant to the authorised officer; or
 - (b) otherwise—
 - (i) the magistrate must tell the authorised officer the information mentioned in section 390T(2); and
 - (ii) the authorised officer must complete a form of warrant, including by writing on it the information mentioned in section 390T(2) provided by the magistrate.
- (3) The copy of the warrant mentioned in subsection (2)(a), or the form of warrant completed under subsection (2)(b) (in either case the *duplicate warrant*), is a duplicate of, and as effectual as, the original warrant.
- (4) The authorised officer must, at the first reasonable opportunity, send to the magistrate—

- (a) the written application complying with section 390S(2) and (3); and
 - (b) if the authorised officer completed a form of warrant under subsection (2)(b), the completed form of warrant.
- (5) Despite subsection (3), if—
- (a) an issue arises in a proceeding about whether an exercise of a power was authorised by a warrant issued under this section; and
 - (b) the original warrant is not produced in evidence;
- the onus of proof is on the person relying on the lawfulness of the exercise of the power to prove a warrant authorised the exercise of the power.
- (6) This section does not limit section 390S.

390W Defect in relation to warrant

- (1) A warrant is not invalidated by a defect in—
- (a) the warrant; or
 - (b) compliance with this subdivision;
- unless the defect affects the substance of the warrant in a material particular.
- (2) In this section—
- warrant* includes a duplicate warrant mentioned in section 390V(3).

Subdivision 2 Entry procedure

390X Entry procedure

- (1) This section applies if an authorised officer is

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intending to enter a place under a warrant issued under this division.

- (2) Before entering the place, the authorised officer must do or make a reasonable attempt to do the following things—
 - (a) identify himself or herself to a person who is an occupier of the place and is present by producing the authorised officer's identity card or another document evidencing the authorised officer's appointment;
 - (b) give the person a copy of the warrant;
 - (c) tell the person the authorised officer is permitted by the warrant to enter the place;
 - (d) give the person an opportunity to allow the authorised officer immediate entry to the place without using force.
- (3) However, the authorised officer need not comply with subsection (2) if the authorised officer reasonably believes that entry to the place without compliance is required to ensure the execution of the warrant is not frustrated.
- (4) In this section—

warrant includes a duplicate warrant mentioned in section 390V(3).

Part 4 Other powers of authorised officers and related matters

Division 1 Stopping or moving vehicles

390Y Application of division

This division applies if an authorised officer reasonably suspects, or is aware, that—

- (a) a vehicle is being used to commit an offence against this Act; or
- (b) a thing in or on a vehicle may provide evidence of—
 - (i) the commission of an offence against this Act; or
 - (ii) the breach of a condition of a person's lease, licence or permit.

390Z Power to stop or move

- (1) If the vehicle is moving, the authorised officer may, to exercise the authorised officer's powers, signal or otherwise direct the person in control of the vehicle to stop the vehicle and to bring the vehicle to, and keep it at, a convenient place within a reasonable distance to allow the authorised officer to exercise the powers.
- (2) If the vehicle is stopped, the authorised officer may direct the person in control of the vehicle—
 - (a) not to move it until the authorised officer has exercised the authorised officer's powers; or
 - (b) to move the vehicle to, and keep it at, a stated reasonable place to allow the authorised officer to exercise the powers.
- (3) When giving the direction under subsection (2), the authorised officer must give the person in control an offence warning for the direction.

390ZA Identification requirements if vehicle moving

- (1) This section applies if the authorised officer proposes to give a direction under section 390Z(1) and the vehicle is moving.
- (2) The authorised officer must clearly identify himself or herself as an authorised officer exercising the authorised officer's powers.

Examples—

- 1 If the authorised officer is in a moving vehicle, the authorised officer may use a loudhailer to identify himself or herself as an authorised officer exercising powers.
 - 2 If the authorised officer is standing at the side of the road, the authorised officer may use a sign to identify himself or herself as an authorised officer exercising powers.
- (3) When the vehicle stops, the authorised officer must—
 - (a) have with him or her the authorised officer's identity card; and
 - (b) immediately produce the identity card for the inspection of the person in control of the vehicle.
 - (4) Subsection (3) applies despite section 390J.

390ZB Failure to comply with direction

- (1) The person in control of the vehicle must comply with a direction under section 390Z unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

- (2) It is a reasonable excuse for the person not to comply with a direction if—

- (a) the vehicle was moving and the authorised officer did not comply with section 390ZA; or
 - (b) to comply immediately would have endangered someone else or caused loss or damage to property, and the person complies as soon as it is practicable to do so.
- (3) Subsection (2) does not limit what may be a reasonable excuse for subsection (1).
- (4) A person does not commit an offence against subsection (1) if—
- (a) the direction the person fails to comply with is given under section 390Z(2); and
 - (b) the person is not given an offence warning for the direction.

Division 2 General powers of authorised officers after entering places

390ZC Application of division

- (1) The powers under this division may be exercised if an authorised officer enters a place under section 390N(1)(a), (b), (c), (d), (e), (g) or (h).
- (2) However, if the authorised officer enters under section 390N(1)(a) or (h), the powers under this division are subject to any conditions of the consent or terms of the warrant.

390ZD General powers

- (1) The authorised officer may do any of the following (each a *general power*)—

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- (a) search any part of the place;
 - (b) inspect, examine or film any part of the place, anything at the place or the uses made of the place;
 - (c) take for examination a thing, or a sample of or from a thing, at the place;
 - (d) place an identifying mark in or on anything at the place;
 - (e) take an extract from, or copy, a document at the place, or take the document to another place to copy;
 - (f) produce an image or writing at the place from an electronic document or, to the extent it is not practicable, take a thing containing an electronic document to another place to produce an image or writing;
 - (g) take to, into or onto the place and use any person, equipment and materials the authorised officer reasonably requires for exercising the authorised officer's powers under this chapter;
 - (h) remain at the place for the time necessary to achieve the purpose of the entry.
- (2) Also, if the place is lease land, licence land or permit land for agricultural, grazing or pastoral purposes, the authorised officer may do any of the following (also each a *general power*)—
- (a) establish 1 or more sites (each a *monitoring site*) on the land to monitor compliance with—
 - (i) this Act; or
 - (ii) the lease, licence or permit; or
 - (iii) a land management agreement; or

- (iv) a remedial action notice; or
 - (v) a remedial action order; or
 - (vi) a compliance notice; or
 - (vii) a compliance order;
- (b) without limiting subsection (1)(d), place a marker to show where a monitoring site is;
 - (c) install or place a device (a ***monitoring device***) at a monitoring site to carry out the monitoring;
 - (d) read a monitoring device;
 - (e) check the accuracy of, or repair or replace, a monitoring device.
- (3) The authorised officer may take a necessary step to allow the exercise of a general power.
 - (4) If the authorised officer takes a document from the place to copy it, the authorised officer must copy the document and return it to the place as soon as practicable.
 - (5) If the authorised officer takes from the place an article or device reasonably capable of producing a document from an electronic document to produce the document, the authorised officer must produce the document and return the article or device to the place as soon as practicable.
 - (6) In this section—
examine includes analyse, test, account, measure, weigh, grade, gauge and identify.
film includes photograph, videotape and record an image in another way.
inspect, a thing, includes open the thing and examine its contents.

390ZE Power to require reasonable help

- (1) The authorised officer may make a requirement (a *help requirement*) of an occupier of the place or a person at the place to give the authorised officer reasonable help to exercise a general power, including, for example, to produce a document or to give information.
- (2) When making the help requirement, the authorised officer must give the person an offence warning for the requirement.

390ZF Offence to contravene help requirement

- (1) A person of whom a help requirement has been made must comply with the requirement unless the person has a reasonable excuse.
Maximum penalty—100 penalty units.
- (2) It is a reasonable excuse for an individual not to comply with a help requirement if complying might tend to incriminate the individual or expose the individual to a penalty.
- (3) However, subsection (2) does not apply if a document or information the subject of the help requirement is required to be held or kept by the individual under this Act.

Note—

See, however, section 390ZZJ.

Division 3 Seizure by authorised officers and forfeiture

Subdivision 1 Power to seize

390ZG Seizing evidence at a place that may be entered without consent or warrant

- (1) An authorised officer who enters a place the authorised officer may enter under this chapter without the consent of an occupier of the place and without a warrant may seize a thing at the place if the authorised officer reasonably believes the thing is evidence of—
 - (a) the commission of an offence against this Act; or
 - (b) a breach of a condition of a person’s lease, licence or permit.
- (2) However, if the authorised officer enters the place under section 390N(1)(c), (d) or (e), the authorised officer may seize a thing at the place only if the authorised officer also reasonably believes the seizure is necessary to prevent the thing being—
 - (a) hidden, lost or destroyed; or
 - (b) used to commit, continue or repeat an offence against this Act.

390ZH Seizing evidence at a place that may be entered with consent or warrant

- (1) This section applies if—
 - (a) an authorised officer is authorised to enter a place under this chapter with the consent of an occupier of the place or a warrant; and
 - (b) the authorised officer enters the place after obtaining the consent or under a warrant.
- (2) If the authorised officer enters the place with the occupier’s consent, the authorised officer may seize a thing at the place only if—

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- (a) the authorised officer reasonably believes the thing is evidence of—
 - (i) the commission of an offence against this Act; or
 - (ii) a breach of a condition of a person's lease, licence or permit; and
 - (b) seizure of the thing is consistent with the purpose of entry as explained to the occupier when asking for the occupier's consent.
- (3) If the authorised officer enters the place under a warrant, the authorised officer may seize the evidence for which the warrant was issued.
- (4) The authorised officer may also seize anything else at the place if the authorised officer reasonably believes—
- (a) the thing is evidence of—
 - (i) the commission of an offence against this Act; or
 - (ii) a breach of a condition of a person's lease, licence or permit; and
 - (b) the seizure is necessary to prevent the thing being hidden, lost or destroyed.
- (5) The authorised officer may also seize a thing at the place if the authorised officer reasonably believes it has just been used in—
- (a) committing an offence against this Act; or
 - (b) breaching a condition of a person's lease, licence or permit.

390ZI Seizure of property subject to security

- (1) An authorised officer may seize a thing, and exercise powers relating to the thing, despite a

lien or other security over the thing claimed by another person.

- (2) However, the seizure does not affect the other person's claim to the lien or other security against a person other than the authorised officer or a person acting under the direction or authority of the authorised officer.

Subdivision 2 Powers to support seizure

390ZJ Power to secure seized thing

- (1) Having seized a thing under this division, an authorised officer may—
 - (a) leave it at the place where it was seized (the *place of seizure*) and take reasonable action to restrict access to it; or
 - (b) move it from the place of seizure.
- (2) For subsection (1)(a), the authorised officer may, for example—
 - (a) seal the thing, or the entrance to the place of seizure, and mark the thing or place to show access to the thing or place is restricted; or
 - (b) for equipment—make it inoperable; or
Example—
make it inoperable by dismantling it or removing a component without which the equipment can not be used
 - (c) require a person the authorised officer reasonably believes is in control of the place or thing to do an act mentioned in paragraph (a) or (b) or anything else an authorised officer could do under subsection (1)(a).

390ZK Offence to contravene seizure requirement

A person must comply with a requirement made of the person under section 390ZJ(2)(c) unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

390ZL Offence to interfere

- (1) If access to a seized thing is restricted under section 390ZJ, a person must not tamper with the thing or with anything used to restrict access to the thing without—

- (a) an authorised officer's approval; or
- (b) a reasonable excuse.

Maximum penalty—100 penalty units.

- (2) If access to a place is restricted under section 390ZJ, a person must not enter the place in contravention of the restriction or tamper with anything used to restrict access to the place without—

- (a) an authorised officer's approval; or
- (b) a reasonable excuse.

Maximum penalty—100 penalty units.

Subdivision 3 Safeguards for seized things

390ZM Receipt and information notice for seized thing

- (1) This section applies if an authorised officer seizes anything under section 390ZG or 390ZH unless—

- (a) the authorised officer reasonably believes there is no-one apparently in possession of the thing or it has been abandoned; or
 - (b) because of the condition, nature and value of the thing it would be unreasonable to require the authorised officer to comply with this section.
- (2) The authorised officer must, as soon as practicable after seizing the thing, give an owner or person in control of the thing before it was seized—
 - (a) a receipt for the thing that generally describes the thing and its condition; and
 - (b) an information notice about the decision to seize it.
- (3) However, if an owner or person from whom the thing is seized is not present when it is seized, the receipt and information notice may be given by leaving them in a conspicuous position and in a reasonably secure way at the place at which the thing is seized.
- (4) The receipt and information notice may—
 - (a) be given in the same document; and
 - (b) relate to more than 1 seized thing.
- (5) The authorised officer may delay giving the receipt and information notice if the authorised officer reasonably suspects giving them may frustrate or otherwise hinder an investigation by the authorised officer under this chapter.
- (6) However, the delay may be only for so long as the authorised officer continues to have the reasonable suspicion and remains in the vicinity of the place at which the thing was seized to keep it under observation.

390ZN Access to seized thing

- (1) Until a seized thing is forfeited or returned, the authorised officer who seized the thing must allow an owner of the thing—
 - (a) to inspect it at any reasonable time and from time to time; and
 - (b) if it is a document—to copy it.
- (2) Subsection (1) does not apply if it is impracticable or would be unreasonable to allow the inspection or copying.
- (3) The inspection or copying must be allowed free of charge.

390ZO Return of seized thing

- (1) This section applies if a seized thing is not—
 - (a) forfeited or transferred under subdivision 4 or 5; or
 - (b) subject to a disposal order under division 4.
- (2) As soon as the chief executive stops being satisfied there are reasonable grounds for retaining the thing, the chief executive must return it to its owner.
- (3) If the thing is not returned to its owner within 3 months after it was seized, the owner may apply to the chief executive for its return.
- (4) Within 30 days after receiving the application, the chief executive must—
 - (a) if the chief executive is satisfied there are reasonable grounds for retaining the thing and decides to retain it—give the owner an information notice about the decision, including the grounds for retaining the thing; or

- (b) otherwise—return the thing to the owner.
- (5) For this section, there are reasonable grounds for retaining a seized thing if—
 - (a) the thing is being, or is likely to be, examined; or
 - (b) the thing is needed, or may be needed, for the purposes of—
 - (i) a proceeding for an offence against this Act that is likely to be started or that has been started but not completed; or
 - (ii) an appeal from a decision in a proceeding for an offence against this Act; or
 - (c) it is not lawful for the owner to possess the thing.
- (6) Subsection (5) does not limit the grounds that may be reasonable grounds for retaining the seized thing.
- (7) Nothing in this section affects a lien or other security over the seized thing.
- (8) In this section—

examine includes analyse, test, measure, weigh, grade, gauge and identify.

Subdivision 4 Forfeiture

390ZP Forfeiture by chief executive decision

- (1) The chief executive may decide a seized thing is forfeited to the State if an authorised officer—
 - (a) after making reasonable inquiries, can not find an owner; or

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- (b) after making reasonable efforts, can not return it to an owner; or
 - (c) for a thing seized for an offence—reasonably believes it is necessary to keep the thing to prevent it being used to commit the offence for which it was seized.
- (2) However, the authorised officer is not required to—
- (a) make inquiries if it would be unreasonable to make inquiries to find an owner; or
 - (b) make efforts if it would be unreasonable to make efforts to return the thing to an owner.
- Example for paragraph (b)—*
- The owner of the thing has migrated to another country.
- (3) Regard must be had to the thing's condition, nature and value in deciding—
- (a) whether it is reasonable to make inquiries or efforts; and
 - (b) if inquiries or efforts are made—what inquiries or efforts, including the period over which they are made, are reasonable.

390ZQ Information notice about forfeiture decision

- (1) If the chief executive decides under section 390ZP(1) to forfeit a thing, the chief executive must as soon as practicable give a person who owned the thing immediately before the forfeiture (the *former owner*) an information notice about the decision.
- (2) If the decision was made under section 390ZP(1)(a) or (b), the information notice may be given by leaving it at the place where the thing was seized, in a conspicuous position and in a reasonably secure way.

- (3) The information notice must state that the former owner may apply for a stay of the decision if the former owner appeals against the decision.
- (4) However, subsections (1) to (3) do not apply if—
 - (a) the decision was made under section 390ZP(1)(a) or (b); and
 - (b) the place where the thing was seized is—
 - (i) a public place; or
 - (ii) a place where the notice is unlikely to be read by the former owner.

Subdivision 5 Dealing with property forfeited or transferred to State

390ZR When thing becomes property of the State

A thing becomes the property of the State if—

- (a) the thing is forfeited to the State under section 390ZP(1); or
- (b) the owner of the thing and the State agree, in writing, to the transfer of the ownership of the thing to the State.

390ZS How property may be dealt with

- (1) This section applies if, under section 390ZR, a thing becomes the property of the State.
- (2) The chief executive may deal with the thing as the chief executive considers appropriate, including, for example, by destroying it or giving it away.
- (3) The chief executive must not deal with the thing in a way that could prejudice the outcome of an appeal against the forfeiture under this chapter.

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- (4) If the chief executive sells the thing, the chief executive must, after deducting the costs of the sale, make reasonable efforts to return the proceeds of the sale to the former owner of the thing.
- (5) For subsection (4), the *costs of the sale* include the amount of any costs reasonably incurred, after the thing was forfeited or transferred to the State, in storing or transporting the thing.
- (6) This section is subject to any disposal order made for the thing.

Division 4 Disposal orders

390ZT Disposal order

- (1) This section applies if a person is convicted of an offence against this Act.
- (2) The court may make an order (a *disposal order*), on its own initiative or on an application by the prosecution, for the disposal of any of the following things owned by the person—
 - (a) anything that was the subject of, or used to commit, the offence;
 - (b) another thing the court considers is likely to be used by the person or another person in committing a further offence against this Act.
- (3) The court may make a disposal order for a thing—
 - (a) whether or not it has been seized under this chapter; and
 - (b) if the thing has been seized—whether or not it has been returned to the former owner.
- (4) In deciding whether to make a disposal order for

a thing, the court—

- (a) may require notice to be given to anyone the court considers appropriate, including, for example, any person who may have any property in the thing; and
 - (b) must hear any submissions that any person claiming to have any property in the thing may wish to make.
- (5) The court may make any order it considers appropriate to enforce the disposal order.
- (6) This section does not limit the court's powers under another law.

Division 5 Other information-obtaining powers of authorised officers

390ZU Power to require name and address

- (1) This section applies if an authorised officer—
- (a) finds a person committing an offence against this Act; or
 - (b) finds a person in circumstances that lead the authorised officer to reasonably suspect the person has just committed an offence against this Act; or
 - (c) has information that leads the authorised officer to reasonably suspect a person has just committed an offence against this Act.
- (2) The authorised officer may require the person to state the person's name and residential address or, if the person does not have a residential address in the State, another address in the State where the

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person may be contacted.

- (3) The authorised officer may also require the person to give evidence of the correctness of the stated name or address if, in the circumstances, it would be reasonable to expect the person to—
 - (a) be in possession of evidence of the correctness of the stated name or address; or
 - (b) otherwise be able to give the evidence.
- (4) When making a personal details requirement, the authorised officer must give the person an offence warning for the requirement.
- (5) A requirement under this section is a *personal details requirement*.

390ZV Offence to contravene personal details requirement

- (1) A person of whom a personal details requirement has been made must comply with the requirement unless the person has a reasonable excuse.
Maximum penalty—50 penalty units.
- (2) A person may not be convicted of an offence against subsection (1) unless the person is found guilty of the offence in relation to which the personal details requirement was made.

390ZW Power to require production of document

- (1) An authorised officer may require a person to make available for inspection by an authorised officer, or to produce to the authorised officer for inspection, at a reasonable time and place nominated by the authorised officer—
 - (a) a document issued to the person under this Act; or

- (b) a document required to be kept by the person under this Act; or
 - (c) if a document or information required to be kept by the person under this Act is stored or recorded by means of a device—a document that is a clear written reproduction of the stored or recorded document or information.
- (2) A requirement under subsection (1) is a *document production requirement*.
 - (3) For an electronic document, compliance with the document production requirement requires the making available or production of a clear written reproduction of the electronic document.
 - (4) The authorised officer may keep the document to copy it.
 - (5) If the authorised officer copies the document, or an entry in the document, the authorised officer may require the person responsible for keeping the document to certify the copy as a true copy of the document or entry.
 - (6) A requirement under subsection (5) is a *document certification requirement*.
 - (7) The authorised officer must return the document to the person as soon as practicable after copying it.
 - (8) However, if a document certification requirement is made of a person, the authorised officer may keep the document until the person complies with the requirement.

390ZX Offence to contravene document production requirement

- (1) A person of whom a document production requirement has been made must comply with the requirement unless the person has a reasonable

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excuse.

Maximum penalty—100 penalty units.

- (2) It is not a reasonable excuse for a person to fail to comply with a document production requirement on the basis that complying with the requirement might tend to incriminate the person or expose the person to a penalty.

Note—

See, however, section 390ZZJ.

- (3) The authorised officer must inform the person, in a way that is reasonable in the circumstances, that—
- (a) the person must comply with the document production requirement even though complying might tend to incriminate the person or expose the person to a penalty; and
- (b) if the person is an individual—there is a limited immunity under section 390ZZJ against the future use of the information or document given in compliance with the requirement.
- (4) If the person fails to comply with the document production requirement when the authorised officer has failed to comply with subsection (3), the person may not be convicted of the offence against subsection (1).
- (5) If a court convicts a person of an offence against subsection (1), the court may, as well as imposing a penalty for the offence, order the person to comply with the document production requirement.

390ZY Offence to contravene document certification requirement

- (1) A person of whom a document certification requirement has been made must comply with the requirement unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

- (2) It is not a reasonable excuse for a person to fail to comply with a document certification requirement on the basis that complying with the requirement might tend to incriminate the person or expose the person to a penalty.

Note—

See, however, section 390ZZJ.

- (3) The authorised officer must inform the person, in a way that is reasonable in the circumstances, that—
- (a) the person must comply with the document certification requirement even though complying might tend to incriminate the person or expose the person to a penalty; and
 - (b) if the person is an individual—there is a limited immunity under section 390ZZJ against the future use of the information or document given in compliance with the requirement.
- (4) If the person fails to comply with the document certification requirement when the authorised officer has failed to comply with subsection (3), the person may not be convicted of the offence against subsection (1).

390ZZ Power to require information

- (1) This section applies if an authorised officer

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reasonably believes—

- (a) an offence against this Act has been committed or a condition of a lease, licence or permit has been breached; and
 - (b) a person may be able to give information about the offence or breach.
- (2) The authorised officer may, by notice given to the person, require the person to give the authorised officer information related to the offence or breach by a stated reasonable time.
 - (3) For information that is an electronic document, compliance with the requirement requires the giving of a clear image or written version of the electronic document.
 - (4) In this section—
information includes a document.

390ZZA Offence to contravene information requirement

- (1) A person of whom a requirement is made under section 390ZZ(2) must comply with the requirement unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

- (2) It is a reasonable excuse for an individual not to give the information if giving the information might tend to incriminate the individual or expose the individual to a penalty.

Part 5 Obtaining criminal history reports

390ZZB Purpose of part

The purpose of this part is to help an authorised officer to decide whether the authorised officer's unaccompanied entry of a place under part 3 would create an unacceptable level of risk to the authorised officer's safety.

390ZZC Chief executive's power to obtain criminal history report

- (1) The chief executive may ask the commissioner of the police service for a written report about the criminal history of a person if an authorised officer reasonably suspects the person—
 - (a) may be present at a place when the authorised officer enters the place under part 3; and
 - (b) may create an unacceptable level of risk to the authorised officer's safety.
- (2) The commissioner of the police service must give the report to the chief executive.
- (3) However, the report is required to contain only criminal history in the commissioner's possession or to which the commissioner has access.
- (4) The chief executive must examine the report and identify, to the extent it is reasonably practicable to do so, offences involving the use of a weapon or violence against a person.
- (5) The chief executive may give the authorised officer information in the report about the offences identified under subsection (4).

390ZZD Criminal history is confidential document

- (1) A person must not, directly or indirectly, disclose to anyone else a report about a person's criminal

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history, or information contained in the report, given under section 390ZZC.

Maximum penalty—100 penalty units.

- (2) However, the person does not contravene subsection (1) if—
 - (a) the disclosure of the report or information is for the purpose of the other person performing a function in relation to this Act; or
 - (b) the disclosure of the report or information is otherwise required or permitted by law.
- (3) The chief executive or an authorised officer to whom the report or written information in the report is provided must destroy the report or written information as soon as practicable after the authorised officer considers the risk mentioned in section 390ZZB.

Part 6 Miscellaneous provisions relating to authorised officers

Division 1 Damage

390ZZE Duty to avoid inconvenience and minimise damage

In exercising a power, an authorised officer must take all reasonable steps to cause as little inconvenience, and do as little damage, as possible.

Note—

See also section 390ZZG.

390ZZF Notice of damage

- (1) This section applies if—
 - (a) an authorised officer damages something when exercising, or purporting to exercise, a power; or
 - (b) a person (the *assistant*) acting under the direction or authority of an authorised officer damages something.
- (2) However, this section does not apply in relation to damage the authorised officer reasonably considers is trivial or if the authorised officer reasonably believes—
 - (a) there is no-one apparently in possession of the thing; or
 - (b) the thing has been abandoned.
- (3) The authorised officer must give notice of the damage to a person who appears to the authorised officer to be an owner, or person in control, of the thing.
- (4) However, if for any reason it is not practicable to comply with subsection (3), the authorised officer must—
 - (a) leave the notice at the place where the damage happened; and
 - (b) ensure it is left in a conspicuous position and in a reasonably secure way.
- (5) The authorised officer may delay complying with subsection (3) or (4) if the authorised officer reasonably suspects complying with the subsection may frustrate or otherwise hinder an investigation by the authorised officer.
- (6) However, the delay may be only for so long as the authorised officer continues to have the reasonable suspicion and remains in the vicinity

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of the place.

- (7) If the authorised officer believes the damage was caused by a latent defect in the thing or other circumstances beyond the control of the authorised officer or the assistant, the authorised officer may state the belief in the notice.
- (8) The notice must state—
 - (a) particulars of the damage; and
 - (b) that the person who suffered the damage may claim compensation under section 390ZZG.

Division 2 Compensation

390ZZG Compensation

- (1) A person may claim compensation from the State if the person incurs loss because of the exercise, or purported exercise, of a power by or for an authorised officer under this chapter, including a loss arising from compliance with a requirement made of the person under part 4, division 3 or 5.
- (2) The compensation may be claimed and ordered in a proceeding—
 - (a) brought in a court with jurisdiction for the recovery of the amount of compensation claimed; or
 - (b) for an alleged offence against this Act the investigation of which gave rise to the claim for compensation.
- (3) A court may order the payment of compensation only if it is satisfied it is just to make the order in the circumstances of the particular case.
- (4) In considering whether it is just to order

compensation, the court must have regard to—

- (a) any relevant offence committed by the claimant; and
 - (b) any relevant breach of a condition of any licence, lease or permit of the claimant; and
 - (c) whether the loss arose from a lawful seizure or lawful forfeiture.
- (5) A regulation may prescribe other matters that may, or must, be taken into account by the court when considering whether it is just to order compensation.
- (6) Section 390ZZE does not provide for a statutory right of compensation other than as provided by this section.
- (7) In this section—
loss includes costs and damage.

Division 3 Other offences relating to authorised officers

Note—

See also section 440 in relation to the obstruction of authorised officers and other persons.

390ZZH Giving authorised officer false or misleading information

- (1) A person must not, in relation to the administration of this Act, give an authorised officer information the person knows is false or misleading in a material particular.

Maximum penalty—100 penalty units.

- (2) Subsection (1) applies to information given in

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relation to the administration of this Act whether or not the information was given in response to a specific power under this Act.

- (3) Subsection (1) does not apply to a person if the person, when giving information in a document—
 - (a) tells the authorised officer, to the best of the person’s ability, how the document is false or misleading; and
 - (b) if the person has, or can reasonably obtain, the correct information—gives the correct information.

390ZZI Impersonating authorised officer

A person must not impersonate an authorised officer.

Maximum penalty—100 penalty units.

Division 4 Other provisions

390ZZJ Evidential immunity for individuals complying with particular requirements

- (1) Subsection (2) applies if an individual gives or produces information or a document to an authorised officer under section 390ZE or 390ZW.
- (2) Evidence of the information or document, and other evidence directly or indirectly derived from the information or document, is not admissible against the individual in any proceeding to the extent it tends to incriminate the individual, or expose the individual to a penalty, in the proceeding.
- (3) Subsection (2) does not apply to a proceeding about the false or misleading nature of the

information or anything in the document or in which the false or misleading nature of the information or document is relevant evidence.

204 Omission of ch 7, pt 1, divs 2–5

Chapter 7, part 1, divisions 2 to 5—

omit.

205 Insertion of new ch 7, pts 1A–1C

Chapter 7—

insert—

Part 1A Safety notices

Division 1 Show cause procedure for particular safety notices

403D Show cause notice

- (1) This section applies if the chief executive proposes to give a person a safety notice under section 403G(2)(c) in relation to a building or other structure or equipment.
- (2) The chief executive must first give the person a notice (a *show cause notice*) stating the following—
 - (a) that the chief executive proposes to give the person a safety notice requiring the person to demolish or remove a stated building or another structure or stated equipment;
 - (b) the grounds for giving the proposed safety notice;

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- (c) an outline of the facts and circumstances forming the basis for the grounds;
 - (d) that the person may, within a stated period (the *show cause period*), make written representations to the chief executive to show why the safety notice should not be given.
- (3) The show cause period must end at least 21 days after the person is given the show cause notice.

403E Representations about show cause notice

- (1) The person may, within the show cause period, make written representations to the chief executive about why the safety notice should not be given.
- (2) The chief executive must consider all representations (the *accepted representations*) made under subsection (1).

403F Ending show cause process without further action

- (1) If, after considering the accepted representations for the show cause notice, the chief executive no longer believes a ground exists to give the safety notice, the chief executive—
 - (a) must not take any further action about the show cause notice; and
 - (b) must give the person a notice that no further action is to be taken about the show cause notice.
- (2) Subsection (1) does not prevent the chief executive giving the person a safety notice under section 403G(2)(a) or (b) in relation to the same building, structure or equipment.

Division 2 Giving of safety notices and related matters

403G Chief executive may give safety notice

- (1) This section applies if the chief executive reasonably believes a building or other structure or equipment on non-freehold land—
 - (a) is dangerous; and
 - (b) poses a serious risk to the safety of the public.
- (2) The chief executive may give the occupier of the land on which the building, structure or equipment is situated a notice (a *safety notice*) requiring the person, within a stated reasonable period, to take any of the following actions (each a *safety action*)—
 - (a) to repair or rectify the building, structure or equipment to make it safe;
 - (b) to fence off the building, structure or equipment to protect the public;
 - (c) to demolish or remove the building, structure or equipment.
- (3) However, a person may be required to take a safety action mentioned in subsection (2)(c) only if—
 - (a) the chief executive reasonably believes it is not possible or practicable to take steps to comply with a safety action mentioned in subsection (2)(a) or (b); and
 - (b) the chief executive has complied with division 1.
- (4) The safety notice must be accompanied by or include an information notice about the decision

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to give the safety notice.

(5) In this section—

occupier, of land, means—

- (a) if the land is the subject of a lease registered under this Act—the lessee of the land; or
- (b) if the land is a reserve—the trustee of the reserve; or
- (c) if a person has occupation rights in relation to the land under a licence or permit—the licensee or permittee.

403H Person must comply with safety notice

A person to whom a safety notice is given must comply with the notice unless the person has a reasonable excuse.

Maximum penalty—400 penalty units.

Division 3 Noncompliance with safety notices

403I Safety notice requiring repair, rectification or fencing

(1) This section applies if—

- (a) a person is given a safety notice under section 403G(2)(a) or (b); and
- (b) the person fails to comply with the notice, whether or not the person has been convicted of an offence against section 403H for the noncompliance.

(2) The State may—

- (a) take the safety action required under the safety notice; and
- (b) recover from the person the reasonable costs of taking the safety action as a debt due to the State.

403J Safety notice requiring demolition or removal

- (1) This section applies if—
 - (a) a person is given a safety notice under section 403G(2)(c); and
 - (b) the person fails to comply with the notice, whether or not the person has been convicted of an offence against section 403H for the noncompliance.
- (2) The chief executive may give the person a notice (a *warning notice*) stating—
 - (a) the chief executive is satisfied the person has failed to take a stated safety action required under the safety notice; and
 - (b) if the person fails to take the safety action within 7 days after the person is given the warning notice (the *relevant period*), the State may—
 - (i) take the safety action; and
 - (ii) recover from the person the reasonable costs of taking the safety action, including any disposal costs, as a debt due to the State.
- (3) The warning notice must be accompanied by or include an information notice about the decision to give the warning notice.
- (4) If the person does not, within the relevant period, take the safety action required under the safety notice, the State may—

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- (a) take the safety action; and
 - (b) for the purpose of taking the safety action, remove anything in or on the building, structure or equipment to which the safety notice applies; and
 - (c) recover from the person the reasonable costs of taking the safety action as a debt due to the State.
- (5) When the safety action is started, the building, structure or equipment to which the safety notice applies is forfeited to the State.
- (6) If a thing becomes the property of the State under subsection (5), the chief executive may deal with the thing (the *forfeited thing*) as the chief executive considers appropriate, including, for example, by destroying it, giving it away or otherwise disposing of it.
- (7) For subsection (4)(c), the costs of taking the safety action include the following costs (each the *disposal costs*)—
- (a) any costs reasonably incurred in disposing of the forfeited thing or any part of it;
Examples of disposal costs—
 - transport costs, dump fees, storage costs, costs of sale
 - (b) any costs reasonably incurred in removing a thing in or on the forfeited thing for the purpose of taking the safety action.
- (8) If the chief executive sells the forfeited thing, or any part of it, the amount for which the thing or part is sold must be offset against the amount that may otherwise be recovered under subsection (4)(c).
- (9) If the amount for which the forfeited thing or part is sold is greater than the reasonable costs of

taking the safety action and any disposal costs, the chief executive must, after deducting the costs of taking the safety action and any disposal costs, make reasonable efforts to return the proceeds of the sale to the person.

Part 1B Regulatory and other notices on unallocated State land and particular trust land

403K Regulatory notices

- (1) The chief executive may, for the purpose of regulating or prohibiting a stated activity in an area of unallocated State land or relevant trust land, erect or display a notice (a *regulatory notice*) at or near the access points to the area of land to which the notice applies (the *restricted use area*).

Example of an access point to an area of unallocated State land—

a track or trail giving access to the area

- (2) A person must not contravene a requirement of the regulatory notice unless the person has a reasonable excuse.

Maximum penalty—400 penalty units.

- (3) The regulation or prohibition of the stated activity under the regulatory notice must be for 1 or more of the following purposes—
 - (a) to protect public health or safety;
 - (b) to prevent a nuisance in the restricted use area;

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Example of a nuisance—

excessive noise from trail bike riding

- (c) to protect infrastructure in the restricted use area;
 - (d) to protect the cultural or environmental value of the restricted use area;
 - (e) another purpose prescribed by regulation.
- (4) The regulatory notice must—
- (a) be easily visible to passers-by; and
 - (b) identify the restricted use area—
 - (i) by describing or depicting the limits of the area; or
 - (ii) by reference to an area or feature beyond a stated access point; and
 - (c) state the activity to which it applies and how the activity is regulated or prohibited.
- (5) The regulatory notice may state that a contravention of a requirement of the notice is an offence against this Act and the penalty for the offence.
- (6) Evidence that the regulatory notice was erected or displayed at or near an access point to the restricted use area is evidence that the notice was erected or displayed by the chief executive.
- (7) In this section—
- relevant trust land*** means—
- (a) trust land of which the State is the trustee; or
 - (b) trust land for which there is no trustee.

403L Regulatory information notices

- (1) This section applies if a regulatory notice for a restricted use area does not state that a

contravention of a requirement of the notice is an offence against this Act and the penalty for the offence.

- (2) The chief executive must erect or display at or near the access points to the restricted use area, and at other places the chief executive considers appropriate, a notice (a *regulatory information notice*) stating—
 - (a) that a contravention of a requirement of the regulatory notice is an offence against this Act; and
 - (b) the penalty for the offence.
- (3) The regulatory information notices must be placed so at least 1 of them is likely to be seen by anyone who sees a regulatory notice mentioned in subsection (1).
- (4) The regulatory information notice may contain any other information about the restricted use area the chief executive considers appropriate.

403M Person must not interfere with notices

A person must not move, destroy, damage, deface, alter or otherwise interfere with—

- (a) a regulatory notice; or
- (b) a regulatory information notice.

Maximum penalty—400 penalty units.

Part 1C Directions to leave unallocated State land and particular trust land

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403N Authorised officer may give direction

- (1) This section applies in relation to a person on unallocated State land or relevant trust land.
- (2) An authorised officer may direct the person to leave the land, or a stated part of the land, if the authorised officer reasonably believes—

- (a) it is unsafe for the person to remain on the land; or

Example of when it may be unsafe for a person to remain on the land—

A controlled burn is being carried out on the land.

- (b) the person is contravening a requirement of a regulatory notice that applies to the land and leaving the land is the only way the person can comply with the requirement.

Example—

A person is driving a vehicle in a part of unallocated State land where the driving of vehicles is prohibited under a regulatory notice. An authorised officer may direct the person to leave the part of the unallocated State land to which the regulatory notice applies.

- (3) The direction may be given orally or in writing.
- (4) If the direction is given orally, the authorised officer must, when giving the direction, tell the person—
 - (a) for a direction under subsection (2)(a)—
 - (i) why it is unsafe for the person to remain on the land; and
 - (ii) that it is an offence for the person not to comply with the direction unless the person has a reasonable excuse; or
 - (b) for a direction under subsection (2)(b)—

- (i) the requirement of the regulatory notice the authorised officer believes is being contravened; and
 - (ii) the way in which it is believed the requirement is being contravened; and
 - (iii) that it is an offence for the person not to comply with the direction unless the person has a reasonable excuse.
- (5) If the direction is given in writing, the direction must state the matters mentioned in subsection (4)(a) or (b).
- (6) The person must comply with the direction unless the person has a reasonable excuse.
Maximum penalty—400 penalty units.
- (7) In this section—
relevant trust land means—
- (a) trust land of which the State is the trustee; or
 - (b) trust land for which there is no trustee.

403O Authorised officer must make record of direction

- (1) This section applies if an authorised officer—
- (a) gives a direction under section 403N orally; or
 - (b) gives a direction under section 403N in writing, but does not have a copy of the direction.
- (2) The authorised officer must, as soon as reasonably practicable after the direction is given, make a written record of—
- (a) the name of the person to whom the direction was given; and

[s 206]

- (b) details of the direction; and
- (c) the day and time the direction was given.

206 Insertion of new s 405AA

After section 405—

insert—

405AA Definitions for division

In this division—

compliance period see section 406(4)(a).

relevant period see section 409(2).

207 Amendment of s 406 (Notice to person to leave land, remove structures etc.)

(1) Section 406(4)(a)—

omit, insert—

- (a) the period (the *compliance period*) within which the person must comply with the notice; and

(2) Section 406(5)—

omit, insert—

- (5) The trespass notice may be given by fixing the notice in a conspicuous position and in a reasonably secure way on the land, or on a thing on the land.
- (6) The compliance period must be at least the period prescribed by regulation after—
 - (a) if the trespass notice is given to the person in the way mentioned in subsection (5)—the person becomes aware of the existence of the notice; or
 - (b) otherwise—the notice is given to the person.

208 Replacement of s 408 (Improvements etc. forfeited)

Section 408—

omit, insert—

408 Forfeiture of improvements and other things on land

- (1) This section applies if a person to whom a trespass notice is given—
 - (a) does not comply with the notice; and
 - (b) does not start a proceeding under this division within the relevant period.
- (2) On the expiry of the relevant period, any improvements, goods or anything else belonging to the person that is on the land the subject of the trespass notice is forfeited to the State.
- (3) In this section—

goods includes stock.

209 Amendment of s 409 (Person may start proceeding in Magistrates Court)

Section 409(2)—

omit, insert—

- (2) The proceeding must be started by the person within the following period (the *relevant period*)—
 - (a) if the compliance period stated in the trespass notice is 7 days or less—7 days;
 - (b) otherwise—the compliance period stated in the trespass notice.

210 Amendment of s 410 (Chief executive may start proceeding)

Section 410(6)(a), ‘required time’—

[s 211]

omit, insert—

relevant period

211 Insertion of new ch 7, pt 2, div 5

Chapter 7, part 2—

insert—

Division 5 Dealing with property forfeited to the State

420AA How property may be dealt with

- (1) This section applies if a thing becomes the property of the State under—
 - (a) section 408; or
 - (b) a trespass order.
- (2) The chief executive may deal with the thing as the chief executive considers appropriate, including, for example, by destroying it, giving it away or otherwise disposing of it.
- (3) However, if the thing is forfeited to the State under a trespass order, the chief executive must not deal with the thing in a way that could prejudice the outcome of an appeal against the making of the trespass order.
- (4) The State may recover from the former owner any costs reasonably incurred in disposing of the thing (the *disposal costs*) as a debt due to the State.

Examples of disposal costs—

transport costs, dump fees, storage costs, costs of sale

- (5) If the chief executive sells the thing or any part of it, the amount for which the thing or part is sold must be offset against the amount that may otherwise be recovered under subsection (4).

- (6) If the amount for which the thing or part is sold is greater than the disposal costs, the chief executive must, after deducting the disposal costs, make reasonable efforts to return the proceeds of the sale to the former owner.
- (7) In this section—
former owner, in relation to a thing that has been forfeited, means the person who owned the thing immediately before the forfeiture.

212 Insertion of new ch 7, pt 3, div 1AA

Chapter 7, part 3, before division 1—

insert—

Division 1AA Preliminary

420J Definitions for part

In this part—

court, in relation to an original decision or a review decision relating to an original decision, means—

- (a) if the original decision is an investigation decision—a Magistrates Court; or
- (b) otherwise—the Land Court.

investigation decision means an original decision under any of the following provisions—

- (a) section 390ZG;
- (b) section 390ZH;
- (c) section 390ZO;
- (d) section 390ZP(1).

[s 213]

213 Insertion of new s 420K

Chapter 7, part 3, division 1, before section 421—

insert—

420K Right of appeal

- (1) A person who is given, or is entitled to be given, an information notice about an original decision may appeal against the decision.
- (2) Subsection (1) does not limit any other provision of this Act that gives a person a right to appeal against an original decision.

214 Amendment of s 421 (Notice of right of appeal to be given)

Section 421—

insert—

- (3) Subsections (1) and (2) do not apply in relation to an original decision for which a person is entitled to be given an information notice.

215 Replacement of s 440 (Obstruction of officers etc.)

Section 440—

omit, insert—

440 Obstructing particular officers

- (1) A person must not obstruct a relevant officer exercising a power under this Act, or a person helping a relevant officer exercising a power under this Act, unless the person has a reasonable excuse.

Maximum penalty—400 penalty units.

- (2) If a person has obstructed a relevant officer, or someone helping a relevant officer, and the relevant officer decides to proceed with the

exercise of the power, the relevant officer must warn the person that—

(a) it is an offence to cause an obstruction unless the person has a reasonable excuse; and

(b) the relevant officer considers the person's conduct an obstruction.

(3) In this section—

obstruct includes assault, hinder, resist, attempt to obstruct and threaten to obstruct.

relevant officer means—

(a) an authorised officer; or

(b) a public service employee employed in the department.

216 Amendment of s 441 (Protection from liability)

(1) Section 441(1), 'officer or employee of the department'—

omit, insert—

official

(2) Section 441(2), 'officer or employee'—

omit, insert—

official

(3) Section 441—

insert—

(3) This section does not apply to an official if the official is a State employee within the meaning of the *Public Service Act 2008*, section 26B(4).

Note—

For protection from civil liability in relation to State employees, see the *Public Service Act 2008*, section 26C.

[s 217]

(4) In this section—

official means—

- (a) an authorised officer; or
- (b) a person acting under the direction or authority of an authorised officer.

217 Amendment of s 448 (Regulation-making power)

(1) Section 448—

insert—

(2A) Without limiting subsection (2)(a), a regulation may require the following to be lodged or deposited using an Electronic Lodgment Network—

- (a) documents of a stated class;
- (b) documents lodged or deposited by a person of a stated class.

(2) Section 448(4), ‘Subsection (3)’—

omit, insert—

Subsection (4)

(3) Section 448—

insert—

(6) In this section—

Electronic Lodgment Network has the meaning given by the Electronic Conveyancing National Law (Queensland), section 13.

(4) Section 448(2A) to (6)—

renumber as section 448(3) to (7).

218 Insertion of new ch 9, pt 3

Chapter 9—

insert—

Part 3 Transitional provisions for Land, Explosives and Other Legislation Amendment Act 2019

525 Application of s 199B to existing leases and permits

Section 199B applies to a lease or permit, whether it was issued before or after the commencement.

526 Application of s 294E(3)

Section 294E(3) applies to a registered building management statement whether the statement was registered before or after the commencement.

527 Authorised persons

- (1) This section applies to a person who, immediately before the commencement, held an appointment as an authorised person under this Act.
- (2) The person holds office as an authorised officer under this Act on the same conditions until the person's office as an authorised officer ends under this Act.

528 Identity cards issued before commencement

- (1) This section applies to an identity card given under former section 397 to a person who, under section 527, holds office as an authorised officer under this Act.
- (2) From the commencement, the identity card is taken to be an identity card issued to the authorised officer under section 390I.

[s 219]

(3) In this section—

former section 397 means section 397 as in force from time to time before the commencement.

529 Compensation

(1) Despite its repeal, former section 402 continues to apply in relation to a loss or expense mentioned in former section 402(1).

(2) In this section—

former section 402 means section 402 as in force immediately before the commencement.

219 Amendment of sch 2 (Original decisions)

(1) Schedule 2, authorising provision, ‘section 423’—

omit, insert—

schedule 6, definition *original decision*,
paragraph (a)

(2) Schedule 2—

insert—

156A(1)	giving an improvements notice
180I(1)	giving an improvements notice
214H(2)	giving a compliance notice
244(1)	giving an improvements notice
390ZG	seizing a thing unless a circumstance mentioned in section 390ZM(1)(a) or (b) applies in relation to the thing
390ZH	seizing a thing unless a circumstance mentioned in section 390ZM(1)(a) or (b) applies in relation to the thing
390ZO	retaining a seized thing

-
- 390ZP(1) forfeiting a seized thing unless—
- (a) the decision to forfeit the thing was made under section 390ZP(1)(a) or (b); and
 - (b) the place where the thing was seized is a place mentioned in section 390ZQ(4)(b)(i) or (ii)
- 403G(2) giving a safety notice
- 403J(2) giving a warning notice

220 Amendment of sch 6 (Dictionary)

- (1) Schedule 6, definitions *authorised person, court, monitoring device, monitoring site* and *required time*—
omit.
- (2) Schedule 6—
insert—

accepted representations see section 403E(2).

authorised officer means a person who holds office under chapter 6A, part 2 as an authorised officer.

compliance notice see section 214H(2).

compliance order see section 214J(2)(a).

compliance period, for chapter 7, part 2, division 2, see section 406(4)(a).

court—

- (a) generally, other than in relation to an offence—means the Land Court; or
- (b) in relation to an offence—means a Magistrates Court; or
- (c) for chapter 6A—see section 390C; or
- (d) for chapter 7, part 3—see section 420J.

criminal history, of a person, means the person's

[s 220]

criminal history, as defined under the *Criminal Law (Rehabilitation of Offenders) Act 1986*, other than a spent conviction.

disposal order, for chapter 6A, see section 390ZT(2).

document certification requirement, for chapter 6A, see section 390ZW(6).

document production requirement, for chapter 6A, see section 390ZW(2).

electronic document, for chapter 6A, see section 390C.

former owner, for chapter 6A, see section 390ZQ(1).

general power, for chapter 6A, see section 390ZD(1) and (2).

help requirement, for chapter 6A, see section 390ZE(1).

identity card, for a provision about authorised officers, means an identity card issued under section 390I.

improvements notice—

- (a) for chapter 4, part 3, division 2, subdivision 1AA—see section 156A(1); or
- (b) for chapter 4, part 4—see section 180I(1); or
- (c) for chapter 5, part 4, division 4—see section 244(1).

improvements report—

- (a) for chapter 4, part 3, division 2, subdivision 1AA—see section 156(2); or
- (b) for chapter 4, part 4—see section 180C(1); or

- (c) for chapter 5, part 4, division 4—see section 242A(2).

information notice, about a decision, means a notice stating—

- (a) the decision and the reasons for it; and
- (b) the rights of review and appeal under this Act; and
- (c) the period in which any review or appeal under this Act must be started; and
- (d) how rights of review and appeal under this Act are to be exercised; and
- (e) that, if the person who is given the notice applies under this Act for review of the decision, the person may apply for a stay of the decision.

investigation decision, for chapter 7, part 3, see section 420J.

monitoring device see section 390ZD(2)(c).

monitoring site see section 390ZD(2)(a).

occupier, of a place, for chapter 6A, see section 390C.

of, a place, for chapter 6A, see section 390C.

offence warning, for a direction or requirement by an authorised officer, for chapter 6A, see section 390C.

personal details requirement, for chapter 6A, see section 390ZU(5).

person in control, for chapter 6A, see section 390C.

place, for chapter 6A, see section 390C.

premises, for chapter 6A, see section 390C.

public place, for chapter 6A, see section 390C.

[s 220]

reasonably believes means believes on grounds that are reasonable in the circumstances.

reasonably suspects means suspects on grounds that are reasonable in the circumstances.

regulatory information notice see section 403L(2).

regulatory notice see section 403K(1).

relevant period, for chapter 7, part 2, division 2, see section 409(2).

restricted use area see section 403K(1).

review decision see section 426(1).

safety action see section 403G(2).

safety notice see section 403G(2).

show cause notice see section 403D(2).

show cause period see section 403D(2)(d).

vehicle, for chapter 6A, see section 390C.

- (3) Schedule 6, definition *marker*, ‘section 400’—

omit, insert—

section 390ZD

- (4) Schedule 6, definition *owner*, paragraph (c)—

omit, insert—

(c) for chapter 6A, see section 390C; or

(d) for chapter 7, part 3B, see section 431O.

Part 7A **Amendment of Land and Other Legislation Amendment Act 2017**

220A Act amended

This part amends the *Land and Other Legislation Amendment Act 2017*.

220B Amendment of s 2 (Commencement)

Section 2—

insert—

(2) The *Acts Interpretation Act 1954*, section 15DA does not apply to the following provisions—

- (a) sections 25 to 30;
- (b) schedule 1, part 2, entry for the *Land Act 1994*, items 1 to 7 and 9 to 11.

Part 8 **Amendment of Land Regulation 2009**

221 Regulation amended

This part amends the *Land Regulation 2009*.

222 Amendment of s 48 (Required time for trespass notice— Act, s 406)

(1) Section 48, heading, ‘Required time’—

omit, insert—

Compliance period

(2) Section 48(1)—

[s 223]

omit, insert—

- (1) For section 406(6) of the Act, the compliance period is—
 - (a) for a trespass related act that is building, placing or maintaining an improvement, other than a relevant improvement, on the land—28 days; or
 - (b) for a trespass act related act, other than an act to which paragraph (a) applies or an act related to camping—7 days; or
 - (c) for a trespass related act related to camping—4 hours.

Part 9 Amendment of Land Title Act 1994

Division 1 Preliminary

223 Act amended

This part amends the *Land Title Act 1994*.

Note—

See also the amendments in schedule 1, part 1.

Division 2 Amendments commencing on assent

224 Insertion of new s 10A

After section 10—

insert—

10A Registration of, or dealing with, particular instruments or other documents

- (1) This section applies if an instrument or other document is lodged or deposited other than in compliance with a requirement under this Act.
- (2) The registrar may register, or otherwise deal with, the instrument or document if the registrar is satisfied it is reasonable not to require the compliance.

225 Insertion of new s 29A

After section 29—

insert—

29A Particulars the registrar may remove

The registrar may remove from the freehold land register anything recorded under section 28(2) or 29 if—

- (a) the registrar no longer considers the thing should be recorded to ensure the freehold land register is an accurate, comprehensive and useable record of freehold land in the State; and
- (b) the removal of the thing will not prejudice the rights of the holder of an interest recorded in the register.

226 Amendment of s 54D (Registration of building management statement)

Section 54D—

insert—

- (3) A registered building management statement binds the successors in title to the registered owner of each lot to which the statement applies.

[s 227]

227 Amendment of s 69 (Surrendering a lease)

- (1) Section 69(2), ‘mortgagee and sublessee’—
omit, insert—
registered mortgagee and registered sublessee
- (2) Section 69—
insert—
(2A) Also, if a registered lease (the *surrendered lease*) has been wholly or partly surrendered by operation of law, the registrar may register an instrument evidencing the surrender if satisfied every registered mortgagee and registered sublessee of the lessee under the surrendered lease has been given written notice of the surrender.
- (3) Section 69(2A) to (5)—
renumber as section 69(3) to (6).

228 Amendment of s 111 (Registering personal representative)

- (1) Section 111(1), ‘lodge an application’—
omit, insert—
apply to the registrar
- (2) Section 111(2)(a)—
omit, insert—
(a) the person has obtained—
(i) a grant of representation in Queensland; or
(ii) the resealing in Queensland of a grant of representation; or

229 Amendment of s 114 (Applying for Supreme Court order)

Section 114(1)(c)—

insert—

- (iii) a lot registered in the name of a person as personal representative.

Example of a person interested in a lot mentioned in subparagraph (iii)—

a person claiming to be entitled to be appointed as personal representative in the place of the person in whose name the lot is registered

230 Amendment of s 121 (Requirements of caveats)

- (1) Section 121(2)(c)(i), ‘owner’—

omit, insert—

proprietor

- (2) Section 121(2)(c)(ii)—

omit, insert—

- (ii) each other person whose interest or whose right to registration of an instrument is affected by the caveat; and

- (3) Section 121—

insert—

- (2A) Without limiting subsection (2)(b), the address stated may be the address of a stated legal practitioner.

231 Replacement of s 123 (Notifying caveat)

Section 123—

omit, insert—

123 Notifying caveat

The registrar must give written notice of the lodgement of a caveat to each person mentioned in section 121(2)(c)(i) and (ii).

[s 232]

232 Amendment of s 124 (Effect of lodging caveat)

(1) Section 124(2)—

insert—

- (da) if the caveator is a person who has the benefit of an order mentioned in section 122(1)(e)—an instrument for a dealing other than a dealing restrained by the order;

Example—

A caveat lodged by a person who has the benefit of an order mentioned in section 122(1)(e) restrains the registered owner of a lot from transferring or mortgaging the lot. The lodgement of the caveat does not prevent registration of an instrument of lease for the lot.

(2) Section 124(2)(da) and (e)—

renumber as section 124(2)(e) and (f).

233 Amendment of s 126 (Lapsing of caveat)

(1) Section 126(2) and (3)—

omit, insert—

(2) The caveatee of a caveat to which this section applies—

- (a) may serve on the caveator a notice requiring the caveator to start a proceeding in a court of competent jurisdiction to establish the interest claimed under the caveat; and

Note—

See section 131 in relation to the service of notices on the caveator.

- (b) if the caveatee serves a notice under paragraph (a)—must, within 14 days after the notice is served, deposit an instrument notifying the registrar of the service of the notice.

- (2) Section 126(4)(a)(i) and (ii)—

omit, insert—

- (i) if the caveatee has served a notice under subsection (2)(a) on the caveator and has complied with subsection (2)(b)—within 14 days after the notice is served on the caveator; or
- (ii) otherwise—within 3 months after the lodgement of the caveat; and

- (3) Section 126(4)(b), ‘in the way the registrar requires’—

omit, insert—

by depositing an instrument

234 Amendment of s 128 (Cancelling a caveat)

- (1) Section 128(1)—

insert—

- (d) if the caveator is a person who has the benefit of an order mentioned in section 122(1)(e)—the proceeding in which the order was made has been discontinued or dismissed, or has otherwise ended.

- (2) Section 128(3), ‘remove’—

omit, insert—

cancel

- (3) Section 128—

insert—

- (4) Also, the registrar may cancel a caveat lodged by a person who has the benefit of an order mentioned in section 122(1)(e) if—

- (a) an instrument for a dealing other than a dealing restrained by the order is registered; and

[s 235]

- (b) because of the registration of the instrument, the order can have no further effect to restrain dealings by the person subject to the order.

235 Amendment of s 156 (Requisitions)

Section 156—

insert—

- (6) Also, subsections (7) and (8) apply in relation to an instrument or other document that is lodged if the registrar is satisfied—
 - (a) the instrument or document is not capable of registration; and
 - (b) the reason the instrument or document is not capable of registration is not a matter for which a requisition may be given under subsection (1).
- (7) The registrar may give written notice (also the ***requisition***) to the person who lodged the instrument or document, or to another person who reasonably appears to the registrar to be relevantly associated with the instrument or document, stating—
 - (a) that the instrument or document is not capable of registration; and
 - (b) why the instrument or document is not capable of registration.
- (8) The requisition may, if it relates to an electronic conveyancing document, be accompanied by a copy of the document.

236 Amendment of s 157 (Rejecting instrument or document for failure to comply with requisition)

(1) Section 157, heading, ‘for failure to comply with requisition’—

omit, insert—

after requisition given

(2) Section 157(1)—

omit, insert—

(1) The registrar may reject an instrument or document to which a requisition relates and any instrument that depends on it for registration if—

(a) for a requisition given under section 156(1)—the requisition is not complied with by a person within the time stated or extended by the registrar; or

(b) the requisition is given under section 156(7).

(3) Section 157(6), ‘a rejected instrument’—

omit, insert—

an instrument rejected under subsection (1)(a)

237 Amendment of s 197 (Service)

(1) Section 197—

insert—

(1A) Subsection (1) does not apply to a notice required or permitted to be served on a caveator under part 7, division 2.

Note—

See section 131 in relation to the service of notices on a caveator.

(2) Section 197(2), after ‘permitted’—

[s 238]

insert—

to

- (3) Section 197(3), ‘subsection (2)’—

omit, insert—

subsection (3)

- (4) Section 197(1A) to (4)—

renumber as section 197(2) to (5).

238 Amendment of s 199 (Regulation-making power)

- (1) Section 199(2)(a)—

omit, insert—

- (a) the requirements for lodging and depositing instruments and other documents;

- (2) Section 199—

insert—

(2A) Without limiting subsection (2)(a), a regulation may require the following to be lodged or deposited using an Electronic Lodgment Network—

- (a) instruments or other documents of a stated class;
- (b) instruments or other documents lodged or deposited by a person of a stated class.

- (3) Section 199—

insert—

- (4) In this section—

Electronic Lodgment Network has the meaning given by the Electronic Conveyancing National Law (Queensland), section 13.

- (4) Section 199(2A) to (4)—

renumber as section 199(3) to (5).

239 Insertion of new pt 12, div 7, sdiv 1

Part 12—

insert—

**Division 7 Transitional provisions for
Land, Explosives and
Other Legislation
Amendment Act 2019**

**Subdivision 1 Registered building
management statements**

213 Application of s 54D(3)

Section 54D(3) applies to a registered building management statement whether the statement was registered before or after the commencement.

**Division 3 Amendments commencing on 1
October 2019**

**240 Amendment of s 41C (Application of provisions of Act to
common property)**

Section 41C(3), first dot point—

omit.

241 Omission of pt 3, div 3 (Certificates of title)

Part 3, division 3—

omit.

[s 242]

242 Omission of s 75 (Equitable mortgage)

Section 75—

omit.

243 Omission of s 154 (Returning certificate of title for cancellation)

Section 154—

omit.

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

(1) Section 164(3) and (4)—

omit.

(2) Section 164(5)—

renumber as section 164(3).

245 Amendment of s 166 (Destroying instrument in certain circumstances)

(1) Section 166(5) to (7)—

omit.

(2) Section 166(8)—

renumber as section 166(5).

246 Amendment of s 189 (Matters for which there is no entitlement to compensation)

Section 189(2)—

insert—

certificate of title means a certificate of title issued under this Act before the commencement of the *Land, Explosives and Other Legislation*

Amendment Act 2019, part 9, division 3.

247 Insertion of new pt 12, div 7, sdiv 2

Part 12, division 7, as inserted by this Act—

insert—

Subdivision 2 Certificates of title

214 Definition for subdivision

In this subdivision—

certificate of title means a certificate of title issued under this Act before the commencement.

215 Certificates of title cease to be instruments

- (1) On the commencement, a certificate of title—
 - (a) ceases to be an instrument under this Act; and
 - (b) ceases to be evidence, conclusive or otherwise, of the indefeasible title for the lot for which it was issued.
- (2) To remove any doubt, it is declared that subsection (1) does not affect—
 - (a) the indefeasible title for the lot for which the certificate of title was issued; or
 - (b) any interest in the lot for which the certificate of title was issued.

216 Registration of particular instruments lodged before commencement without certificate of title

- (1) This section applies to an instrument lodged before the commencement if—

[s 248]

- (a) the instrument could not be registered for a lot because the certificate of title for the lot had not been returned for cancellation as required under former section 154; and
 - (b) immediately before the commencement, the instrument had not been rejected under section 157(1).
- (2) The instrument may be registered despite the noncompliance with former section 154.
- (3) In this section—
- former section 154* means section 154 as in force from time to time before the commencement.

217 Provisions of other Acts relating to certificates of title

To the extent a provision of another Act requires or permits a person to take an action in relation to a certificate of title, the provision is taken, from the commencement, not to apply.

Examples of an action in relation to a certificate of title—

deposit, give, inspect, produce, or dispense with production of a certificate of title

248 Amendment of sch 2 (Dictionary)

- (1) Schedule 2, definition *certificate of title*—
omit.
- (2) Schedule 2, definition *instrument*, paragraph (a), ‘or certificate of title’—
omit.

Part 10 Amendment of Mineral and Energy Resources (Common Provisions) Act 2014

249 Act amended

This part amends the *Mineral and Energy Resources (Common Provisions) Act 2014*.

250 Amendment of s 103 (Definitions for ch 4)

Section 103, definition *relevant matter*—

omit, insert—

relevant matter, in relation to a joint development plan, means—

- (a) for a joint development plan under part 2, division 3—a matter mentioned in section 130(3); or
- (b) for a joint development plan under part 3—a matter mentioned in section 142(3).

251 Amendment of s 165 (What is *PL connecting infrastructure*)

Section 165(1), ‘in an overlapping area the subject of the PL’—

omit.

252 Insertion of new ch 7, pt 5

Chapter 7—

insert—

Part 5 Provisions about application of section 232

243A Application generally

Section 232 does not, and never did, affect the operation of the Mineral Resources Act, section 826.

243B Application to coal resource authority granted over replacement PL

- (1) This section applies if a coal resource authority, whenever granted, overlaps a PL that—
 - (a) was granted after the relevant commencement; and
 - (b) is a replacement tenure under the P&G Act, section 908(2).
- (2) Section 232 applies to the coal resource authority and PL as if the PL were granted before the relevant commencement.
- (3) This section applies to a PL mentioned in subsection (1) even if it was granted before the commencement of this section.
- (4) In this section—

coal resource authority see section 103.

overlaps see section 231.

PL means a petroleum lease (csg) within the meaning of section 103.

relevant commencement means the commencement of part 4.

Part 11 **Amendment of Mineral Resources Act 1989**

253 Act amended

This part amends the *Mineral Resources Act 1989*.

254 Insertion of new ch 15, pt 10A

Chapter 15—

insert—

Part 10A Other provision for Mineral and Energy Resources (Common Provisions) Act 2014

837A Application of Common Provisions Act, s 138 to particular coal mining leases

- (1) This section applies if—
 - (a) the area of a coal mining lease granted after the relevant commencement overlaps the area of a petroleum lease granted before the relevant commencement; and
 - (b) the new overlap provisions do not apply to the circumstance of the overlap under the Common Provisions Act, section 232(2).
- (2) For applying the Common Provisions Act, section 138 to the coal mining lease, each of the following applies—
 - (a) the written notice of the offer given under section 138(2) need not comply with the requirements under section 138(2)(a) to (c);

[s 255]

- (b) section 138(3) is taken to provide only that the petroleum lease holder may accept the offer within 12 months after receiving the written notice, or a later period agreed to by the coal mining lease holder;
 - (c) the reference in section 138(7) to ‘gas offered to a petroleum resource authority holder under subsection (2)(a)’ is taken to be a reference to ‘undiluted incidental coal seam gas offered to a petroleum resource authority holder under subsection (2)’.
- (3) This section applies to a coal mining lease mentioned in subsection (1) even if it was granted before the commencement of this section.
- (4) In this section—
- new overlap provisions* means the Common Provisions Act, chapter 4.
- relevant commencement* means the commencement of section 826.

Part 12 **Amendment of Petroleum and Gas (Production and Safety) Act 2004**

Division 1 **Preliminary**

255 Act amended

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

Note—

See also the amendments in schedule 1, parts 1 and 3.

Division 2 Amendments commencing on assent

256 Amendment of s 343 (Exclusion)

Section 343, from ‘for land’—

omit, insert—

for—

- (a) land in the area of a coal or oil shale mining lease; or
- (b) land that is the subject of an application for a coal or oil shale mining lease when the call for tenders is made.

257 Amendment of s 670 (What is an *operating plant*)

(1) Section 670(2)(k)—

omit, insert—

- (k) a facility used to drill, complete, maintain, repair, convert or decommission an authorised water bore.

(2) Section 670(8)—

insert—

- (c) a facility mentioned in subsection (2)(k) for an authorised water bore after either of the following happens—
 - (i) a transfer of the bore takes effect under section 288 or the 1923 Act, section 75Q;
 - (ii) the bore is decommissioned and the relevant time for the bore under section 294(2) or the 1923 Act, section 75W(2) passes.

[s 258]

(3) Section 670(10)—

insert—

authorised water bore means a water injection bore, water observation bore or water supply bore that a relevant holder or a person for the relevant holder—

- (a) drills or converts under this Act or the 1923 Act; or
- (b) decommissions under this Act or the 1923 Act.

relevant holder means the holder of a petroleum tenure, water monitoring authority, 1923 Act petroleum tenure or water monitoring authority under the 1923 Act.

258 Amendment of s 677 (Operator responsible for compliance with safety management system)

Section 677, ‘ensure’—

omit, insert—

take all reasonable steps to ensure

259 Amendment of s 693 (Site safety manager’s obligations)

Section 693, ‘ensure’—

omit, insert—

take all reasonable steps to ensure

260 Omission of ch 9, pt 4, div 2 (Operating plant owners)

Chapter 9, part 4, division 2—

omit.

261 Replacement of s 699 (General obligation to keep risk to acceptable level)

Section 699—

omit, insert—

699 General obligation to keep risk to acceptable level

- (1) This section applies to a person on whom—
- (a) an obligation is imposed under this Act for an operating plant; or
 - (b) an obligation is imposed under the safety management system for an operating plant.
- (2) To the extent of the person's obligation mentioned in subsection (1), the person must take all reasonable steps to ensure no person or property is exposed to a level of risk in relation to the operating plant that is more than an acceptable level.

Maximum penalty—100 penalty units.

262 Amendment of s 702 (Requirement to comply with safety management system)

Section 702, after 'must'—

insert—

take all reasonable steps to

263 Amendment of s 725 (What is *gas work*)

Section 725, from 'the gas'—

omit, insert—

a gas system.

[s 264]

264 Insertion of new ch 10, pt 3

Chapter 10—

insert—

Part 3 Remediation of abandoned operating plant

799B Definitions for part

In this part—

abandoned operating plant see section 799C.

authorised person means a person authorised by the chief executive under section 799D.

former tenure or authority, for an abandoned operating plant, means a relevant tenure or authority—

- (a) under which an authorised activity was previously carried out in relation to the abandoned operating plant; and
- (b) that is no longer in force.

primary land, for an abandoned operating plant, means—

- (a) land on which the abandoned operating plant is located; or
- (b) land within the boundary of a former tenure or authority for the abandoned operating plant.

relevant tenure or authority means any of the following tenures or authorities—

- (a) a 1923 Act petroleum tenure;
- (b) a coal or oil shale mining tenement;
- (c) a geothermal tenure;

- (d) a GHG tenure;
- (e) a mineral hydrocarbon mining lease;
- (f) a petroleum authority.

remediation activities see section 799D.

799C Meaning of *abandoned operating plant*

- (1) An *abandoned operating plant* is—
 - (a) a facility, pipeline or system—
 - (i) that is or was an operating plant mentioned in section 670(2); and
 - (ii) for which a relevant tenure or authority required under an Act is not in force; and
 - (iii) for which no environmental authority is in force; or
 - (b) a place, or part of a place—
 - (i) that is or was an operating plant mentioned in section 670(5); and
 - (ii) if an activity at the place, or part of the place, was carried out for a relevant tenure or authority—for which the relevant tenure or authority is not in force; and
 - (iii) for which no environmental authority is in force; or
 - (c) an authorised activity—
 - (i) that was an operating plant mentioned in section 670(6) and (7); and
 - (ii) for which no relevant tenure or authority is in force; and
 - (iii) for which no environmental authority is in force; or

[s 264]

- (d) any other thing prescribed by regulation that is or was an operating plant.
- (2) An ***abandoned operating plant*** does not include a site where a bore drilled under the Water Act or a legacy borehole is located.

799D Authorised person to carry out remediation activities

The chief executive may authorise a person to carry out 1 or more of the following activities (***remediation activities***) in relation to an abandoned operating plant—

- (a) investigate the condition of the abandoned operating plant or the primary land for the abandoned operating plant;
- (b) cap a wellhead;
- (c) drill a well or water bore on the primary land to monitor or remediate the abandoned operating plant or the primary land;
- (d) maintain the abandoned operating plant to make it safe;

Example for paragraph (d)—

monitor, inspect, carry out repairs

- (e) decommission the abandoned operating plant;

Example for paragraph (e)—

degassing a facility, removing part of a facility

- (f) remove, or make safe, structures or equipment on the primary land that are associated with the abandoned operating plant;
- (g) repair erosion, or prevent further erosion, of the primary land or vegetation on the primary land;

- (h) clean up pollution remaining on the primary land;
- (i) if the primary land is contaminated land under the Environmental Protection Act—conduct work to remediate the primary land;
- (j) any other activity prescribed by regulation that relates to ensuring the safety of the abandoned operating plant or the primary land.

799E Entering land to carry out remediation activities

- (1) This section applies to the following land—
 - (a) primary land for an abandoned operating plant;
 - (b) land (*adjacent land*) that is adjacent to primary land for an abandoned operating plant if an authorised person has no other reasonably practicable way of entering the primary land without entering the adjacent land.
- (2) An authorised person may, to carry out remediation activities, enter the land—
 - (a) if the carrying out of remediation activities is necessary to preserve life or property—at any time; or
 - (b) otherwise—at any time after the earlier of the following days—
 - (i) the day the owner of the land is given notice of the entry under section 799F;
 - (ii) the day the occupier of the land is given notice of the entry under section 799F.
- (3) However, this section does not permit an authorised person to enter a structure, or a part of

[s 264]

a structure, used for residential purposes without the consent of the occupier of the structure or part.

- (4) Despite subsection (2), the authorised person may enter adjacent land only for the purpose of entering primary land for an abandoned operating plant.

799F Notice of entry

- (1) An authorised person entering land under this part must give the owner and any occupier of the land notice of the entry—
- (a) if the carrying out of remediation activities is necessary to preserve life or property—within 10 business days after the entry is made; or
 - (b) otherwise—before entering the land.
- (2) The notice must state the following matters—
- (a) the day on which entry was, or is to be, made;
 - (b) the purpose of the entry and, if the land is primary land, the remediation activities carried out or proposed to be carried out;
 - (c) that the authorised person is permitted under this part to enter the land without consent or a warrant.

799G Obligation of authorised person in carrying out remediation activities

An authorised person who enters land under this part—

- (a) must not cause, or contribute to, unnecessary damage to any structure or works on the land; and

- (b) must take all reasonable steps to ensure the person causes as little inconvenience, and does as little other damage, as is practicable in the circumstances.

799H Abandoned operating plant is not operating plant

- (1) For the purposes of chapter 9 and the *Work Health and Safety Act 2011*, an abandoned operating plant is taken not to be an operating plant.
- (2) This section applies despite section 670.

265 Replacement of s 813 (False or misleading information)

Section 813—

omit, insert—

813 False or misleading documents or statements

- (1) A person must not make an entry in a document required to be made, adopted, held or kept under this Act knowing the entry is false or misleading in a material particular.

Maximum penalty—100 penalty units.

Notes—

- 1 This provision is an executive liability provision—see section 814.
- 2 If a corporation commits an offence against this provision, an executive officer of the corporation may be taken, under section 814A, to have also committed the offence.
- (2) A person must not state anything to an authorised officer that the person knows is false or misleading in a material particular.

Maximum penalty—100 penalty units.

[s 265]

Notes—

- 1 This provision is an executive liability provision—see section 814.
 - 2 If a corporation commits an offence against this provision, an executive officer of the corporation may be taken, under section 814A, to have also committed the offence.
- (3) A person must not, in relation to the administration of this Act, give to an authorised officer a document that the person knows to be false or misleading in a material particular.

Maximum penalty—100 penalty units.

Notes—

- 1 This provision is an executive liability provision—see section 814.
 - 2 If a corporation commits an offence against this provision, an executive officer of the corporation may be taken, under section 814A, to have also committed the offence.
- (4) Subsection (3) applies to a document given in relation to the administration of this Act whether or not the document was given in response to a specific power under this Act.
- (5) Subsection (3) does not apply to a person if the person, when giving the document—
- (a) tells the authorised officer, to the best of the person's ability, how the document is false or misleading; and
 - (b) if the person has, or can reasonably obtain, the correct information—gives the correct information.
- (6) This section does not apply to a person for an act or omission of the person if section 606 or 607 applies to the person for the act or omission.

266 Amendment of s 814 (Liability of executive officer—particular offences committed by corporation)

Section 814(5), definition *executive liability provision*—
insert—

- section 813(3)

267 Amendment of s 814A (Executive officer may be taken to have committed offence)

(1) Section 814A(5), definition *deemed executive liability provision*, paragraph (a), ‘698,’—

omit.

(2) Section 814A(5), definition *deemed executive liability provision*, paragraph (a), ‘or 813(2)’—

omit, insert—

813(2) or 813(3)

268 Replacement of s 836 (Safety management systems)

Section 836—

omit, insert—

836 Safety management systems

- (1) This section applies if it is relevant for a proceeding to establish what was the safety management system for an operating plant at a particular time.
- (2) For the proceeding, the safety management system the copy of which was accessible at the plant under section 676(1)(a) at that time is taken to be the safety management system for the plant at that time.

[s 269]

269 Amendment of s 837 (Offences under Act are summary)

(1) Section 837(1), from ‘must be’—

omit, insert—

are to be heard and decided summarily.

(2) Section 837(4)(a) and (b)—

omit, insert—

(a) 2 years after the offence first comes to the notice of the complainant;

(3) Section 837(4)(c)—

renumber as section 837(4)(b).

270 Replacement of s 840 (Conduct of representatives)

Section 840—

omit, insert—

840 Responsibility for acts or omissions of representative

(1) This section applies to a proceeding for an offence against this Act.

(2) If it is relevant to prove a person’s state of mind about a particular act or omission, it is enough to show—

(a) the act was done or omitted to be done 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) An act done or omitted to be done 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 done or omitted to be done also by the person, unless the person proves the person could not, by the exercise of reasonable

precautions and proper diligence, have prevented the act or omission.

(4) In this section—

representative means—

- (a) for an individual—an employee or agent of the individual; or
- (b) for a corporation—an executive officer, employee or agent of the corporation.

state of mind, of a person, includes—

- (a) the person's knowledge, intention, opinion, belief or purpose; and
- (b) the person's reasons for the intention, opinion, belief or purpose.

840A Costs of investigation

- (1) If a court convicts a person of an offence against this Act, the court may order the person to pay the department's reasonable costs of investigating the offence, including reasonable costs of preparing for the prosecution of the offence.
- (2) This section does not limit the orders for costs the court may make.

271 Amendment of s 851A (Public statements)

Section 851A—

insert—

- (4) No liability is incurred by the State for anything done in good faith for the purpose of issuing a public statement under this section.
- (5) No liability is incurred by a person for publishing, in good faith, information that has been included in a public statement under this section.

[s 272]

(6) In this section—

liability includes liability in defamation.

272 Amendment of s 856 (Protection from liability for particular persons)

Section 856(1)—

insert—

- (f) an authorised person carrying out remediation activities under chapter 10, part 3.

273 Insertion of new ch 15, pt 22

Chapter 15—

insert—

Part 22 Transitional provisions for Land, Explosives and Other Legislation Amendment Act 2019

996 Definition for part

In this part—

former, for a provision of this Act, means as in force before the commencement of the section in which the term is used.

997 Offence proceedings

- (1) This section applies if, for a proceeding for an offence against this Act, an act or omission to which the proceeding relates was done or omitted to be done before the commencement.
- (2) Former sections 837 and 840 apply to the

proceeding.

274 Amendment of sch 2 (Dictionary)

(1) Schedule 2, definitions *authorised person*, *distribution system*, *gas system* and *multi-tenanted premises*—

omit.

(2) Schedule 2—

insert—

abandoned operating plant, for chapter 10, part 3, see section 799C.

authorised person—

(a) for chapter 2, part 10, division 5, see section 294A; or

(b) for chapter 10, part 3, see section 799B.

distribution system means a system of distribution pipelines and meters and other equipment used in the supply of fuel gas to more than 1 consumer within a fuel gas market, but does not include—

(a) pipelines connected from the exit point of a meter installed for a consumer's premises; or

(b) appliances or equipment connected to pipelines mentioned in paragraph (a).

former tenure or authority, for an abandoned operating plant, for chapter 10, part 3, see section 799B.

gas system means a system that—

(a) consists of the following things in any combination—

(i) gas devices;

(ii) containers;

[s 275]

- (iii) fittings;
 - (iv) flues;
 - (v) pipes; and
- (b) is used with, or designed or intended to be used with, fuel gas.

Examples of gas systems—

- 1 an existing system of interconnected domestic gas devices installed in a dwelling house
- 2 a gas device, and associated pipe work, added to an existing system
- 3 a gas-fired industrial boiler installation
- 4 pipes and fittings installed without a gas device in a dwelling house

primary land, for an abandoned operating plant, for chapter 10, part 3, see section 799B.

relevant tenure or authority, for chapter 10, part 3, see section 799B.

remediation activities, for chapter 10, part 3, see section 799D.

Division 3 Amendments commencing by proclamation

275 Amendment of s 18 (Types of authority under Act)

- (1) Section 18(1)—

insert—

- (j) a ***gas device approval authority*** granted under chapter 9, part 6A, division 2.

- (2) Section 18(2), ‘or authorisation’—

omit, insert—

, gas work authorisation or gas device approval authority

276 Amendment of s 670 (What is an *operating plant*)

- (1) Section 670(2)(g)—
omit.
- (2) Section 670(2)(h) to (k)—
renumber as section 670(2)(g) to (j).
- (3) Section 670(5)(a), ‘an LPG delivery network’—
omit, insert—
a fuel gas delivery network
- (4) Section 670(5)(b) and (c)—
omit.
- (5) Section 670(5)(d) to (e)—
renumber as section 670(5)(b) to (d).
- (6) Section 670(8)(c), ‘subsection (2)(k)’—
omit, insert—
subsection (2)(j)

277 Amendment of s 673 (Who is the *operator* of an operating plant)

- (1) Section 673(3), from ‘has the role’—
omit, insert—
is responsible for managing and ensuring the safe operation of the plant.
- (2) Section 673(4) and examples—
omit.

278 Omission of s 673A (Operator must ensure chief inspector is given notice before a plant is commissioned or operated)

Section 673A—

[s 279]

omit.

279 Amendment of s 688 (Executive safety manager's general obligations)

(1) Section 688(a)—

omit, insert—

- (a) if the operator is a corporation—nominate an individual as a representative of the operator to give and receive information for the operator under this Act; and

(2) Section 688—

insert—

(2) To remove any doubt, it is declared that—

- (a) a nomination of an operator's representative under subsection (1)(a) does not affect an obligation imposed on the operator under this Act; and
- (b) any information given to or by an operator's representative is taken to have been given to or by the operator.

280 Omission of ss 689–691

Sections 689 to 691—

omit.

281 Replacement of s 694 (Operator is default site safety manager)

Section 694—

omit, insert—

694 Default site safety manager

- (1) This section applies if no-one has been appointed

as the site safety manager for a site at an operating plant.

- (2) The site safety manager for the site is—
 - (a) if the operator is an individual—the operator; or
 - (b) if the operator is a corporation—the executive safety manager of the operating plant.

282 Insertion of new ch 9, pt 3, div 3

Chapter 9, part 3—

insert—

Division 3 Information notices

694A Executive safety manager and operator to give information notices

- (1) The executive safety manager of an operating plant must give the chief inspector a notice stating who is—
 - (a) the operator; and
 - (b) the executive safety manager; and
 - (c) if the operator is a corporation, the representative of the operator.

Maximum penalty—500 penalty units.

- (2) The operator of an operating plant must give the chief inspector a notice stating the information prescribed by regulation about the operating plant.

Maximum penalty—500 penalty units.

- (3) For subsection (2), a regulation may prescribe information that is necessary for ensuring and promoting the safety of the operating plant.

[s 283]

Examples of information for ensuring and promoting the safety of an operating plant—

- 1 a description of the operating plant including the operating plant's location and nature and extent of activities
 - 2 details of the commissioning or decommissioning of the operating plant
- (4) A notice under this section must be given—
- (a) in the approved form; and
 - (b) in the way prescribed by regulation; and
 - (c) no later than—
 - (i) for a notice under subsection (1)—10 business days after the commencement and, after that period, any time the operator, executive safety manager or representative (if any) of the operator changes; and
 - (ii) for a notice under subsection (2)—a day prescribed by regulation.

- (5) In this section—

representative, of an operator, means a individual nominated under section 688(1)(a).

283 Amendment of s 726 (Gas work for which licence is required)

Section 726—

insert—

- (5) This section does not apply to gas work carried out by a person under a safety management system for an operating plant in circumstances prescribed by regulation.

**284 Amendment, relocation and renumbering of s 730
(Register of gas work licences and authorisations)**

- (1) Section 730, heading, from ‘of gas’—
omit.
- (2) Section 730, ‘and authorisations’—
omit, insert—

, gas work authorisations and gas device approval
authorities
- (3) Section 730—
relocate to chapter 9, part 7 and *renumber* as section 734AB.

**285 Amendment, relocation and renumbering of s 731
(Access to register)**

- (1) Section 731(1)(a), ‘of gas work licences and authorisations’—
omit, insert—

under section 734AB
- (2) Section 731(2)(a)—
omit, insert—
 - (a) an individual who is a holder of a gas work licence, gas work authorisation or gas device approval authority; or
- (3) Section 731—
relocate to chapter 9, part 7 and *renumber* as section 734AC.

286 Insertion of new ch 9, pt 6A

Chapter 9—

insert—

Part 6A

**Approval of gas
devices**

Division 1 Approval requirement

731AA Approval of gas devices for supply, installation and use

- (1) A person must not supply a gas device (type A), or install or use any type of gas device, unless—
 - (a) the supply, installation or use has been approved by—
 - (i) the chief inspector; or
 - (ii) a person who holds a gas device approval authority for the gas device; and
 - (b) the gas device complies with any labelling requirements prescribed by regulation for the device.

Maximum penalty—200 penalty units.

Note—

This provision is an executive liability provision—see section 814.

- (2) Also, a person must not supply a gas device unless the person gives the person to whom the device is supplied a written notice in the approved form stating that the installation and use of the device must be approved under subsection (1)(a).

Maximum penalty—200 penalty units.

Note—

If a corporation commits an offence against this provision, an executive officer of the corporation may be taken, under section 814A, to have also committed the offence.

Division 2 Gas device approval authorities

731AB Who may apply

A person may apply to the chief inspector for a gas device approval authority for a gas device.

731AC Requirements for application

The application must be in the approved form and comply with any requirement prescribed by regulation.

731AD Deciding application

- (1) The chief inspector must decide whether to grant or refuse the application.
- (2) However, the chief inspector must refuse the application if the chief inspector considers the applicant—
 - (a) does not have the qualifications or experience for approving a gas device prescribed by regulation; or
 - (b) is not a suitable person to hold the authority.
- (3) In deciding whether the applicant is a suitable person to hold the authority, the chief inspector may have regard to the following matters—
 - (a) any noncompliance action taken against the applicant;
 - (b) whether the applicant has been convicted of an indictable offence or an offence against this Act;
 - (c) any other matter prescribed by regulation.
- (4) The chief inspector may impose a condition on the authority when making a decision.
- (5) If the chief inspector makes any of the following decisions, the chief inspector must give the applicant an information notice about the

decision—

- (a) a decision to refuse the application;
- (b) a decision to impose a condition on the authority, other than a condition agreed to or requested by the applicant.

731AE Term of gas device approval authority

- (1) A gas device approval authority takes effect—
 - (a) on a day stated in it; or
 - (b) if no day of effect is stated, on the day it is granted.
- (2) The authority may be issued for a stated term and remains in force until the end of the term unless it is cancelled, suspended or surrendered under this Act.
- (3) If no term is stated, the authority continues in force unless it is cancelled, suspended or surrendered under this Act.

731AF Conditions for gas device approval authority

A regulation may prescribe—

- (a) a condition of a gas device approval authority that applies in addition to a condition imposed under section 731AD; and
- (b) a requirement the chief inspector must comply with to vary or revoke a condition imposed under section 731AD.

731AG Offence not to comply with conditions

The holder of a gas device approval authority must comply with the conditions of the authority.

Maximum penalty—250 penalty units.

Note—

If a corporation commits an offence against this provision, an executive officer of the corporation may be taken, under section 814A, to have also committed the offence.

287 Omission of s 733 (Approval of gas devices and gas fittings for supply, installation and use)

Section 733—

omit.

288 Amendment of s 734A (Safety obligations of gas system installer)

Section 734A, ‘LPG delivery network’—

omit, insert—

fuel gas delivery network

289 Insertion of new s 734AA

Chapter 9, part 7—

insert—

734AA Safe use of gas devices

- (1) A person who uses a gas device must take reasonable steps to ensure the gas device is used safely.

Maximum penalty—100 penalty units.

- (2) A person does not contravene subsection (1) if the person uses a gas device in accordance with—
- (a) if the gas device is a gas device (type A)—the manufacturer’s instructions for the safe use of the gas device; or
 - (b) if the gas device is a gas device (type B)—

[s 290]

- (i) an approval for use of the gas device under section 731AA(1)(a); and
- (ii) the manufacturer's instructions for the safe use of the gas device.

290 Amendment of s 789 (Operation of div 4)

Section 789(2)(b), 'or authorisation'—

omit, insert—

, gas work authorisation or gas device approval authority

291 Amendment of s 790 (Types of noncompliance action that may be taken)

(1) Section 790(1)—

insert—

(da) if the authority is a gas device approval authority—suspending it for a period by a notice under subdivision 4;

(2) Section 790(1)(da) to (f)—

renumber as section 790(1)(e) to (g).

(3) Section 790(2), 'subsection (1)(f)'—

omit, insert—

subsection (1)(g)

292 Amendment of s 814 (Liability of executive officer—particular offences committed by corporation)

(1) Section 814(5), definition *executive liability provision*, entry for section 733(1)—

omit.

(2) Section 814(5), definition *executive liability provision*—

insert—

- section 731AA(1)

293 Amendment of s 814A (Executive officer may be taken to have committed offence)

Section 814A(5), definition *deemed executive liability provision*, paragraph (a), ‘733(2),’—

omit, insert—

731AA(2), 731AG,

294 Insertion of new ss 998–1000

Chapter 15, part 22—

insert—

998 Existing approvals

- (1) This section applies if—
 - (a) before the commencement, a person or body approved a gas device or gas fitting under former section 733(1)(a)(ii); and
 - (b) immediately before the commencement, the approval had not been cancelled or suspended.
- (2) The approval is taken to have been given by the holder of a gas device approval authority.

999 Persons or bodies approved by the chief inspector

- (1) This section applies if—
 - (a) before the commencement, the chief inspector approved a person or body under former section 733(1)(a) for a particular type of gas device; and

[s 295]

- (b) immediately before the commencement, the approval had not been cancelled or suspended.
- (2) The approval is taken to be a gas device approval authority until 1 year after the commencement.

1000 Fuel gas delivery networks

- (1) This section applies if—
 - (a) immediately before the commencement—
 - (i) a supply of fuel gas to or in a container owned or provided by a person was not an LPG delivery network under this Act as in force before the commencement; and
 - (ii) the place in which the supply was carried out was not an operating plant; and
 - (b) on the commencement, the supply of fuel gas by the person is a fuel gas delivery network.
- (2) Section 670(5) does not apply to the supply of fuel gas by the person until 3 months after the commencement.

295 Amendment of sch 1 (Reviews and appeals)

- (1) Schedule 1, table 1—
insert—

731AD

Refusal of application for gas device approval authority

731AD

Decision to impose condition on a gas device approval authority, other than a condition agreed to or requested by the applicant

- (2) Schedule 1, table 1, entry for section 798, ‘or authorisation’—
omit, insert—

, gas work authorisation or gas device approval authority

- (3) Schedule 1, table 2, second entry for section 798, ‘or authorisation’—

omit, insert—

, gas work authorisation or gas device approval authority

296 Amendment of sch 2 (Dictionary)

- (1) Schedule 2, definitions *bulk fuel gas storage facility* and *LPG delivery network*—

omit.

- (2) Schedule 2—

insert—

fuel gas delivery network—

- (a) means the supply of fuel gas to or in a container owned or provided (other than by being sold) by a person (a ***product supplier***) to a consumer or another person in the business of distributing fuel gas; and
- (b) includes an activity that is part of or incidental to the supply mentioned in paragraph (a) that is carried out by the product supplier or the product supplier’s agent.

Land Act 1994

Column 1 Infringement notice offence	Column 2 Infringement notice fine (penalty units)	
	Individual	Corporation
s 214J(1)	20	100
s 390ZB(1)	3	15
s 390ZF(1)	10	–
s 390ZK	5	–
s 390ZL(1)	10	50
s 390ZL(2)	10	50
s 403K(2)	2	10
s 403M	4	20
s 403N(6) for a direction given under s 403N(2)(a)	10	50
for a direction given under s 403N(2)(b)	3	15
s 404(1) for a trespass related act mentioned in s 404(1)(a)	10	50
for a trespass related act mentioned in s 404(1)(b)	5	25
for a trespass related act mentioned in s 404(1)(c)	3	15
for a trespass related act mentioned in s 404(1)(d)	10	50
for a trespass related act mentioned in s 404(1)(e)	10	50

[s 299]

	Column 1 Infringement notice offence	Column 2 Infringement notice fine (penalty units)	
		Individual	Corporation
s 407		10	50

Authorised person for service of infringement notices—an authorised officer appointed under the *Land Act 1994*, section 390E

Part 14 Amendment of Torres Strait Islander Land Act 1991

299 Act amended

This part amends the *Torres Strait Islander Land Act 1991*.

Note—

See also the amendments in schedule 1, part 1.

300 Amendment of s 28B (Definitions for pt 2A)

Section 28B, definition *interest holder*, paragraph (d), ‘registered lease’—

omit, insert—

registered sublease

301 Amendment of s 28R (Dwelling on available land)

(1) Section 28R(5)—

omit, insert—

(5) If the dwelling notice states the housing chief executive consents to the applicant making the application, the trustee must decide the price of the dwelling—

- (a) by agreement with the housing chief executive; or
 - (b) by using a methodology agreed between the trustee and the housing chief executive.
- (2) Section 28R(6), ‘valuation’—
omit.

302 Amendment of s 28T (Offer to allocate available land)

Section 28T(3), ‘value’—

omit, insert—

price

303 Amendment of s 36 (Appointment of grantee to hold land for benefit of Torres Strait Islanders)

Section 36(3)—

omit, insert—

- (3) However, the Minister may appoint a CATSI corporation that is a registered native title body corporate as the grantee of the land under subsection (2) only if—
- (a) under the Commonwealth Native Title Act, a determination has been made that native title exists in relation to all or a part of the land and the CATSI corporation is the registered native title body corporate for the determination; or
 - (b) a determination has not been made under the Commonwealth Native Title Act that native title exists in relation to all or a part of the land, but the Minister is satisfied it is appropriate in all the circumstances to appoint the CATSI corporation as the grantee of the land.

[s 304]

Examples of when it is appropriate to appoint the CATSI corporation as the grantee of the land—

- 1 The appointment of the CATSI corporation is supported by consultation with Torres Strait Islanders particularly concerned with the land.
- 2 The land is within the external boundaries of an area of land the subject of a native title determination and the CATSI corporation is the registered native title body corporate for the determination.
- 3 An ILUA has been entered into for the land and the CATSI corporation is nominated in the ILUA as the proposed grantee for the land under this Act.
- 4 Anthropological research supports the CATSI corporation as being the appropriate grantee.

304 Amendment of s 60 (Transfer to entity to hold for benefit of Torres Strait Islanders)

Section 60(3)(a) and (b)—

omit, insert—

- (a) under the Commonwealth Native Title Act, a determination has been made that native title exists in relation to all or a part of the land and the CATSI corporation is the registered native title body corporate for the determination; or
- (b) a determination has not been made under the Commonwealth Native Title Act that native title exists in relation to all or a part of the land, but the Minister is satisfied it is appropriate in all the circumstances for the land to be transferred to the CATSI corporation.

Examples of when it is appropriate for the land to be transferred to the CATSI corporation—

- 1 The transfer to the CATSI corporation is supported by consultation with Torres Strait Islanders particularly concerned with the land.
- 2 The land is within the external boundaries of an area of land the subject of a native title determination and the CATSI corporation is the registered native title body corporate for the determination.
- 3 An ILUA has been entered into for the land and the CATSI corporation is nominated in the ILUA as the proposed transferee for the land under this Act.
- 4 Anthropological research supports the CATSI corporation as being the appropriate transferee.

305 Amendment of s 71 (Transfer of Torres Strait Islander land)

(1) Section 71(2)—

omit.

(2) Section 71(3)—

renumber as section 71(2).

306 Amendment of s 72 (Application for approval to transfer)

Section 72(2)(c), ‘the matters mentioned in section 73(1)(c)’—

omit, insert—

each matter mentioned in section 73(1)(c) or (d)
that applies to the transfer

307 Amendment of s 73 (Minister’s approval to transfer)

(1) Section 73(1)—

[s 307]

insert—

- (ca) if the transferee is a CATSI corporation that is a registered native title body corporate—
- (i) under the Commonwealth Native Title Act, a determination has been made that native title exists in relation to all or a part of the land and the CATSI corporation is the registered native title body corporate for the determination; or
 - (ii) a determination has not been made under the Commonwealth Native Title Act that native title exists in relation to all or a part of the land, but it is appropriate in all the circumstances for the land to be transferred to the CATSI corporation; and

Examples of when it is appropriate for the land to be transferred to the CATSI corporation—

- 1 The transfer to the CATSI corporation is supported by consultation with Torres Strait Islanders particularly concerned with the land.
- 2 The land is within the external boundaries of an area of land the subject of a native title determination and the CATSI corporation is the registered native title body corporate for the determination.
- 3 An ILUA has been entered into for the land and the CATSI corporation is nominated in the ILUA as the proposed transferee for the land under this Act.
- 4 Anthropological research supports the CATSI corporation as being the appropriate transferee.

(2) Section 73(1)(ca) and (d)—

renumber as section 73(1)(d) and (e).

(3) Section 73(3)(b), ‘section 71(3)(d)(i)’—

omit, insert—

section 71(2)(d)(i)

308 Amendment of s 76 (Transfer of Torres Strait Islander land)

(1) Section 76(2)—

omit.

(2) Section 76(3)—

renumber as section 76(2).

309 Amendment of s 78 (Minister’s approval to transfer)

(1) Section 78(1)—

insert—

(ba) if the transferee is a CATSI corporation that is a registered native title body corporate—

(i) under the Commonwealth Native Title Act, a determination has been made that native title exists in relation to all or a part of the land and the CATSI corporation is the registered native title body corporate for the determination; or

(ii) a determination has not been made under the Commonwealth Native Title Act that native title exists in relation to all or a part of the land, but it is appropriate in all the circumstances for the land to be transferred to the CATSI corporation; and

[s 310]

Examples of when it is appropriate for the land to be transferred to the CATSI corporation—

- 1 The transfer to the CATSI corporation is supported by consultation with Torres Strait Islanders particularly concerned with the land.
- 2 The land is within the external boundaries of an area of land the subject of a native title determination and the CATSI corporation is the registered native title body corporate for the determination.
- 3 An ILUA has been entered into for the land and the CATSI corporation is nominated in the ILUA as the proposed transferee for the land under this Act.
- 4 Anthropological research supports the CATSI corporation as being the appropriate transferee.

(2) Section 78(1)(ba) and (c)—

renumber as section 78(1)(c) and (d).

310 Amendment of s 93 (Additional conditions and requirements for social housing dwelling)

(1) Section 93(2)—

omit, insert—

- (2) Before the lease is granted, the lessor must decide the price of the dwelling—
 - (a) by agreement with the housing chief executive; or
 - (b) by using a methodology agreed between the lessor and the housing chief executive.

(2) Section 93(3), (4)(b) and (6), note, ‘value’—

omit, insert—

price

311 Amendment of s 192 (Dealing with particular trust property)

Section 192(1) and (3), ‘value’—

omit, insert—

price

312 Amendment of sch 1 (Dictionary)

(1) Schedule 1—

insert—

native title determination, in relation to land, means a determination under the Commonwealth Native Title Act that native title exists in relation to all or a part of the land.

(2) Schedule 1, definition *social housing*, paragraph (b), ‘the value of’—

omit.

Part 15 Other amendments

313 Legislation amended

Schedule 1 amends the legislation it mentions.

Schedule 1 Other amendments

section 311

Part 1 Amendments commencing on assent

Aboriginal Land Act 1991

1 Section 305(2), definition *renumbered Act*, ‘former section 306’—

omit, insert—

section 148, as inserted by the *Aboriginal Land and Torres Strait Islander Land and Other Legislation Amendment Act 2011*, section 90

2 Section 306(1), note, ‘on 7 December 2012’—

omit.

Land Act 1994

1 Section 29(1), ‘chapter 7, part 1, division 3’—

omit, insert—

chapter 6A, part 3

2 Section 29(1), note—

omit, insert—

Note—

Chapter 6A, part 3 deals with the power of an authorised officer to enter a place, including a place that is freehold land or non-freehold land.

3 Section 130A(5), ‘section 234(c)’—

omit, insert—

section 234(d)

4 Section 237A, ‘section 234(b), (c), (d) or (f)’—

omit, insert—

section 234(b), (c), (d), (e) or (f)

5 Sections 238(1) and 239(1)(b), ‘section 234(d)’—

omit, insert—

section 234(e)

6 Section 252(1) and (2)(b), ‘section 400’—

omit, insert—

section 390ZD

7 Particular references to authorised person

Each of the following provisions is amended by omitting ‘authorised person’ and inserting ‘authorised officer’—

- section 253
- section 431B(1) and (2)
- section 431C(c)

8 Schedule 1B, authorising provision, ‘section 448(3)’—

omit, insert—

section 448(4)

Land Title Act 1994

1 Section 4, heading, ‘—the dictionary’—

omit.

2 Section 54E(2), ‘owner’—

omit, insert—

owners

3 Section 67(2)(b), ‘a lease’—

omit, insert—

the lease

4 Section 133(4), definition *power of attorney*, ‘*Powers of Attorney Act 1988*’—

omit, insert—

Powers of Attorney Act 1998

Petroleum and Gas (Production and Safety) Act 2004

1 Section 392BN(4)(a), ‘a copy’—

omit, insert—

an overview

- 2 Section 392BN(4)(b), ‘copy’—**
omit, insert—
overview
- 3 Section 392BN(7)(a), ‘a copy’—**
omit, insert—
an overview of the safety management system
- 4 Section 586(1), note, ‘(Additional orders that may be made on conviction)’—**
omit.
- 5 Section 587(6), note, ‘(Additional orders that may be made on conviction)’—**
omit.
- 6 Section 674(1)(a), after ‘make’—**
insert—
or adopt
- 7 Section 674(2)(a), after ‘made’—**
insert—
or adopted
- 8 Section 675A(1), ‘made’—**
omit.
- 9 Section 687(5), definition *senior managing officer*, after ‘corporation’—**
insert—

or organisation

- 10 Section 687A(3), ‘the responsible’—**
omit, insert—
responsible
- 11 Section 697(3), ‘in the approved form’—**
omit.
- 15 Section 774(1), note, ‘(Additional orders that may be made on conviction)’—**
omit.
- 16 Section 791(1)(c), ‘petroleum’—**
omit.
- 17 Section 809(c), from ‘fitting’—**
omit, insert—
fitting.
- 18 Section 834(1)(a), after ‘given,’—**
insert—
held,
- 19 Section 834(1)(aa) and (b), after ‘kept’—**
insert—
or held

20 Section 841, heading, ‘Additional orders’—

omit, insert—

Orders about forfeiture

Torres Strait Islander Land Act 1991

1 Section 151, heading, after ‘Act’—

insert—

1989

2 Section 201, definition *previous*, editor’s note, ‘section 205’—

omit, insert—

section 142, as inserted by the *Aboriginal Land and Torres Strait Islander Land and Other Legislation Amendment Act 2011*, section 188

3 Section 204(2), definition *renumbered Act*, ‘section 205’—

omit, insert—

section 142, as inserted by the *Aboriginal Land and Torres Strait Islander Land and Other Legislation Amendment Act 2011*, section 188

Part 2 **Amendments commencing on 1 October 2019**

Acquisition of Land Act 1967

1 **Section 12(2B)—**
omit.

2 **Section 17(3)—**
omit.

Integrated Resort Development Act 1987

1 **Sections 106(5)(a) and 143(5)(a), ‘(other than certificates
of title for lots)’—**
omit.

Land Title Regulation 2015

1 **Schedule 2, item 2(i)—**
omit.

2 **Schedule 2, item 2(j) to (m)—**
renumber as schedule 2, item 2(i) to (l).

Queensland Building and Construction Commission Act 1991

1 Section 46, heading, ‘on certificate of title’—

omit, insert—

of permit in register

2 Section 46(3), ‘the file attached to’—

omit.

3 Section 46(4), ‘file’—

omit, insert—

register

Retirement Villages Regulation 2010

1 Section 2(m), ‘certificate of title’—

omit, insert—

real property description

Sanctuary Cove Resort Act 1985

1 Sections 27(4)(a) and 70(4)(a) and (4A)(a), ‘(other than certificates of title for lots)’—

omit.

- 2 Section 27(4A)(a), ‘(other than certificates of titles for lots)’—**
omit.

Water Act 2000

- 1 Section 173(1)(b), ‘divisions 2, 2A and 3’—**
omit, insert—
divisions 2 and 2A

- 2 Section 173(1)(g), ‘sections 154 and’—**
omit, insert—
section

Part 3 Amendments commencing by proclamation

Explosives Act 1999

- 1 Section 102(3)(b), note—**
omit.
- 2 Sections 102(5) and (7) and 103(5) and (7), ‘, boat’—**
omit.

3 Section 103(3)(b), note—

omit.

4 Section 107, heading, ‘s 56’—

omit, insert—

s 56A

5 Section 107(1), ‘section 56’—

omit, insert—

section 56A

6 Section 121, ‘74, 99 or 101’—

omit, insert—

74 or 99

Explosives Regulation 2017

1 Sections 41(2), 49(2)(b), 51(3), definition *prescribed vehicle*, 133(a) and (b), 134(1), 137(1), 138, 142(a)(i) and (b), 144(1) and (2), definition *relevant event* and 145(1) and (2), ‘or boat’—

omit.

2 Section 44(2), ‘proposed action’—

omit, insert—

proposal

3 Section 80(1)(a), after ‘factory’—

insert—

that involves an imminent risk of death or injury to a person

4 Section 130(1)(a), after ‘magazine’—

insert—

that involves an imminent risk of death or injury to a person

5 Section 141(1)(a), after ‘explosives’—

insert—

that involves an imminent risk of death or injury to a person

Petroleum and Gas (Production and Safety) Act 2004

1 Section 546(a)(iv), ‘690(1)(f) or’—

omit.

2 Chapter 9, part 2, division 2, note, ‘(Operator is default site safety manager)’—

omit.

3 Chapter 9, part 3, heading, ‘report’—

omit, insert—

information notice

4 Chapter 9, part 3, division 1, heading, ‘and safety report’—

omit.

- 5 Section 708A(2), ‘733’—**
omit, insert—
731AA
- 6 Chapter 9, part 6, division 3, subdivision 1, heading—**
omit.
- 7 Chapter 9, part 6, division 3, subdivision 2, heading—**
omit.
- 8 Section 834(1)(a)(v), ‘730’—**
omit, insert—
734AB

Statutory Instruments Regulation 2012

- 1 Schedule 1—**
insert—
- 4 a notice making a determination, other than an administrative determination, under the *Explosives Regulation 2017*, section 145B

Transport Operations (Road Use Management) Act 1995

- 1 Sections 31(2)(a), 32(2) and 39A(2), after ‘inspector’—**
insert—

or an authorised officer

2 Section 47(2), after ‘inspectors’—

insert—

or authorised officers

**Transport Operations (Road Use Management—
Dangerous Goods) Regulation 2008**

1 Section 24(3)(b), note, from ‘under the’—

omit, insert—

under the *Statutory Instruments Regulation 2012*,
section 2(3) and schedule 1.

2 Section 25(2)(b), note, from ‘under the’—

omit, insert—

under the *Statutory Instruments Regulation 2012*,
section 2(3) and schedule 1.

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