

# Revenue and Other Legislation Amendment Bill 2019

## Explanatory Notes

### Short title

The short title of the Bill is the Revenue and Other Legislation Amendment Bill 2019 (the Bill).

### Policy objectives and the reasons for them

The Bill amends the *Land Tax Act 2010* (Land Tax Act), *Payroll Tax Act 1971* (Payroll Tax Act), *Petroleum and Gas (Production and Safety) Act 2004* (Petroleum and Gas Act) and *Petroleum and Gas (Royalty) Regulation 2004* (Petroleum and Gas Regulation) to implement revenue measures announced in the 2019-20 Budget.

The Bill also amends the *Audit-General Act 2009* (AG Act) to allow the Treasurer and Queensland Treasury to access information obtained by the Auditor-General for the purpose of conducting an audit of a department and a public sector entity prescribed by regulation. The Treasurer and Queensland Treasury may use the information disclosed under the amendment only for the purposes of whole-of-government budgeting and monitoring.

The Land Tax Act is amended to increase the land tax rates for companies and trustees with aggregated landholdings above \$5 million by 0.25 percentage points and to increase the absentee surcharge from 1.5 per cent to 2 per cent, from the 2019-20 financial year onwards.

The Land Tax Act is also amended to ensure that, from the 2019-20 financial year onwards, Australian citizens and permanent residents who hold permanent visas are assessed as resident individuals and not absentees for land tax.

The Bill also amends the Land Tax Act to impose a 2 per cent surcharge on foreign companies and trustees of foreign trusts, from the 2019-20 financial year onwards.

The Payroll Tax Act is amended to increase the exemption threshold from \$1.1 million to \$1.3 million and to increase the payroll tax rate from 4.75 per cent to 4.95 per cent for employers with yearly Australian taxable wages above \$6.5 million, from 1 July 2019.

The Payroll Tax Act is also amended to provide a 1 per cent payroll tax rate discount to regional employers for four financial years ending on 30 June 2023.

The Bill also amends the Payroll Tax Act to extend the 50 per cent rebate for wages paid or payable to apprentices and trainees for a further two years ending on 30 June 2021.

The Petroleum and Gas Regulation is amended to increase the petroleum royalty rate to

12.5 per cent of the wellhead value of petroleum from 1 July 2019, with a transitional petroleum royalty rate of 11.25 per cent applying under the Petroleum and Gas Act for the annual return period ending 31 December 2019. Amendments to the Petroleum and Gas Act are also made to support the royalty rate increase and clarify the operation of provisions.

The Bill also amends taxation and royalty legislation administered by the Office of State Revenue (OSR) to protect Queensland's revenue and to support the administration of State taxes and royalties.

The *Duties Act 2001* (Duties Act) is amended to clarify when references to consideration include both monetary and non-monetary consideration.

The Duties Act is also amended to ensure that land-holdings held by a landholder, or a subsidiary of a landholder, for a partnership are included for calculating landholder duty.

Amendments to the *Mineral Resources Act 1989* (Mineral Resources Act), the *Mineral Resources Regulation 2013* (Mineral Resources Regulation), the Petroleum and Gas Act and the Petroleum and Gas Regulation (royalty legislation) will support royalty administration and provide certainty for royalty payers and OSR by introducing provisions which govern how royalty documents are given to and by the Minister under the royalty provisions (new royalty service provisions) and ensuring the validity of royalty documents given by the Minister before the commencement of the new royalty service provisions.

Amendments to the *Taxation Administration Act 2001* (Taxation Administration Act), the *Taxation Administration Regulation 2012* (Taxation Administration Regulation), and the royalty legislation will facilitate the expansion of OSR's new online portal (OSR Online) to administer State taxes and royalties by ensuring that documents can be validly given to and by clients by an electronic communication via OSR Online and clarifying the time that documents given that way are taken to be given.

The Taxation Administration Act is also amended to clarify that the terms and conditions of the Commissioner of State Revenue's (Commissioner's) employment are governed by the *Public Service Act 2008* (Public Service Act) and not the Taxation Administration Act.

## **Achievement of policy objectives**

### ***Auditor-General Act 2009***

The Auditor-General has powers to require the provision of information for the purposes of conducting an audit under the AG Act. The amendments to the AG Act will enable the Treasurer and Queensland Treasury to access information obtained by the auditor-general for the purpose of conducting an audit of a department and a public sector entity prescribed by regulation. Local governments and entities controlled by local governments are excluded from the definition of "public sector entity" under the amendments.

The Treasurer and Queensland Treasury may use the information only for the purposes of whole-of-government budgeting and monitoring.

## *Duties Act 2001*

### Clarifying when consideration includes both monetary and non-monetary consideration

The Duties Act imposes transfer duty on the dutiable value of dutiable transactions. The concept of consideration is generally taken into account when determining the dutiable value of a dutiable transaction. It is also relevant for assessing liability for transfer duty more generally, such as for determining eligibility for certain concessions and exemptions.

Under the Duties Act, consideration generally takes its ordinary meaning and includes both monetary and non-monetary consideration. However, it has been identified that certain references to consideration in the transfer duty provisions of the Duties Act may be unintentionally limited to monetary consideration only.

The Bill will amend the Duties Act to clarify when references to consideration for transfer duty purposes include both monetary and non-monetary consideration.

### Ensure partnership land-holdings are included for calculating landholder duty

The Duties Act imposes landholder duty on a relevant acquisition in a landholder. A landholder is an unlisted corporation (private landholder), or a listed corporation or listed unit trust (public landholder) that has land-holdings in Queensland with an unencumbered value of \$2 million or more. Land-holdings are broadly defined to include, for example, an interest in land, anything fixed to the land and certain rights relating to land held by the landholder (other than a security interest or a trust interest). A landholder's land-holdings also include the land-holdings of a subsidiary of the landholder.

Generally, a person makes a relevant acquisition if they acquire, whether alone or with related persons, a significant interest in a landholder or, having acquired a significant interest in a landholder, the person's interest increases. A person has a significant interest in a private landholder if they have an interest of 50 per cent or more. A person has a significant interest in a public landholder if they have an interest of 90 per cent or more.

A recent Victorian Court of Appeal decision found that partners in a partnership do not have a proprietary interest in specific property of a partnership (including land) as they are not entitled to a share in partnership property until after dissolution of the partnership and payment of its liabilities. In light of this decision it is considered necessary to make amendments to ensure that land-holdings held for a partnership are considered land-holdings for the purpose of calculating landholder duty.

Therefore, the Duties Act will be amended to provide that where a landholder, or a subsidiary of the landholder, holds land-holdings as a partner for a partnership, the unencumbered value of those land-holdings is included for calculating landholder duty, irrespective of the interest that the landholder or subsidiary has in the partnership.

## ***Land Tax Act 2010***

The Land Tax Act imposes land tax on the taxable value of taxable land owned as at midnight 30 June each year. However, certain land may be exempt from land tax, including land used for primary production, retirement village land or land used for charitable purposes.

Land tax is imposed at the rates set out under the Land Tax Act which differ depending on whether the owner is a resident individual, company, trustee or absentee. Under the Land Tax Act, an absentee is a person who does not ordinarily reside in Australia. Currently, in addition to paying land tax at the same general rates as companies and trustees, absentees pay a 1.5 per cent surcharge (absentee surcharge). The absentee surcharge was introduced in the 2017-18 financial year and applies to the portion of the taxable value of land owned by an absentee which is equal to or greater than \$350,000.

### Increase the land tax rates for companies and trustees

To give effect to a 2019-20 Budget measure, the Land Tax Act will be amended to increase the rates of land tax for companies and trustees with aggregated landholdings above \$5 million by 0.25 percentage points from the 2019-20 financial year onwards. Therefore, the increased rates will apply to land owned by companies and trustees as at midnight on 30 June 2019.

For companies and trustees with aggregated landholdings above \$5 million but less than \$10 million, the rate of land tax will increase from 2 per cent to 2.25 per cent. For companies and trustees with aggregated landholdings above \$10 million, the rate of land tax will increase from 2.5 per cent to 2.75 per cent. The land tax rate increase will not apply to any land that is exempt from land tax.

### Increase the absentee surcharge

The Land Tax Act will be amended to implement a 2019-20 Budget measure of increasing the absentee surcharge from 1.5 per cent to 2 per cent from the 2019-20 financial year onwards. Therefore, the increased absentee surcharge will apply to land owned by an absentee as at midnight on 30 June 2019. There will be no change to the general land tax rates that currently apply to absentees, including absentees with aggregated landholdings above \$5 million.

### Ensure that Australian citizens and certain permanent residents are not absentees

Under the Land Tax Act absentees are treated differently to resident individuals and are therefore subject to higher land tax rates and a lower tax-free threshold of \$350,000. The definition of an absentee is longstanding and may include an Australian citizen or permanent resident living overseas.

To give effect to a 2019-20 Budget measure, the Land Tax Act will be amended to ensure that, from the 2019-20 financial year onwards, Australian citizens and permanent Australian residents holding a permanent visa are not absentees. They will instead be assessed as resident individuals. Therefore, they will no longer be subject to the absentee surcharge and will benefit from the lower land tax rates and higher tax-free threshold of \$600,000 applying to resident individuals. This beneficial change will apply to land owned as at midnight on 30 June 2019 by an Australian citizen or a permanent Australian resident holding a permanent visa.

### Introduce a land tax foreign surcharge

Although resident and non-resident individuals are treated differently for land tax purposes, all companies and trustees are currently treated the same under the Land Tax Act and are therefore subject to the same land tax rates and tax-free threshold of \$350,000.

The Land Tax Act will be amended to implement a 2019-20 Budget measure of imposing a surcharge on foreign companies and trustees of foreign trusts from the 2019-20 financial year onwards (foreign surcharge).

The concepts of a 'foreign company' and 'foreign trust' will generally align with the concepts of 'foreign corporation' and 'foreign trust' in the Duties Act which apply for imposing additional foreign acquirer duty (AFAD). AFAD is imposed on transactions that are liable for transfer duty, landholder duty or corporate trustee duty where the acquirer is a foreign person and the transaction involves certain residential land in Queensland. For AFAD, a foreign corporation is a corporation incorporated outside Australia and a corporation in which foreign persons (or related persons of foreign persons) have a controlling interest of at least 50 per cent. A 'foreign trust' is a trust in which at least 50 per cent of its interests are trust interests of foreign individuals, foreign corporations, trustees of foreign trusts, or related persons of same.

The foreign surcharge will apply to land owned by foreign companies and trustees of foreign trusts as at midnight on 30 June 2019. Like the absentee surcharge, the foreign surcharge will apply to the taxable value of taxable land which is equal to or greater than \$350,000. The foreign surcharge will be imposed at a rate of 2 per cent which will align with the rate of the absentee surcharge from the 2019-20 financial year onwards.

In addition to the foreign surcharge, foreign companies and trustees of foreign trusts will continue to pay land tax at the same general rates as all other companies and trustees. Therefore, foreign companies and trustees of foreign trusts with aggregated landholdings above \$5 million will also be subject to the 0.25 percentage point land tax rate increase.

### ***Mineral Resources Act 1989, Mineral Resources Regulation 2013, Petroleum and Gas (Production and Safety Act) 2004 and Petroleum and Gas (Royalty) Regulation 2004***

#### Petroleum royalty rate increase

Petroleum royalty is imposed at the rate of 10 per cent of the wellhead value of petroleum disposed of, or in some cases produced, by a petroleum producer.

To give effect to a 2019-20 Budget measure, the Petroleum and Gas Regulation will be amended to increase the petroleum royalty rate to 12.5 per cent of the wellhead value of petroleum. The new rate will apply to all petroleum disposed of from 1 July 2019 where it is produced under a petroleum tenure or 1923 Act petroleum tenure, and to all other petroleum produced from that date. Accordingly, the new 12.5 per cent royalty rate will apply for quarterly and annual royalty returns for periods starting from 1 July 2019.

A transitional petroleum royalty rate of 11.25 per cent will apply for annual royalty returns lodged for the return period ending 31 December 2019 (2019 annual return), other than returns lodged under section 599(8) of the Petroleum and Gas Act. This transitional rate under the

Petroleum and Gas Act will apply to the wellhead value of all petroleum disposed of during the 2019 annual return period where produced under a petroleum tenure or 1923 Act petroleum tenure, and to all other petroleum produced during the annual period. The royalty rate prescribed under section 147C of the Petroleum and Gas Regulation at the relevant time will apply for quarterly royalty returns for relevant periods and for annual royalty returns other than the 2019 annual return.

Amendments are also being made to the Petroleum and Gas Act and the Petroleum and Gas Regulation to support the royalty rate increase and to clarify the operation of provisions.

### Service of documents

Since July 2011, OSR has been responsible for royalty administration under the Mineral Resources Act and the Petroleum and Gas Act. While this legislation contains provisions dealing with how documents are to be given by and to the Minister, they are not as comprehensive or contemporary as the service provisions in the Taxation Administration Act and the Taxation Administration Regulation, which provide the administrative framework for the revenue laws administered by OSR (namely, the *Betting Tax Act 2018* (Betting Tax Act), the Duties Act, the Land Tax Act and the Payroll Tax Act). They also do not specifically reflect royalty arrangements.

The royalty legislation will therefore be amended to adopt service provisions modelled on equivalent provisions in the Taxation Administration Act and the Taxation Administration Regulation as amended by this Bill.

The amendments will clarify how royalty documents must be given to and by the Minister and when service is taken to be effected, providing greater certainty for royalty payers and OSR. The amendments will also provide greater flexibility in the ways that royalty documents may be given to and by the Minister. For example, they will facilitate the electronic service of royalty documents, including by facilitating royalty payers lodging royalty returns using OSR's existing online system, OSRConnect, as well as OSR Online which will be expanded to royalty in the future.

The proposed amendments will also ensure that documents given by the Minister before commencement of the new royalty service provisions will be taken to have been validly given, providing certainty to royalty payers and OSR.

### ***Payroll Tax Act 1971***

Under the Payroll Tax Act, payroll tax is imposed at the rate of 4.75 per cent on taxable wages paid or payable in a financial year. Currently, payroll tax is chargeable when the total yearly Australian taxable wages of an employer, or those of a group of employers, exceed the exemption threshold of \$1.1 million. If an employer pays or is liable to pay taxable wages above the exemption threshold, the employer must register with OSR for payroll tax. Employers must also register for payroll tax if they are a member of a group. Under the Payroll Tax Act, employers are grouped if their businesses are related or connected including, for example, through the use of common employees.

Once total yearly Australian wages exceed the exemption threshold, the employer, or designated group employer for a group of employers, may claim a deduction from their Queensland taxable wages. Currently, the maximum deduction is \$1.1 million which phases out at a rate of \$1 for every \$4 of taxable wages above the threshold. Employers with payrolls of \$5.5 million or more currently receive no deduction.

Every employer who is registered or required to be registered for payroll tax must lodge with the Commissioner periodic returns of all taxable wages paid or payable during that period (usually a month). At the end of a financial year, employers who are registered or required to be registered must lodge an annual return for taxable wages paid or payable during the financial year. Employers are also required to lodge final returns if a change of status happens during a financial year. A number of events may trigger a change of status for an employer including, for example, where they cease to be an employer, become part of a group or cease to be part of a group.

#### Increase payroll tax exemption threshold

To give effect to a 2019-20 Budget measure, the Payroll Tax Act will be amended to increase the payroll tax exemption threshold from \$1.1 million to \$1.3 million from 1 July 2019 while retaining the current \$1 in \$4 rate of deduction. The amount at which the deduction reduces to zero will therefore increase from \$5.5 million to \$6.5 million.

#### Increase payroll tax rate for employers with Australian taxable wages above \$6.5 million

Under the Payroll Tax Act, a single rate of payroll tax is currently imposed so that all employers pay payroll tax at the same rate.

To implement a 2019-20 Budget measure, the Payroll Tax Act will be amended to increase the rate of payroll tax for employers, or groups of employers, that pay Australian taxable wages of more than \$6.5 million in a financial year from 4.75 per cent to 4.95 per cent (increased rate).

Liability for the increased rate will be separately tested for each periodic, annual and final return period. Therefore, whether an employer, or group of employers, pays yearly Australian taxable wages of more than \$6.5 million will be tested on a proportionate basis relative to the particular return period. For example, for a monthly periodic return, an employer who pays Australian taxable wages of more than \$541,666 during the month will be liable for the increased rate for that return.

If an employer has been paying payroll tax at the increased rate in periodic returns but does not pay Australian taxable wages of \$6.5 million annually, the employer will not be liable for the increased rate in the annual return and may be entitled to a refund. Similarly, an employer who has been paying payroll tax at the lower rate of 4.75 per cent in periodic returns but who pays Australian taxable wages of more than \$6.5 million annually, will be liable for payroll tax at the increased rate in the annual return. Practically, this will mean they lose the benefit of the lower rate in the periodic returns.

The increased payroll tax rate will apply from 1 July 2019. The current rate of 4.75 per cent will continue to apply to employers, or groups of employers, that pay Australian taxable wages of \$6.5 million or less in a financial year.

### Payroll tax regional employer rate discount

The Payroll Tax Act will also be amended to give effect to a 2019-20 Budget measure of providing a 1 per cent rate discount for regional employers for four financial years ending on 30 June 2023 (regional employer rate discount). For the purpose of the regional employer rate discount, an employer is a ‘regional employer’ if the employer’s Australian Business Number (ABN) registered business address (or if the employer has no ABN, their principal place of business) is located in regional Queensland and 85 per cent of the employer’s taxable wages are paid to regional employees. A ‘regional employee’ is an employee whose principal place of residence is located in regional Queensland. ‘Regional Queensland’ is defined by reference to specified areas of Queensland located outside of South-East Queensland.

Regional employers will be able to apply the discounted rate in periodic, annual and final returns. Therefore, eligibility will be separately tested for each of these return periods. If an employer does not qualify for the discounted rate in each periodic return period, they will not be precluded from qualifying for the discounted rate in the annual return or final return provided they meet the eligibility requirements annually or for the period to which the final return relates.

However, if an employer has been qualifying for the discounted rate in some periodic return periods but then fails to meet the eligibility requirements annually or for the period to which a final return relates, the discounted rate will not apply to the calculation of their annual or final liability. Practically, this will mean they lose the benefit of the discounted rate applied in the relevant periodic returns.

The regional employer rate discount will be calculated on the appropriate rate of payroll tax applying to the particular regional employer. Therefore, a regional employer that pays, or is part of a group that pays, Australian taxable wages of \$6.5 million or less in 2019-20, will pay payroll tax at the discounted rate of 3.75 per cent. A regional employer that pays, or is part of a group that pays, Australian taxable wages of more than \$6.5 million in 2019-20 will pay payroll tax at the discounted rate of 3.95 per cent.

### Extension of payroll tax rebate for apprentice and trainee wages.

The Payroll Tax Act provides a 25 per cent payroll tax rebate on the wages of apprentices and trainees paid during the 2009-10, 2010-11, 2011-12 and 2015-16 financial years. It also provides for a 50 per cent rebate on the wages of apprentices and trainees paid in the 2016-17, 2017-18 and 2018-19 financial years (50 per cent rebate).

To give effect to a 2019-20 Budget measure, the Payroll Tax Act will be amended to extend the 50 per cent rebate for a further two years ending on 30 June 2021.

## ***Taxation Administration Act 2001***

### Expansion of OSR Online

As part of the 2017-18 Budget, the Government committed funding of \$49.2 million over five years to implement OSR’s Transformation Program. As part of this Program, a new online portal known as OSR Online will be progressively introduced for land tax, payroll tax, betting



tax, royalty and duties, replacing OSRConnect. OSR Online, which will operate continuously (24/7), will extend existing electronic lodgement and payment functionalities currently available to OSRConnect clients and include information and administrative functionalities to allow clients to self-manage their taxation and royalty obligations. It will also allow documents, such as assessment notices, to be given to clients via the portal, a functionality not currently available in OSRConnect. Taxpayers' use of OSR Online will be voluntary.

The Taxation Administration Act and the Taxation Administration Regulation provides the administrative framework for the revenue laws administered by OSR, including provisions which govern how documents may be given to and by the Commissioner and which deem the time that documents given in particular ways are taken to be given. While the Taxation Administration Act and the Taxation Administration Regulation enable documents relating to land tax to be given by an electronic communication via an online portal, they do not currently allow documents relating to the Taxation Administration Act or the revenue laws generally to be given to clients by an electronic communication via an online portal. Additionally, existing timing rules largely deem documents given outside of business hours to be given on the following business day.

The Taxation Administration Act and the Taxation Administration Regulation will be amended to ensure that documents relating to the Taxation Administration Act and all revenue laws can be validly given to and by the Commissioner by an electronic communication via OSR Online and to clarify the time that documents given this way are taken to be given. The timing rules will support the 24/7 functionality of OSR Online.

The Commissioner will only be permitted to give documents by an electronic communication via OSR Online if a taxpayer, or a person acting on their behalf, gives consent. Persons who do not consent to being given documents via OSR Online will continue to receive their documents under the current methods. A document given by the Commissioner using OSR Online will be given on the date the Commissioner notifies the taxpayer that the document is available in OSR Online. However, if OSR Online is not available to be accessed at the time of notification (e.g. due to system outage or system maintenance) then the document is given on the date the document first becomes available using OSR Online after the notification is given.

To support the 24/7 functionality of OSR Online, documents given to the Commissioner by an electronic communication using OSR Online outside of business hours will not be deemed to be given on the following business day but will instead be taken to be given when the electronic communication actually enters OSR Online.

#### Clarifying Commissioner of State Revenue's appointment

The Taxation Administration Act provides for the appointment of the Commissioner. The Commissioner is responsible for the administration and enforcement of the State's revenue laws and the Taxation Administration Act. The terms and conditions of the Commissioner's employment are intended to be governed by the Public Service Act. However, this is not expressly stated in the Taxation Administration Act which potentially gives rise to uncertainty.

The Taxation Administration Act will be amended to clarify that the terms and conditions of the Commissioner's employment are to be set out under the Public Service Act.

## **Alternative ways of achieving policy objectives**

The policy objectives of the Bill can only be achieved by legislative amendment.

## **Estimated cost for government implementation**

All implementation costs are expected to be met from within existing budget allocations.

## **Consistency with fundamental legislative principles**

The Bill is generally consistent with fundamental legislative principles. Potential inconsistencies are discussed below.

### **Legislation should not adversely affect rights and liberties of individuals, or impose obligations retrospectively – *Legislative Standards Act 1992, s 4(3)(g)***

#### Increase in petroleum royalty rate

Although the effect of the transitional royalty rate for the 2019 annual return is to impose royalty at 11.25 per cent for petroleum disposed of during the first six months of the annual period, any disposals during the second six months of the period are also, in effect, liable at 11.25 per cent rather than the higher rate of 12.5 per cent which would otherwise apply. This reflects that liability for annual royalty returns is determined for the entire period having regard to the wellhead value of all petroleum disposed of (or, in some cases, produced) during that period, and not for any separate part of the annual period. On balance, the transitional royalty rate is not considered to breach fundamental legislative principles.

#### Service of royalty documents

The amendments relating to the service of royalty documents will ensure that royalty documents purported to have been given by the Minister before commencement of the new service provisions will be taken to have been validly given even if a requirement about giving them was not complied with. For example, the amendments will ensure that a royalty assessment notice given electronically to a person by the Minister before commencement will be taken to have been validly given. This reflects that royalty payers and OSR have acted in good faith based on the validity of service of documents in accordance with OSR's administrative practice. The amendment is not considered to detrimentally affect rights retrospectively and therefore does not breach fundamental legislative principles.

## **Consultation**

The Auditor-General and the Department of Premier and Cabinet have been consulted in relation to the amendments to the AG Act.

Community consultation was not undertaken in relation to the amendments as the amendments implement 2019-20 Budget measures or are technical amendments necessary to ensure legislation operates as intended or to support tax and royalty administration.

## **Consistency with legislation of other jurisdictions**

Victoria also applies a reduced rate of payroll tax to taxable wages of regional employers. However, this Bill is not uniform with or complementary to the Victorian legislation in this regard.

Victoria, New South Wales and the Australian Capital Territory all impose a land tax surcharge on foreign owners of land. However, this Bill is not uniform with or complementary to the legislation in those jurisdictions.

The amendments are specific to the State of Queensland and are not otherwise uniform with or complementary to legislation of the Commonwealth or another state or territory.

## Notes on provisions

### Part 1 Preliminary

*Clause 1* provides that the Bill, when enacted, may be cited as the *Revenue and Other Legislation Amendment Act 2019*.

*Clause 2* provides for the commencement of amendments made by the Bill. In particular, it provides that the amendments to the:

- *Land Tax Act 2010* commence on 30 June 2019. These amendments implement land tax revenue measures announced as part of the 2019-20 Budget.
- *Mineral Resources Act 1989*, *Mineral Resources Regulation 2013*, *Payroll Tax Act 1971*, *Petroleum and Gas (Production and Safety) Act 2004* and *Petroleum and Gas (Royalty) Regulation 2004* commence on 1 July 2019. These amendments implement revenue measures announced as part of the 2019-20 Budget relating to payroll tax and petroleum royalty. They also support proper royalty administration by introducing provisions which govern how royalty documents are given.

The remaining amendments commence on assent.

### Part 2 Amendment of the Auditor-General Act 2009

*Clause 3* provides that part 2 amends the *Auditor-General Act 2009*.

*Clause 4* amends section 53(3) of the *Auditor-General Act 2009* by adding an additional subsection (f).

*Clause 5* *Clause 5* inserts a new section 72A which permits the disclosure of particular information to the Treasurer and Queensland Treasury for particular purposes.

### Part 3 Amendment of the Duties Act 2001

*Clause 6* provides that part 3 amends the *Duties Act 2001*.

*Clause 7* inserts new section 11A into chapter 2, part 2 which provides basic concepts for transfer duty. New section 11A declares that a reference to consideration is not limited to monetary consideration. For example, for a dutiable transaction that is the acquisition of a new right that is a lease of land in Queensland, section 11(4) provides that the dutiable value includes any premiums, fines or other consideration payable for the grant of the lease. New section 11A clarifies that the dutiable value of the grant of the lease includes both monetary and non-monetary consideration payable for the grant of the lease.

*Clause 8* amends section 160 to insert new section 160(2). Section 160 provides that a person's interest in a landholder is the person's entitlement expressed as a percentage of the value of all of the landholder's property that would be distributed if the landholder were to be wound up (for a corporation) or terminated (for a listed unit trust). Where the landholder's property includes property held for a partnership of which the landholder is a partner, new section 160(2)

provides that, all of the property held for the partnership is taken for section 160(1), to be property that could be distributed, regardless of the landholder's interest in the partnership.

*Example –*

*A landholder has a 50 per cent interest in a partnership. The landholder holds all of the property for a partnership. No other partners hold any property for the partnership. For section 160(1) of the Duties Act 2001, 100 per cent of the value of the property held for the partnership is taken to be property that could be distributed.*

Clause 9 amends section 167 which defines an entity's land-holdings. Under sections 167(1) and (2) an entity's land-holdings include an entity's (or its subsidiary's) interest in land or anything fixed to land and rights held by an entity that relate to land. However, section 167(3) provides that an entity's land-holdings generally do not include land-holdings held on trust by an entity or a subsidiary of the entity.

Sections 167(2) and (3) are renumbered as sections 167(3) and (4) and new section 167(2) is inserted. If an entity holds land-holdings mentioned in section 167(1) for a partnership of which the entity is a partner, new section 167(2) provides that the entity's land-holdings include the land-holdings held for the partnership.

Where an entity's subsidiary holds land-holdings mentioned in section 167(1) for a partnership of which the subsidiary is a partner, renumbered section 167(3) is amended to ensure that the entity's land-holdings include the land-holdings held by the subsidiary for the partnership.

Renumbered section 167(4) is amended to ensure that, despite the amendments to section 167, an entity's land-holdings generally do not include land-holdings held on trust by an entity or a subsidiary of the entity.

Clause 10 amends section 168. Sections 168(1) and (2) provide that an entity's property means the entity's (or its subsidiary's) interest in any property other than a security interest or interest in a trust. Section 168(3) provides that an entity's property generally does not include property held by the entity or a subsidiary of the entity on trust.

Sections 168(2) and (3) are renumbered as sections 168(3) and (4) and new section 168(2) is inserted. If an entity holds property mentioned in subsection (1) for a partnership of which the entity is a partner, new section 168(2) provides that the entity's property includes the property held for the partnership.

Where an entity's subsidiary holds property mentioned in section 168(1) for a partnership of which the subsidiary is a partner, renumbered section 168(3) is amended to ensure that the entity's property includes the property held for the partnership.

Renumbered section 168(4) is amended to ensure that, despite the amendments to section 168, an entity's property generally does not include property held on trust by an entity or a subsidiary of the entity.

Clause 11 inserts new section 172 which provides that, if an entity holds land-holdings for a partnership of which the entity is a partner, the unencumbered value of those land-holdings

held for the partnership must be included in working out the value of the entity's land-holdings regardless of the entity's interest in the partnership.

*Example –*

*An entity has a 50 per cent interest in a partnership. The entity holds a parcel of land for the partnership with an unencumbered value of \$3 million. The amount of \$3 million must be included for working out the unencumbered value of the entity's land-holdings.*

Clause 12 amends section 182 which applies for working out the unencumbered value of a landholder's Queensland land-holdings to the extent the land-holdings comprise land-holdings of a subsidiary. Section 182(2) states that the unencumbered value of the landholder's Queensland land-holdings is the proportion of the unencumbered value of the land-holdings in Queensland of all the subsidiaries to which the landholder would be entitled if the subsidiaries were to be wound up (for corporations) or terminated (for listed unit trusts).

Sections 182(5) and (6) are renumbered as sections 182(6) and (7) and new section 182(5) is inserted. New section 182(5) provides that, if the Queensland land-holdings of a subsidiary of a landholder includes land-holdings held by the subsidiary for a partnership of which the subsidiary is a partner, section 182(2) applies to the unencumbered value of those land-holdings, regardless of the subsidiary's interest in the partnership.

*Example –*

*Corporation A (the landholder) holds 75 per cent of the shares in Corporation B (the subsidiary). The subsidiary has a 50 per cent interest in a partnership and holds a parcel of land for the partnership with an unencumbered value of \$4 million. The unencumbered value of the Queensland land-holdings of the landholder would be \$3 million, being the relevant proportion of the subsidiary's Queensland land-holdings.*

## **Part 4 Amendment to the Land Tax Act 2010**

Clause 13 provides that part 4 amends the *Land Tax Act 2010*.

Clause 14 inserts new division 4 into part 3 which provides some basic land tax concepts. New division 4 provides concepts about foreign companies and trustees of foreign trusts and contains a number of definitions which are relevant for the application of the foreign surcharge which is imposed under section 32 as amended by this Bill, when enacted.

New section 18B provides a definition of *foreign company*. A *foreign company* is a corporation incorporated outside Australia and a corporation in which foreign persons or related persons of foreign persons, have a controlling interest of at least 50 per cent. *Foreign person* is separately defined in new section 18D and *related person* is separately defined in new section 18E.

New section 18C provides a definition of *foreign trust*. A *foreign trust* is a trust in which at least 50 per cent of the trust interests in the trust are trust interests of individuals who are not Australian citizens or permanent residents, foreign companies, trustees of foreign trusts or related persons of same. *Trust interest* is separately defined in new section 18F. The terms

*Australian citizen* and a *permanent resident* are separately defined in the dictionary in schedule 4.

New section 18D defines a *foreign person* as an individual who is not an Australian citizen or permanent resident, a foreign company and a trustee of a foreign trust.

New section 18E provides a definition of *related person* for the purpose of new sections 18B and 18C. Among others, related persons include individuals who are members of the same family, corporations that are related bodies corporate within the meaning of section 50 of the *Corporations Act 2001* (Cwlth) and trustees where there is a person who is a beneficiary of both trusts. However, persons will generally not be related persons if the Commissioner is satisfied that the persons' interests as beneficiaries in a trust were acquired independently and are being used independently when liability for land tax arises and were not acquired for a common purpose and are not being used for a common purpose when liability for land tax arises.

New section 18F provides a definition of *trust interest* for the purpose of new section 18C. A trust interest is a person's interest as a beneficiary of a trust, other than a life interest. For a discretionary trust, only a taker in default of an appointment by the trustee can have a trust interest. For a superannuation fund, a member of the fund has a trust interest in the fund.

New section 18G provides that a beneficiary's trust interest is a percentage or relevant proportion of the property held on trust that the beneficiary would be entitled to. This is relevant to determining whether a trust is a foreign trust as defined in new section 18C.

*Clause 15* inserts new subsection (7) into section 22 which provides for the assessment of co-owned land. Where land is co-owned, section 22(1) provides that the co-owners are taken to own part of the land in proportion to their interest in the land and generally must be severally assessed for land tax. However, where there are at least five co-owners and the Commissioner is satisfied that the land is used for investment or commercial purposes, section 22(4) provides that the Commissioner may make one assessment as if the land were owned by one co-owner as trustee for the other co-owners.

New section 22(7) is inserted which provides that, if the Commissioner may make an assessment under section 22(4), the Commissioner may make an assessment as if the land were owned by a trustee of a foreign trust if one or more of the co-owners is an absentee, foreign company or trustee of a foreign trust and those co-owners together own at least a 50 per cent interest in the land.

*Clause 16* amends section 31 which provides the definition of an *absentee*. An absentee is a person who does not ordinarily reside in Australia. However, under section 31(3) certain persons are excluded from the definition of absentee, such as a public officer of the Commonwealth or of a State who is absent in the performance of the officer's duty. Section 31(3) is amended to also exclude from the definition of absentee Australian citizens and permanent Australian residents that hold a permanent visa. From the 2019-20 financial year onwards, they will instead be assessed as resident individuals. They will therefore benefit from the higher tax free-threshold and lower land tax rates applying to resident individuals and will not be subject to the absentee surcharge.

*Clause 17* amends section 32 to impose a 2 per cent surcharge on foreign companies and trustees of foreign trusts from the 2019-20 financial year onwards. Section 32 currently states that land tax is imposed on the total taxable value of land owned by a taxpayer at the rates provided for in schedules 1, 2 and 3. Currently, schedule 1 provides the rate for an individual other than an absentee or trustee while schedule 2 provides the rate for companies and trustees. Schedule 3 currently provides the general and surcharge rates for absentees.

Section 32(1)(b) is amended to provide that, for a company or trustee, other than a foreign company or trustee of a foreign trust, the rate of land tax is the general rate provided for under new schedule 2, part 1. For a foreign company or trustee of a foreign trust, the rate of land tax is the general rate provided for under new schedule 2, part 1 and the surcharge rate provided for under new schedule 2, part 2. New division 4 of part 3 contains definitions of *foreign company* and *foreign trust*.

*Clause 18* replaces schedule 2 which sets out the land tax rates for companies and trustees. Schedule 2 currently provides that a marginal tax rate of 2 per cent applies for all companies and trustees that own land with a total taxable value of more than \$5 million but less than \$10 million while a marginal tax rate of 2.5 per cent applies to all companies and trustees that own land with a taxable value of more than \$10 million.

Section 32(1)(b) as amended by this Bill, when enacted, will provide that all companies and trustees are required to pay land tax at the general rates in new schedule 2, part 1. It will also provide that foreign companies and trustees of foreign trusts are required to pay land tax at the surcharge rate in new schedule 2, part 2 in addition to paying land tax at the general rates in new schedule 2, part 1.

For companies and trustees that own land with a total taxable value of \$5 million or less, the general rates in new schedule 2, part 1 are identical to the rates in current schedule 2. However, under new schedule 2, part 1, the land tax rates for companies and trustees with aggregated landholdings above \$5 million are increased by 0.25 percentage points. From the 2019-20 financial year onwards, companies and trustees that own land with a total taxable value of \$5 million or more but less than \$10 million will pay land tax at the general rate of \$75,000 plus 2.25 cents for each \$1 more than \$5 million, while companies and trustees that own land with a taxable value of more than \$10 million will pay land tax at the general rate of \$187,500 plus 2.75 cents for each \$1 more than \$10 million. Companies and trustees that own land with a total taxable value of \$5 million will not be subject to an increased general rate of land tax.

New schedule 2, part 2 provides the surcharge rate that applies to foreign companies and trustees of foreign trusts from the 2019-20 financial year onwards. The surcharge rate is 2 per cent of the portion of the taxable value of taxable land owned by a foreign company or trustee of a foreign trust that is equal to or greater than \$350,000.

*Clause 19* amends schedule 3 which sets out the land tax rates for absentees. Part 2 of schedule 3 is amended to omit the current absentee surcharge rate of 1.5 per cent and replace it with the new increased absentee surcharge rate of 2 per cent. The increased rate applies from the 2019-20 financial year onwards.

*Clause 20* inserts a number of new definitions into the dictionary in schedule 4 which relate to concepts about foreign companies, trustees of foreign trusts and absentees.



## **Part 5 Amendment to the Mineral Resources Act 1989**

*Clause 21* provides that part 5 amends the *Mineral Resources Act 1989*.

*Clause 22* inserts new chapter 11, part 3, division 9 which applies to the giving of documents to and by the Minister under a royalty provision.

New section 333QC clarifies when the new division applies for the giving of documents.

New section 333QD specifies the ways in which a document is taken to have been given to the Minister under a royalty provision.

New section 333QE specifies the time at which a document is taken to be given by the Minister under a royalty provision.

New section 333QF provides that, where a person is required to give a document, the person complies with the requirement only if all relevant documents are given. In addition, where an approved form is required to be given, it must be adequately completed. For instance, where an approved form requires the inclusion of particular information to enable the proper assessment of royalty liability and that information is not included with the form, the approved form will not be taken to have been lodged until the missing information is provided.

New section 333QG specifies the circumstances in which a document will be taken to have been given by the Minister to a royalty payer when given to the person's agent.

New section 333QH specifies when a document is taken to be given to a person where there is more than one person liable to pay a royalty related amount for a royalty return period. The section also recognises that there may be some limited cases where this is inappropriate. In those cases, a regulation may prescribe the exceptions to this general principle.

New section 333QI specifies the ways in which a document is properly given by the Minister under a royalty provision.

New section 333QJ specifies the time at which a document will be taken to have been given by the Minister under a royalty provision.

*Clause 23* amends section 386O(1) to clarify it does not apply to the giving of a document to which new chapter 11, part 3, division 9 applies.

*Clause 24* clarifies that section 399 does not apply to the giving of a document to which new chapter 11, part 3, division 9 applies.

*Clause 25* inserts new chapter 15, part 17, a validation provision for the *Revenue and Other Legislation Amendment Act 2019*.

New section 869 specifies that a document purportedly given to a person by the Minister under a royalty provision before commencement is taken to be validly given, even if a requirement under the Act for giving the document was not complied with.

*Clause 26* amends the definition of *give* in schedule 2 to clarify it does not apply for the purpose of a royalty provision.

## **Part 6 Amendment to the Mineral Resources Regulation 2013**

*Clause 27* provides that part 6 amends the *Mineral Resources Regulation 2013*.

*Clause 28* inserts new chapter 3, part 10 which prescribes matters relating to giving documents under the royalty provisions of the *Mineral Resources Act 1989*.

New section 85A prescribes that a royalty return may be lodged with the Minister under section 333QD(d) of the Act if it is left at an office of the mining department with the chief executive or public service employee of that department. It also sets out the time the royalty return is taken to be given to the Minister.

New section 85B prescribes when section 333QH(1) of the Act does not apply to a person.

New section 85C prescribes for section 333QI(1)(c) of the Act the circumstances where a document relating to a royalty provision is made available to a person using an approved information system.

New section 85D prescribes when a document is made available using an approved information system for section 333QJ(1)(c) of the Act, including where the Minister is satisfied the approved information system was not available. Examples are provided for when the approved information system is and is not available.

*Clause 29* amends section 94 of the Regulation consequent on omission of section 95.

*Clause 30* omits section 95 of the Regulation.

## **Part 7 Amendment to the Payroll Tax Act 1971**

*Clause 31* provides that part 7 amends the *Payroll Tax Act 1971*.

*Clause 32* amends section 10 which provides for the rate of payroll tax which is currently 4.75 per cent. Section 10 is amended to provide that, from 1 July 2019, payroll tax is imposed at the general rate of 4.75 per cent. However, new section 10(2) provides that payroll tax is imposed at the increased rate of 4.95 per cent if the total of the taxable wages and interstate wages paid or payable by an employer (or if the employer is part of a group, by all of the members of the group together) is more than the threshold amount.

New section 10(4) defines *threshold amount*. For an annual return period, the threshold amount is \$6.5 million. For a periodic return period that is a month, the threshold amount is \$541,666. For any other period, such as a periodic return period that is longer than a month or a final return period, the threshold amount is calculated in accordance with a formula in new section 10(4) and is a proportion of \$6.5 million relative to the number of days in the relevant period.

New section 10(3) provides that the general or increased rate of payroll tax imposed under section 10 is subject to any discount that may apply under new section 10A which provides a discount for regional employers.

*Clause 33* inserts new section 10A. Section 10A(1) provides that section 10A applies to the return periods in the financial years ending 30 June 2020, 2021, 2022 and 2023. For each return period in the relevant financial years, section 10A(2) provides that a regional employer is entitled to a 1 per cent discount on the rate of payroll tax imposed under section 10 as amended by this Bill, when enacted. For example, for the 2019-20 financial year, the discount will apply to the general rate of 4.75 per cent or the increased rate of 4.95 per cent as appropriate.

Section 10A(3) and (4) provide that an employer is a *regional employer* for a return period if, during that period, the employer has an Australian Business Number (ABN) registered business address (or if the employer does not have an ABN, a principal place of business) located in regional Queensland and pays at least 85 per cent of Queensland taxable wages to employees who have their principal place of residence located in regional Queensland. *Regional Queensland* is defined in section 10A(4) by reference to particular areas of Queensland, being Cairns, Central Queensland, Darling Downs Maranoa, Mackay - Isaac - Whitsunday, Queensland - Outback, Townsville and Wide Bay.

*Clause 34* amends section 17 which provides the formulae for calculating the actual or fixed periodic deduction for an employer who is not a designated group employer. The definitions of *actual period deduction* and *fixed periodic deduction* in section 17 are amended to increase the amount for *E* from '91,666' to '108,333' to reflect the increase in the payroll tax exemption threshold from 1 July 2019.

*Clause 35* amends section 23 which provides the formula for calculating the fixed periodic deduction for an employer who is a designated group employer. The definition of *fixed periodic deduction* in section 23 is amended to increase the amount for *E* from '91,666' to '108,333' to reflect the increase in the payroll tax exemption threshold from 1 July 2019.

*Clause 36* amends the definition of *rebate* in 27A(3), which provides the formula for working out the rebate for wages paid or payable to apprentices and trainees during a periodic return period in an eligible year. Section 27A(3) is amended to extend the 50 per cent rebate for a further two years so it is available in the 2019-20 and 2020-21 financial years. Therefore, for periodic return periods in financial years ending on 30 June 2017, 2018, 2019, 2020 and 2021, the rebate is the amount worked out by applying the appropriate rate of payroll tax to 50 per cent of the amount of exempt apprentice and trainee wages paid or payable in the periodic return period. For periodic return periods in the financial years ending on 30 June 2010, 2011, 2012 or 2016, the rebate is the amount worked out by applying the appropriate rate of payroll tax to 25 per cent of the amount of the exempt apprentice and trainee wages paid or payable in the periodic return period.

*Clause 37* amends section 29(1) which provides the formula for calculating the annual deduction for an employer who is not a designated group employer. The definition of *annual deduction* in section 29(1) is amended to increase the amount for *K* from '1,100,000' to '1,300,000' to reflect the increase in the payroll tax exemption threshold from 1 July 2019.

*Clause 38* amends section 33 which provides the formula for calculating the annual deduction for an employer who is a designated group employer. The definition of *annual deduction* in section 33 is amended to increase the amount for *K* from '1,100,000' to '1,300,000' to reflect the increase in the payroll tax exemption threshold from 1 July 2019.

*Clause 39* amends the definition of *rebate* in section 35A(4). For an annual payroll tax amount, section 35A(4) provides the formula for working out the rebate for wages paid or payable to apprentices and trainees during an eligible year. Section 35A(4) is amended to extend the 50 per cent rebate for a further two years so it is available in the 2019-20 and 2020-21 financial years. Therefore, for the financial years ending on 30 June 2017, 2018, 2019, 2020 and 2021, the rebate is the amount worked out by applying the appropriate rate of payroll tax to 50 per cent of the amount of exempt apprentice and trainee wages paid or payable in the financial year. For the financial years ending on 30 June 2010, 2011, 2012 or 2016, the rebate is the amount worked out by applying the appropriate rate of payroll tax to 25 per cent of the amount of the exempt apprentice and trainee wages paid or payable in the financial year.

*Clause 40* amends section 37 which provides the formula for calculating the final deduction for an employer who is not a designated group employer. The definition of *final deduction* in section 37 is amended to increase the amount for *K* from '1,100,000' to '1,300,000' to reflect the increase in the payroll tax exemption threshold from 1 July 2019.

*Clause 41* amends section 41 which provides the formula for calculating the final deduction for an employer who is a designated group employer. The definition of *final deduction* in section 41 is amended to increase the amount for *K* from '1,100,000' to '1,300,000' to reflect the increase in the payroll tax exemption threshold from 1 July 2019.

*Clause 42* amends definition of *rebate* in section 43A(3), which provides the formula for working out the rebate for wages paid or payable to apprentices and trainees during a final return period in an eligible year. Section 43A(3) is amended to extend the 50 per cent rebate for a further two years so it is available in the 2019-20 and 2020-21 financial years. Therefore, for a final return period in financial years ending on 30 June 2017, 2018, 2019, 2020 and 2021, the rebate is the amount worked out by applying the appropriate rate of payroll tax to 50 per cent of the amount of exempt apprentice and trainee wages paid or payable in the final period. For a final period in the financial years ending on 30 June 2010, 2011, 2012 or 2016, the rebate is the amount worked out by applying the appropriate rate of payroll tax to 25 per cent of the amount of the exempt apprentice and trainee wages paid or payable in the final period.

*Clause 43* amends section 52 which provides the criteria for registration of an employer for payroll tax. An employer is required to register once they pay or are liable to pay wages exceeding the exemption threshold, currently expressed in section 52(a) as 'wages anywhere of more than \$21,153 per week'. Section 52(a) is amended to replace '\$21,153' with '\$25,000' to reflect the increase in the payroll tax exemption threshold from 1 July 2019.

*Clause 44* amends section 87 which requires employers who are exempt from lodging periodic returns to notify the Commissioner if the total taxable wages paid or payable by an employer for a month is greater than \$91,666 for three consecutive months. The amount of \$91,666 represents the current exemption threshold expressed on a monthly basis. Section 87(1)(b) is amended to replace '\$91,666' with '\$108,333' to reflect the increase in the payroll tax exemption threshold from 1 July 2019.

*Clause 45* amends the definition of *eligible year* in dictionary in the schedule to include the financial years ending 30 June 2020 and 30 June 2021.

## **Part 8 Amendment to the Petroleum and Gas (Production and Safety) Act 2004**

*Clause 46* provides that part 8 amends the *Petroleum and Gas (Production and Safety) Act 2004*.

*Clause 47* amends section 590 in relation to the matters that may be prescribed under the section for petroleum royalty. A regulation may prescribe different calculations and rates for particular petroleum, particular periods and particular uses.

*Clause 48* amends section 594 to omit references to the place for lodging royalty returns and to correct cross referencing errors.

*Clause 49* amends section 599 to omit references to the place for lodging annual royalty returns and to provide that the information to be included in an annual royalty return is the information prescribed.

*Clause 50* inserts new chapter 6, part 2, division 6 which applies to the giving of documents to and by the Minister under a royalty provision.

New section 599J clarifies when the new division applies for the giving of documents.

New section 599K specifies the circumstances in which a document is taken to have been given to the Minister under a royalty provision.

New section 599L specifies the time at which a document is taken to have been given to the Minister under a royalty provision.

New section 599M provides that, where a person is required to give a document, the person complies with the requirement only if all relevant documents are given. In addition, where an approved form is required to be given, it must be adequately completed. For instance, where an approved form requires the inclusion of particular information to enable the proper assessment of royalty liability and that information is not included with the form, the approved form will not be taken to have been lodged until the missing information is provided.

New section 599N specifies the circumstances in which a document will be taken to have been given by the Minister to a royalty payer when given to the person's agent.

New section 599O specifies when a document is taken to be given to a person where there is more than one person liable to pay a royalty related amount for a royalty return period or an annual return period. The section also recognises that there may be some limited cases where this is inappropriate. In those cases, a regulation may prescribe the exceptions to this general principle.

New section 599P specifies the ways in which a document is properly given by the Minister under a royalty provision.

New section 599Q specifies the time at which a document is taken to be given by the Minister under a royalty provision.

*Clause 51* amends section 851AA(4)(c) to clarify the section does not apply to the giving of a document to which new chapter 6, part 2, division 6 applies.

*Clause 52* inserts new chapter 15, part 25, a validation and transitional provision for the *Revenue and Other Legislation Amendment Act 2019*.

New section 1006 is a transitional provision that specifies the rate of petroleum royalty payable (*transitional rate*) for the annual return period ending 31 December 2019 (*2019 annual return period*). The petroleum royalty rate for the 2019 annual return period is 11.25 per cent of the wellhead value of:

- for petroleum produced under a petroleum tenure or a 1923 Act petroleum tenure – the petroleum disposed of by the petroleum producer during the period; or
- otherwise – the petroleum produced by the petroleum producer during the period.

The transitional rate applies for assessing petroleum royalty liability for the 2019 annual return period despite the petroleum royalty rate prescribed under section 147C of the *Petroleum and Gas (Royalty) Regulation 2004* as in force prior to 1 July 2019 and despite the petroleum royalty rate prescribed under section 147C of the *Petroleum and Gas (Royalty) Regulation 2004* as in force from 1 July 2019.

The transitional rate specified under section 1006 for the 2019 annual return period does not affect the operation of section 147C of the *Petroleum and Gas (Royalty) Regulation 2004* for other return periods. For instance, the petroleum royalty rate for the royalty return period commencing 1 July 2019 is 12.5 per cent of the wellhead value of the relevant petroleum.

The transitional rate does not apply for a transitional return under section 599(8) for the period ending 31 December 2019.

New section 1007 specifies that a document purportedly given to a person by the Minister under a royalty provision before commencement is taken to be validly given, even if a requirement under the Act for giving the document was not complied with.

*Clause 53* amends the definition of *give* in schedule 2 to clarify it does not apply for the purpose of a royalty provision.

## **Part 9 Amendment to the Petroleum and Gas (Royalty) Regulation 2004**

*Clause 54* provides that part 9 amends the *Petroleum and Gas (Royalty) Regulation 2004*.

*Clause 55* replaces section 147BA to clarify when petroleum royalty is payable for an annual return period.

*Clause 56* replaces section 147C to specify the rate of petroleum royalty payable for a royalty return period and an annual return period. The rate specified is 12.5 per cent of the wellhead

value of the petroleum that is liable for petroleum royalty in the relevant period. Subject to section 1006 of the Act, this petroleum royalty rate applies to petroleum:

- for petroleum produced under a petroleum tenure or a 1923 Act petroleum tenure
  - disposed of from 1 July 2019;
- otherwise – produced from 1 July 2019.

*Clause 57* amends section 148 to clarify the basis for working out the wellhead value of petroleum for an annual return period.

*Clause 58* amends section 148B to clarify its operation for annual return periods and to omit reference to the place for lodging an application for a petroleum royalty decision.

*Clause 59* amends section 148J to omit reference to the place for lodging an application for review of a petroleum royalty decision or amendment of a petroleum royalty decision.

*Clause 60* amends section 149 to clarify for section 599(3) of the Act the royalty information that must be included in an annual royalty return.

*Clause 61* inserts new chapter 6, part 2, division 4, subdivision 5 which prescribes matters relating to giving documents under the royalty provisions of the *Petroleum and Gas (Production and Safety) Act 2004*.

New section 150 prescribes when section 559O(1) of the Act does not apply to a person.

New section 151 prescribes for section 599P(1)(c) of the Act the circumstances where a document relating to a royalty provision is made available to a person using an approved information system.

New section 152 prescribes when a document is made available using an approved information system for section 599Q(1)(c) of the Act, including where the Minister is satisfied the approved information system was not available. Examples are provided for when the approved information system is and is not available.

*Clause 62* amends schedule 12 to clarify the definition of *wellhead value*.

## **Part 10 Amendment to the Taxation Administration Act 2001**

*Clause 63* provides that part 10 amends the *Taxation Administration 2001*.

*Clause 64* amends section 7 to clarify that, although the Commissioner is appointed under the Taxation Administration Act, the Commissioner is to be employed under the *Public Service Act 2008*.

*Clause 65* amends section 143(1) which provides the ways that documents may be given to the Commissioner. Section 143(1)(c) currently provides that a document may be given under the *Electronic Transactions (Queensland) Act 2001*. Section 143(1)(c) is amended to clarify that a document may be given to the Commissioner under the *Electronic Transactions (Queensland) Act 2001*, including by using an approved information system. OSR's existing

online system, OSRConnect is an approved information system and the new online portal, OSR Online will be an approved information system.

*Clause 66* amends section 144 which states when a document is taken to be given to the Commissioner. Section 144(1)(c) is amended to provide that a document given to the Commissioner under the *Electronic Transactions (Queensland) Act 2001* using an approved information system is taken to be given at the time the electronic communication enters the approved information system. Documents given otherwise under the *Electronic Transactions (Queensland) Act 2001* continue to be taken to be given at the time of receipt determined under that Act.

Section 144(3) is also amended to provide that section 144(2) does not apply to a document given using an approved information system. Section 144(2) provides that a document given on a day that is not a business day, or after 5p.m. on a business day, is taken to be given on the following business day.

## **Part 11 Amendment to the Taxation Administration Regulation 2012**

*Clause 67* provides that part 11 amends the *Taxation Administration Regulation 2012*.

*Clause 68* amends section 14 which prescribes the circumstances in which the Commissioner may give a document to a person by making it available using an approved information system for section 148(e) of the Act. Section 14(a) and (b) are amended to provide that the Commissioner may give a document relating to a tax law using an approved information system provided the person, or the person's tax agent, has given consent. The requirement in section 14(c) that the document be made available in a format that can be saved and stored by the person outside the approved information system remains unchanged. Currently only documents relating to land tax can be given using an approved information system and only with consent of the person.

## **Part 12 Minor and consequential amendments**

*Clause 69* notes that schedule 1 amends the legislation mentioned in it.

### **Schedule 1 Legislation amended**

*Schedule 1* makes minor amendments to the *Mineral Resources Regulation 2013* and the *Petroleum and Gas (Royalty) Regulation 2004*.