

# Mines and Energy Legislation Amendment Bill (No. 2) 2010

## Explanatory Notes

### Short Title of the Bill

The short title of the Bill is the *Mines and Energy Legislation Amendment Bill (No. 2) 2010*.

### Objectives of the Bill

The objective of the Bill is to amend the following Acts:

- *Clean Energy Act 2008*;
- *Coal Mining Safety and Health Act 1999*;
- *Explosives Act 1999*;
- *Geothermal Energy Act 2010*;
- *Gladstone Power Station Agreement Act 1993*;
- *Greenhouse Gas Storage Act 2009*;
- *Mineral Resources Act 1989*;
- *Mining and Quarrying Safety and Health Act 1999*; and
- *Petroleum and Gas (Production and Safety) Act 2004*.

The Bill will:

- introduce a regulation-making power to enable the specification and enforcement of minimum energy performance standards for gas appliances and equipment;
- introduce a regulation-making power to provide for the collection of royalty estimates to be used in the compilation of the State Budget;
- vary the Gladstone Power Station State Agreement under the *Gladstone Power Station Agreement Act 1993*;

- enhance administration of tenure-related and safety and health-related resource legislation; and
- correct minor drafting errors and align existing legislation with current drafting practices.

## **Policy rationale**

### **Minimum Energy Performance Standards for Gas Appliances**

Amendments to the *Petroleum and Gas (Production and Safety) Act 2004* will provide for the regulation of gas appliances and equipment to ensure that specified gas appliances and equipment meet minimum energy efficiency standards and display valid energy efficiency labels. These amendments form part of an agreed national reform agenda being delivered through the Equipment Energy Efficiency Program of the Ministerial Council on Energy, and will fulfil Queensland's obligation under the Council of Australian Governments' National Strategy on Energy Efficiency.

### **Royalty Estimates**

Mining and petroleum royalty revenue comprises a material contribution to State based revenue. Whilst there are many factors beyond the control of the State Government that impact on royalty revenue (i.e. volumes and prices), estimates provided by holders of producing mining and petroleum tenures represent an important factor in ensuring that reasonable and justifiable estimates of future revenue are made. In addition, it is vital for the State to monitor more accurately royalties on a monthly basis in order to ascertain any anticipated shortfalls or surpluses in aggregate for the year.

There is a long-standing administrative practice of the State Government requesting forward royalty estimates, for the purposes of compiling revenue estimates for the State Budget. The inclusion of legislative authority under the *Mineral Resources Act 1989* and the *Petroleum and Gas (Production and Safety) Act 2004* to request this data seeks to formalise these arrangements.

### **Gladstone Power Station Agreement Act 1993**

The parties to the Gladstone Power Station State Agreement (State Agreement) have negotiated variations to the State Agreement. This Bill authorises these variations to the State Agreement made under the *Gladstone Power Station Agreement Act 1993*.

A further minor amendment is included ensuring variations of the State Agreement are authorised by an Act only, rather than by regulation as currently provided, with the intention of upholding fundamental legislative principles.

### **Safety and Health Related Amendments**

A number of amendments to the *Coal Mining Safety and Health Act 1999*, *Explosives Act 1999*, *Mining and Quarrying Safety and Health Act 1999* and the *Petroleum and Gas (Production and Safety) Act 2004* are required to strengthen safety and health measures in Queensland's mining, explosives and petroleum and gas industries. The amendments relate to the following:

- competency and qualifications of mine workers;
- strengthening regulatory power to improve safety outcomes;
- cost recovery for regulators;
- clarifying ambiguities; and
- other amendments.

### Competency and Qualifications of Mine Workers

#### *Plans of Coal Mine Workings*

The Coal Mining Safety and Health Advisory Committee and the Australian Institute of Mine Surveyors have suggested legislative changes to reflect a requirement for mine surveyors to be registered with a recognised professional body constituted under the *Surveyors Act 2003* or, alternatively, hold a competency recognised by the Coal Mining Safety and Health Advisory Committee.

Mine surveying was historically performed by persons with professional training to TAFE certificate level (Australian Qualification Framework 4). In Queensland, the Board of Examiners issued certificates of competency for mine surveyors until 1999. There are several mine surveyors working in the industry who are employed on the basis of certificates of competency in surveying issued by the Board of Examiners prior to 1999. Their certificates of competency remain valid. Since 1999 there has been no qualification requirement for mine surveyors in Queensland. This has ramifications for safety in underground mines.

### *Portability and Accuracy of Employment Records*

The skills and competencies of miners have a significant bearing on the safe operation of mining machinery. The findings of a recent coronial inquest into the fatality of a miner resulted in the recommendation that the coal mining industry should adopt a system with the intent of improving the portability and accuracy of records containing details of miners' competencies and experience.

### *Ventilation Officer*

Currently the site senior executive is responsible for appointing a ventilation officer for the mine. However, the underground mine manager is best placed to exercise management control over the ventilation system and should be the person responsible for appointing a ventilation officer.

### Strengthening Regulatory Power to Improve Safety Outcomes

#### *Injunctions*

This amendment will aide to ensure compliance with statutory notices issued under the *Coal Mining Safety and Health Act 1999*, *Explosives Act 1999*, *Mining and Quarrying Safety and Health Act 1999* and the *Petroleum and Gas (Production and Safety) Act 2004*. Under these Acts inspectors can issue statutory notices when there is a suspected breach of the Act but if the notices are breached there is currently no means of promptly enforcing compliance.

#### *Public Statements*

In June 2008, the Ombudsman released a report titled “The Regulation of Mine Safety in Queensland: A Review of the Queensland Mines Inspectorate”. One of the recommendations called for amendments to the *Coal Mining Safety and Health Act 1999* and *Mining and Quarrying Safety and Health Act 1999* to authorise the issuing of public statements identifying and giving information about breaches of the Acts and persons involved in those matters, investigation of incidents and enforcement activities if it is in the public interest to make or issue those statements. The reason for this is to encourage compliance and promote safety in mines. Similar amendments are proposed for the *Petroleum and Gas (Production and Safety) Act 2004* and *Explosives Act 1999* to encourage compliance and promote safety in those industries.

### Cost Recovery for Regulators

#### *Legal and Investigation Costs*

Under the *Coal Mining Safety and Health Act 1999* and *Mining and Quarrying Safety and Health Act 1999* the department cannot currently claim reasonable legal costs in appeals in the Industrial Magistrates Court. Under the *Explosives Act 1999* the department cannot claim reasonable costs for investigating an offence if a court convicts a person of that offence against the Act although this is already provided for in the mining safety and health Acts. The amendments aim to address these issues.

### Clarifying Ambiguities

#### *Safety and Health Management System*

Feedback from industry stakeholders has suggested, and a Coroner has recommended, the *Coal Mining Safety and Health Act 1999* and *Mining and Quarrying Safety and Health Act 1999* should be amended to make it clear that only one safety and health management system is to be developed for a mine. Where contractors are working at the mine, all persons should work under the same safety and health management system. At the moment, contractors often use their own safety and health management system, either by itself or in conjunction with the mine's safety and health management system. This can cause confusion and uncertainty.

#### *Privilege Against Self-Incrimination*

Under the common law, individuals have the right to claim privilege against self-incrimination. This right never extended to companies. However, because of the way the *Coal Mining Safety and Health Act 1999*, *Mining and Quarrying Safety and Health Act 1999*, *Petroleum and Gas (Production and Safety) Act 2004* and *Explosives Act 1999* are drafted; it is arguable that companies are entitled to claim privilege against self-incrimination in some circumstances.

The Queensland Law Reform Commission, in its report "The Abrogation of the Privilege Against Self-Incrimination" published in December 2004, recommended that legislation be enacted to confirm that a corporation is not entitled to claim privilege against self-incrimination. This approach is consistent with the approach taken in the Commonwealth *Evidence Act 1995*.

#### *Definitions*

Amendments are proposed to certain definitions to clarify the application of those provisions.

### Other Amendments

Amendments are also proposed to:

- require operators of mines, if they are replaced, to give the mine record for the mine to the new mine operator;
- place obligations on designers, constructors and erectors of earthworks;
- make it an offence to allow children under the age of 16 to operate or maintain plant and machinery or use equipment at mines and operating plants;
- create a head of power to make regulation under the *Explosives Act 1999* for the imposition of conditions, such as a requirement to have insurance for the transportation of dangerous goods on explosive licences issued under the Act;
- allow for evidentiary certificates to state that a location of an incident or accident is within the boundaries of land that is subject of a mining tenure or a petroleum authority; and
- require operators of operating plants under the *Petroleum and Gas (Production and Safety) Act 2004* to make and keep records to demonstrate the safety management plan has been properly implemented and monitored. These records are integral to the effectiveness of the safety management plan and allow the management system to be audited.

### **Minor Amendments**

The Bill contains a number of minor editorial amendments identified by the department and the Office of the Queensland Parliamentary Counsel. The objective of these amendments is to reflect current drafting practices and correct minor drafting errors in the *Clean Energy Act 2008*, *Geothermal Energy Act 2010* and *Petroleum and Gas (Production and Safety) Act 2004*.

### **How objectives are achieved**

#### **Minimum Energy Performance Standards for Gas Appliances**

The amendments to the *Petroleum and Gas (Production and Safety) Act 2004* will more clearly define the head of power for the setting of a regulation to provide for the specification and enforcement of energy efficiency labelling and minimum energy performance standards for gas appliances and equipment.

## **Royalty Estimates**

Inclusion of a statutory head of power to collect revenue estimates will establish a legislative requirement for holders of producing mining and petroleum tenures to provide the information necessary for preparation of more accurate State Budget revenue estimates, and monthly and year end royalty accruals.

## **Gladstone Power Station Agreement Act 1993**

The objectives are achieved by enacting the proposed changes to the Gladstone Power Station State Agreement under the *Gladstone Power Station Agreement Act 1993*.

## **Safety and Health Related Amendments**

### Competency and Qualifications of Mine Workers

#### *Plans of Coal Mine Workings*

The amendment to section 67(6) of the *Coal Mining Safety and Health Act 1999* will provide that the site senior executive for a surface coal mine must have the plans of coal mine workings certified by a person registered with the Surveyors Board of Queensland as a surveyor with a mining endorsement (O) or (A) or holding such relevant qualification as approved and published by the Coal Mining Safety and Health Advisory Committee.

For an underground coal mine, the accuracy of the plans must be certified by a person registered with the Surveyors Board of Queensland as a Surveyor with a mining endorsement (A) or holding such relevant qualification as approved and published by the Coal Mining Safety and Health Advisory Committee.

#### *Portability and Accuracy of Employment Records*

The amendment will place an obligation on the coal mine operator to provide, when requested, the training and assessment record of a former coal mine worker to the site senior executive at the mine where the worker is employed. This is aimed to facilitate the verification of accuracy of records and will enable the exchange of information about mine workers' skills, abilities and competencies.

### *Ventilation Officer*

The amendment will transfer the responsibility for appointing a ventilation officer from the site senior executive to the underground mine manager. If the underground mine manager does not appoint a ventilation officer the underground mine manager will assume the duties and responsibilities of a ventilation officer.

### Strengthening Regulatory Power to Improve Safety Outcomes

#### *Injunctions*

The amendment will provide the Commissioner for Mine Safety and Health and the Chief Inspector under the *Coal Mining Safety and Health Act 1999*, *Mining and Quarrying Safety and Health Act 1999*, *Petroleum and Gas (Production and Safety) Act 2004* and the *Explosives Act 1999* with the power to obtain an injunction from the District Court for non-compliance with a statutory notice or for breaches of the Act.

#### *Public Statements*

The amendment will authorise the Minister, Chief Executive, Commissioner for Mine Safety and Health, and the Chief Inspector to make or issue public statements identifying and giving information about offences against the Acts, the persons involved in those matters, investigation of serious incidents and enforcement activities.

### Cost Recovery for Regulators

#### *Legal and Investigation Costs*

The amendments to the *Coal Mining Safety and Health Act 1999* and the *Mining and Quarrying Safety and Health Act 1999* will provide the department with the ability to claim reasonable legal costs in appeals in the Industrial Magistrates Court.

The amendment to the *Explosives Act 1999* will allow the Government to recover costs incurred while investigating an offence and preparing for the prosecution.

### Clarifying Ambiguities

#### *Safety and Health Management System*

The amendment will make it clear that only one safety and health management system is to be operated at each mine and that all persons working at that mine, including contractors, are to comply with that single safety and health management system.

### *Privilege Against Self-Incrimination*

Section 32D(1) of the *Acts Interpretation Act 1954* states that a reference to a person generally includes a reference to a corporation as well as an individual. Therefore, the term ‘person’ will be replaced with ‘individual’ in relevant provisions.

### Other Amendments

Other amendments proposed to the safety and health legislation will:

- create an obligation for sufficient mine record history to be made available for the site senior executive and mine workers to assist in maintaining an effective safety and health management system and to ensure the mine record is passed from one mine operator to the next if a new operator is appointed;
- place obligations on persons designing, constructing or erecting earthworks such as tailings dams or berms;
- make it an offence to allow children under the age of 16 to operate or maintain plant and machinery or equipment on mines, quarries and petroleum tenures;
- create a regulation making power in the *Explosives Act 1999* to allow the regulation to prescribe the requirements and conditions, such as insurance, for the grant of explosives licences and permits; and
- require operators of operating plants under the *Petroleum and Gas (Production and Safety) Act 2004* to make and keep records to demonstrate the safety management plan has been properly implemented and monitored.

### **Minor Amendments**

The amendments to the *Petroleum and Gas (Production and Safety) Act 2004* reflect current drafting practices by removing footnotes and where relevant, inserting this information into the legislation as a note. The amendments to the *Geothermal Energy Act 2010* will correct typographical errors and the amendment to the *Clean Energy Act 2008* will make a consequential amendment resulting from amendments in the *Mines and Energy Legislation Amendment Act 2010*.

## **Alternative Method of Achieving Policy Objectives**

### **Minimum Energy Performance Standards for Gas Appliances**

There is no alternative option. If legislative amendments are not made, the current ambiguity and unintended application of certain provisions will remain.

### **Royalty Estimates, Gladstone Power Station Agreement Act 1993, Safety and Health Related Amendments, Other Amendments and Minor Amendments**

It is considered that there are no non-legislative methods by which the objects of the Bill can be achieved.

### **Estimated cost for Government implementation**

#### **Minimum Energy Performance Standards for Gas Appliances**

As this amendment seeks to clarify an existing power, there are expected to be minimal costs to the Government for implementation.

### **Consistency with Fundamental Legislative Principles**

The Bill has been drafted with regard to fundamental legislative principles, as defined in the *Legislative Standards Act 1992*. The Bill includes a number of provisions that may be regarded as breaching fundamental legislative principles. However, any breach can be justified on grounds of meeting the overall policy intent of the legislation and complying with community expectations for appropriate resource management.

Any clauses in which fundamental legislative principle issues arise, together with the justification for the breach, is dealt with in the explanation of the relevant clauses and is also outlined below.

### **Safety and Health Related Amendments**

#### **Facilitation of Evidence by Certificate**

Legislation may reasonably facilitate the process of proving a fact by providing for a certificate to be evidence of a fact. The Bill will amend the *Coal Mining Safety and Health Act 1999*, *Mining and Quarrying Safety and Health Act 1999* and the *Petroleum and Gas (Production and Safety) Act 2004* to include the power to provide evidence of the location of an incident by certificate, when the state location is within the boundaries of land that is the subject of a stated mining tenure. The amendment will remove the need for a surveyor and registrar to attend court to confirm the location of mining tenures and petroleum authorities.

### Public Statements

The Bill will amend the *Coal Mining Safety and Health Act 1999*, *Explosives Act 1999*, *Mining and Quarrying Safety and Health Act 1999* and the *Petroleum and Gas (Production and Safety) Act 2004* to allow the Minister, Chief Executive and others to make public statements about investigations under, and offences committed against, those Acts. This amendment is a result of a recommendation from the Ombudsman's report. The amendment is aimed at encouraging compliance and promoting safety in the relevant industries. The amendments provide that the Minister, Chief Executive and others must not issue a public statement unless it is in the public interest to do so.

### Protection Against Self-incrimination

The Bill will amend the *Coal Mining Safety and Health Act 1999*, section 201, and *Mining Quarrying Safety and Health Act 1999*, section 198 to clarify that the privilege against self-incrimination is not a defence to the obligation of a site senior executive to prepare or forward a report about an accident. However, the report itself can not be used against the executive (other than in a proceeding about the falsity of the report) nor can the report be used against any other worker mentioned in the report.

### **Tenure-Related Amendments**

The Bill will amend the *Mineral Resources Act 1989* to allow authorised officers to enter (without a warrant) land that is adjacent to an abandoned mine in order to access the abandoned mine for the purpose of carrying out investigation or rectification work. The amendment requires that prior notice to be given to any affected occupier or owner unless the entry is made to preserve life, in which case notice after the fact is required. The amended provision also casts a positive duty on authorised officers to take all reasonable steps to ensure they cause as little inconvenience, and do as little damage as is practicable when exercising the entry power.

The following new penalties are proposed in the Bill.

#### *Insertion of New Section 69A into the Coal Mining Safety and Health Act 1999*

The findings of a recent coronial inquest into the fatality of a miner resulted in the recommendation the coal mining industry should adopt a system with the intent of improving the portability and accuracy of records containing details of miners' competencies and experience. Inserting section 69A into the *Coal Mining Safety and Health Act 1999* is in

response to this. A maximum penalty of 200 penalty units is considered necessary to deter non-compliance in order to improve safety outcomes.

*Children Under 16 Not to Operate or Maintain Plant and Equipment*

Mining and petroleum and gas industries are widely recognised as high risk industries. The risks are magnified if children are permitted to operate machinery. The maximum penalty of 100 penalty units should provide sufficient deterrence in those, fortunately rare, instances where it is contemplated that children might be permitted to operate or maintain plant and equipment on a mine site or at an operating plant.

*Amendment to Section 18 of the Explosives Act 1999*

The existing section 18 includes a maximum penalty of 200 penalty units for cases where the authority holder does not comply with conditions imposed on the authority. The amendment inserts a new subsection into section 18 to provide that holders must comply with conditions prescribed under a regulation. The maximum penalty proposed is the same as the penalty under the existing section. Conditions placed on license and permit holders are designed to ensure that there is an optimal level of safety in situations when and where explosives are used and when explosives are being transported by road. The conditions of licenses and permits contain mandatory requirements to cover fundamental safety requirements. In view of the workplace and public safety risk exposure created by non-compliance a sufficient deterrent is required.

*Amendment to Section 68 of the Coal Mining Safety and Health Act 1999 and Section 59 of the Mining and Quarrying Safety and Health Act 1999*

The availability of sufficient mine safety history is of significant assistance in the management of safety at a mine. It is not a significant impost on the mine operator to make such records available. There has been at least one instance of mine history not being passed on to the new operator at the time the ownership of the mine changed and an incident occurred soon after. The mine in question had experienced a difficult safety history and the incoming site senior executive was denied invaluable information. This failure to pass on the mine safety history contained in the mine record is considered counter to the safety culture developed across the industry in the past decade. Such actions are entirely unacceptable and sufficient deterrence, being a maximum of 200 penalty units, is required.

*Insertion of New Section 678A into the Petroleum and Gas (Production and Safety) Act 2004*

The new section requires operators of operating plants under the *Petroleum and Gas (Production and Safety) Act 2004* to make and keep records to demonstrate the safety management plan has been properly implemented and monitored. A penalty of 1500 penalty units is included for non-compliance. This penalty is similar to related offences of not implementing a plan with all the section 675 content details in section 674 or for not revising a plan in section 678. These records are critical to the implementation of the plan as they form part of the auditable documentation in support of a safety management plan as part of the greater auditable system.

### **Consultation**

The Queensland Office of Regulatory Efficiency was consulted on a case-by-case basis in consideration of the preparation of regulatory assessment statements for amendments included in the Bill.

### **Minimum Energy Performance Standards for Gas Appliances**

The introduction of minimum energy performance standards for gas water heaters has been the subject of nation-wide industry and community consultation with the public release of a consultation regulatory impact statement (RIS) in 2009. All comments received were considered in preparation of the decision RIS that was approved by the Ministerial Council on Energy in early February 2010.

### **Royalty Estimates**

Consultation was undertaken with the Queensland Resources Council (QRC) and the Australian Petroleum Production and Exploration Association in drafting these amendments.

### **Gladstone Power Station Agreement Act 1993**

Relevant stakeholders, including relevant parties to the State Agreement, Queensland Treasury, and the Australian Competition and Consumer Commission have been consulted.

### **Safety and Health Related Amendments**

The department has held discussions with the Coal Mining Safety and Health Advisory Committee and the Mining Safety and Health Advisory Committee, which includes representatives of the QRC and various unions.

All amendments contained in the Bill were supported by the Advisory Committees although QRC did raise concerns with several of the amendments. The department has made changes to the amendments to address some of QRC's concerns.

### **Minor Amendments**

Consultation with government agencies was undertaken and no issues were identified.

## **Notes on Provisions**

### **Part 1                      Preliminary**

#### **Short Title**

Clause 1 provides that the short title of the Act is the *Mines and Energy Legislation Amendment Act (No. 2) 2010*.

#### **Commencement**

Clause 2 provides the commencement details for the provisions in the Act, which will be on assent with the exception of the listed sections which will commence on a day to be fixed by proclamation.

### **Part 2                      Amendment of Clean Energy Act 2008**

#### **Act amended**

Clause 3 provides that part 2 of the Bill amends the *Clean Energy Act 2008*.

### **Amendment of s 14 (Change of information in register)**

Clause 4 amends section 14 to make a consequential amendment required as a result of amendments included in the *Mines and Energy Legislation Amendment Act 2010*.

## **Part 3                      Amendment of Coal Mining Safety and Health Act 1999**

### **Act amended**

Clause 5 provides that part 3 of the Bill amends the *Coal Mining Safety and Health Act 1999*.

### **Amendment of s 25 (Meaning of site senior executive)**

Clause 6 amends section 25 to provide for situations where the most senior person working at a mine is not employed in the traditional sense. For example, the site senior executive maybe a contractor or employed through an employment agency.

### **Amendment of s 42 (Obligations of site senior executive for coal mine)**

Clause 7 amends section 42 to make it clear that only one safety and health management system is to be in operation at each mine and that all persons working at the mine, including persons working for contractors at the mine, are to comply with that one safety and health management system.

### **Insertion of new s 45A**

Clause 8 inserts a new section into the Act to place obligations on designers, constructors and erectors of earthworks to ensure the earthworks will not expose people to an unacceptable level of risk when used properly.

### **Amendment of s 61 (Appointment of ventilation officer)**

Clause 9 amends section 61 to require the underground mine manager, rather than the site senior executive, to appoint a ventilation officer.

### **Amendment of s 67 (Plans of coal mine workings)**

Clause 10 amends section 67 to provide that plans mentioned in that section must be certified by a person with appropriate qualifications.

### **Amendment of s 68 (Mine record)**

Clause 11 replaces existing subsection (4) with a new subsection to provide that coal mine operators are to make the mine record for at least the previous six months available for inspection at all reasonable times to coal mine workers at the mine and the site senior executive.

The existing maximum penalty of 200 penalty points for a breach of this clause is maintained.

Subsection (5) is renumbered as subsection (6) and a new subsection (5) is inserted to provide that if the coal mine operator is replaced they must give the new mine operator the mine record for the mine as soon as practicable.

A maximum penalty of 200 penalty units is included to ensure compliance with this requirement; this is considered to be an appropriate penalty and is consistent with the penalty under subsection (4).

### **Insertion of new s 69A**

Clause 12 inserts a new section into the Act to provide that senior site executives may request a copy of the training and assessment records of a coal mine worker that has been previously employed at another coal mine.

The new section also provides that the coal mine operator for the other mine must comply with the request and a maximum of 200 penalty units will apply for non-compliance.

### **Amendment of s 141 (Failure to answer questions)**

Clause 13 amends section 141 by replacing 'person' with 'individual' to make it clear that a corporation is not entitled to claim privilege against self-incrimination. This implements a recommendation made by the Queensland Law Reform Commission in December 2004. Section 32D(1) of the *Acts Interpretation Act 1954* states that a reference to a person generally includes a reference to a corporation as well as an individual.

### **Amendment of s 154 (Power to require production of documents)**

Clause 14 inserts a new subsection (8) to make it clear that when an officer makes a requirement under subsection (1) or (3), the officer must warn the person it is an offence to fail to comply with the requirement unless the person has a reasonable excuse.

### **Amendment of s 155 (Failure to produce document)**

Clause 15 amends section 155 to make the provision consistent with modern drafting practices.

### **Amendment of s 158 (Failure to comply with requirement about attendance)**

Clause 16 amends section 158 by replacing ‘person’ with ‘individual’ to make it clear that a corporation is not entitled to claim privilege against self-incrimination. This implements a recommendation made by the Queensland Law Reform Commission in December 2004. Section 32D(1) of the *Acts Interpretation Act 1954* states that a reference to a person generally includes a reference to a corporation as well as an individual.

### **Replacement of s 159 (Person must answer question about serious accident or high potential incident)**

Clause 17 replaces the existing section 159 to update and clarify the operation of the section. It also removes the need for people to claim privilege before privilege applies.

### **Amendment of s 198A (Requirement to give primary information)**

Clause 18 amends section 198A(7) by replacing ‘person’ with ‘individual’ to make it clear that a corporation is not entitled to claim privilege against self-incrimination. This implements a recommendation made by the Queensland Law Reform Commission in December 2004. Section 32D(1) of the *Acts Interpretation Act 1954* states that a reference to a person generally includes a reference to a corporation as well as an individual.

### **Amendment of s 201 (Action to be taken in relation to site of accident or incident)**

Clause 19 amends section 201 to provide that it is not a defence for the site senior executive that carrying out of an investigation, preparing a report or forwarding the report as required under subsection (1) might incriminate the site senior executive.

The report prepared under subsection (1) cannot be used as evidence against the site senior executive or any other coal mine worker mentioned in the report in any criminal proceeding other than proceedings about the falsity or misleading nature of the report.

### **Amendment of s 216 (Offences by witnesses)**

Clause 20 amends section 216 by replacing ‘person’ with ‘individual’ to make it clear that a corporation is not entitled to claim privilege against self-incrimination. This implements a recommendation made by the Queensland Law Reform Commission in December 2004. Section 32D(1) of the *Acts Interpretation Act 1954* states that a reference to a person generally includes a reference to a corporation as well as an individual.

### **Amendment of s 248 (Power of court on appeal)**

Clause 21 amends section 248 to provide the Industrial Court with the power to award costs it considers appropriate.

### **Amendment of s 252 (Evidentiary aids)**

Clause 22 amends section 252 to allow for evidentiary certificates to state that a location of an incident or accident is within the boundaries of land that is subject of a mining tenure.

### **Insertion of new pt 15A**

Clause 23 inserts a new part 15A into the Act to provide for injunctions to ensure compliance with the Act. The Commissioner for Mine Safety and Health or the Chief Inspector may apply to the District Court for an injunction. The grounds for an injunction and the powers of the court are identified. The terms of the injunction will be determined by the court.

### **Insertion of new s 272A**

Clause 24 inserts new section 272A to place responsibility on a site senior executive of a coal mine to ensure children under the age of 16 do not operate or maintain plant at a coal mine.

A maximum penalty of 100 penalty units is included to discourage non-compliance.

### **Insertion of new s 275AC**

Clause 25 inserts new section 275AC to provide the head of power for the Minister, Chief Executive, Commissioner for Mine Safety and Health, or the Chief Inspector to issue public statements.

Subsection (1) provides that public statements can include information about offences against the Act and persons committing the offences, investigations conducted regarding serious accidents, actions taken by inspectors and cancellation of certificates of competency.

Subsection (2) provides that a public statement may identify particular information and persons.

Subsection (3) provides that a public statement may only be issued if it is considered that it is in the public interest to do so.

### **Amendment of s 275A (Disclosure of information)**

Clause 26 amends section 275A inserting new subsection (e) to provide a head of power for the disclosure of information for public statements made under the new section 275AC.

### **Amendment of s 280 (Chief executive to keep records)**

Clause 27 amends section 280(1)(a)(ii) to specify that information about “lost time injuries” rather than “lost time accidents and illnesses” must be included in the records kept by the Chief Executive.

Subsection (2) is renumbered as subsection (4) and new subsection (2) is inserted to clarify that information recorded for lost time injuries must include the number of days the injured person is unable to work, regardless of the number of hours that would have been worked by that person each day.

New subsection (3) is also inserted to clarify that the number of days recorded as a lost time injury does not include the day of the injury.

New subsection (5) provides a definition for lost time injuries.

### **Insertion of new pt 20, div 3**

Clause 28 provides the transitional provisions for amendments contained in the Bill.

New section 302 is inserted into the Act to provide that appeal cost provisions in the Bill apply retrospectively to undecided appeals.

### **Amendment of sch 3 (Dictionary)**

Clause 29 removes the reference to section 287 from the definition of board of examiners.

## **Part 4                      Amendment of Explosives Act 1999**

### **Act amended**

Clause 30 provides that part 4 of the Bill amends the *Explosives Act 1999*.

### **Replacement of s 18 (Compliance with conditions)**

Clause 31 replaces section 18 with a new section to provide that the authority holder must comply with conditions prescribed under a regulation for each authority issued to the authority holder in addition to complying with conditions imposed by the Chief Inspector.

A maximum penalty of 200 penalty points is inserted to encourage compliance. This is the same as the existing penalty in this section.

### **Amendment of s 29 (Amendment of authority without application)**

Clause 32 amends section 29(5) to correct a drafting error.

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

Clause 33 amends section 59 by replacing ‘person’ with ‘individual’ to make it clear that a corporation is not entitled to claim privilege against self-incrimination. This implements a recommendation made by the Queensland Law Reform Commission in December 2004. Section 32D(1) of the *Acts Interpretation Act 1954* states that a reference to a person generally includes a reference to a corporation as well as an individual.

### **Amendment of s 72 (Offences by witnesses)**

Clause 34 amends section 72 by replacing ‘person’ with ‘individual’ to make it clear that a corporation is not entitled to claim privilege against self-incrimination. This implements a recommendation made by the Queensland Law Reform Commission in December 2004. Section 32D(1) of the *Acts Interpretation Act 1954* states that a reference to a person generally includes a reference to a corporation as well as an individual.

### **Amendment of s 89 (General powers after entering places)**

Clause 35 amends section 89 by replacing ‘person’ with ‘individual’ to make it clear that a corporation is not entitled to claim privilege against self-incrimination. This implements a recommendation made by the Queensland Law Reform Commission in December 2004. Section 32D(1) of the *Acts Interpretation Act 1954* states that a reference to a person generally includes a reference to a corporation as well as an individual.

### **Amendment of s 98 (Failure to comply with requirement about attendance)**

Clause 36 amends section 98 by replacing ‘person’ with ‘individual’ to make it clear that a corporation is not entitled to claim privilege against self-incrimination. This implements a recommendation made by the Queensland Law Reform Commission in December 2004. Section 32D(1) of the *Acts Interpretation Act 1954* states that a reference to a person generally includes a reference to a corporation as well as an individual.

### **Amendment of s 100 (Power to require production of documents)**

Clause 37 amends section 100 to make the provision consistent with modern drafting practices.

### **Insertion of new pt 6, div 4**

Clause 38 inserts a new division 4 in part 6 of the Act to provide for injunctions to ensure compliance with the Act. The Commissioner for Mine Safety and Health or the Chief Inspector may apply to the District Court for an injunction. The grounds for an injunction and the powers of the court are identified. The terms of the injunction will be determined by the court.

### **Amendment of s 122 (Recovery of costs from convicted person)**

Clause 39 amends section 122 to provide that a government entity or the State may recover from a person convicted of an offence costs incurred while investigating the offence and the costs of preparing for the prosecution of the offence.

### **Insertion of new s 126C**

Clause 40 inserts new section 126C to provide the head of power for the Minister, Chief Executive, Commissioner for Mine Safety and Health or the Chief Inspector to issue public statements identifying offences against the Act.

Subsection (2) provides that public statements can include information about offences against the Act and persons committing the offences; investigations and inquires into explosives incidents, actions taken by inspectors, suspension or cancellation of an authority under section 24 or section 25 of the Act.

Subsection (3) provides that a public statement may identify particular information and persons.

Subsection (4) provides that a public statement may only be issued if it is considered that it is in the public interest to do so.

### **Amendment of s 131 (Chief inspector may ask for information)**

Clause 41 amends section 131 by replacing ‘person’ with ‘individual’ to make it clear that a corporation is not entitled to claim privilege against self-incrimination. This implements a recommendation made by the Queensland Law Reform Commission in December 2004. Section 32D(1) of the *Acts Interpretation Act 1954* states that a reference to a person generally includes a reference to a corporation as well as an individual.

### **Amendment of s 132 (Disclosure of information)**

Clause 42 amends section 132 inserting new subsections (e) and (f) to provide a head of power for the disclosure of information for public statements made under the new section 126C and in the interest of public safety.

### **Amendment of s 135 (Regulation-making power)**

Clause 43 amends section 135 to provide that a regulation can prescribe the conditions and other requirements that apply to an authority.

### **Replacement of pt 10, hdg (Transitional provisions for Act No. 15 of 1999)**

Clause 44 replaces the heading of part 10 of the Act renaming it ‘Transitional provisions’ and places existing provisions under the heading division 1 ‘Transitional provisions for Act No. 15 of 1999’.

### **Replacement of pt 11, hdg (Transitional provisions for Mining and Other Legislation Amendment Act 2007)**

Clause 45 replaces the heading of part 11 of the Act renaming it division 2, part 10 ‘Transitional provision for *Mining and Other Legislation Amendment Act 2007*’.

### **Insertion of new pt 10, div 3**

Clause 46 provides the transitional provisions for amendments contained in the Bill.

New section 145 is inserted into the Act to provide that investigation cost provisions in the Bill apply retrospectively to undecided appeals and reviews.

## **Part 5**                      **Amendment of Geothermal Energy Act 2010**

### **Act amended**

Clause 47 provides that part 5 of the Bill amends the *Geothermal Energy Act 2010*.

### **Amendment of s 40 (Provisions and granting of geothermal permit)**

Clause 48 amends section 40 of the Act to correct a typographical error.

### **Amendment of s 62 (Deciding application)**

Clause 49 amends section 62 of the Act to correct a typographical error.

### **Amendment of s 74 (Operation of pt 1)**

Clause 50 amends section 74 of the Act to correct a typographical error.

### **Amendment of s 97 (Deciding whether to approve proposed plan)**

Clause 51 amends section 97 of the Act to correct a typographical error.

### **Amendment of s 141 (Ministerial approval of proposed geothermal coordination arrangement)**

Clause 52 amends section 141 of the Act to correct a typographical error.

### **Amendment of s 275 (Arrangements with other departments for copies from geothermal register)**

Clause 53 amends section 275 of the Act to correct a typographical error.

### **Amendment of s 397 (Compliance with land access code)**

Clause 54 amends section 397 of the Act to correct a typographical error.

## **Part 6                      Amendment of Gladstone Power Station Agreement Act 1993**

### **Act amended**

Clause 55 provides that part 6 of the Bill amends the *Gladstone Power Station Agreement Act 1993*.

### **Amendment of s 5 (Amendment of State agreement)**

Clause 56 amends section 5 (Amendment of State agreement) to provide that the Minister may only enter into a fresh agreement if this has been authorised under an Act.

### **Amendment of s 5A, hdg (Approval of proposed further agreement)**

Clause 57 amends the heading of section 5A to insert the year 1997.

### **Insertion of new s 5B**

Clause 58 inserts new section 5B which provides approval for the Minister to enter into the proposed 2010 further agreement.

### **Amendment of sch 2, hdg (Further agreement amending State agreement)**

Clause 59 amends the heading of schedule 2 to clarify that the further agreement amending the State agreement was proposed in 1997.

### **Insertion of new sch 3**

Clause 60 inserts a new schedule 3 after schedule 2. Schedule 3 contains a proposed 2010 further agreement amending the State agreement.

## **Part 7**                      **Amendment of Greenhouse Gas Storage Act 2009**

### **Act amended**

Clause 61 provides that part 7 of the Bill amends the *Greenhouse Gas Storage Act 2009*.

### **Amendment of s 34 (Right to tender)**

Clause 62 amends section 34 to make it clear that only an eligible person, as defined under section 19 of the Act, has the right to tender for a proposed greenhouse gas permit the subject of a call for tenders.

### **Amendment of s 126 (Right to tender)**

Clause 63 amends section 126 to make it clear that only an eligible person, as defined under section 19 of the Act, may tender for a proposed greenhouse gas lease the subject of a call for tenders.

## **Part 8**                      **Amendment of Mineral Resources Act 1989**

### **Act amended**

Clause 64 provides that part 8 amends the *Mineral Resources Act 1989*.

### **Amendment of s 285 (Mining lease may be specified it is not renewable)**

Clause 65 amends section 285 to clarify that a mining registrar may endorse an instrument of a lease that is renewed subject to a condition referred to in subsection (2) if the instrument of lease has been issued.

### **Amendment of s 289 (Minister may issue instrument of mining lease)**

Clause 66 amends and renames section 289 to transfer the power to issue an instrument of a mining lease from the Minister to the mining registrar.

### **Amendment of s 294 (Variation of conditions of mining lease)**

Clause 67 amends section 294 to clarify that the variation of an instrument of a lease may be endorsed by the mining registrar.

### **Amendment of s 295 (Variation of mining lease for accuracy etc.)**

Clause 68 amends section 295 to transfer the power from the Minister to the mining registrar to, upon receipt of the instrument of lease, make all endorsements thereon to give effect to the variation.

### **Amendment of s 296 (Correction of instrument of lease)**

Clause 69 amends section 296 to transfer the power from the Minister to the mining registrar to correct an instrument of a lease where that instrument is found to be defective due to an error in its preparation and to endorse every copy thereof accordingly.

### **Amendment of s 297 (Replacement instrument of lease)**

Clause 70 amends section 297 to transfer the power from the Minister to the mining registrar for instances where it is considered that an instrument of lease should be cancelled and a replacement instrument of lease issued in its place, the mining registrar shall be able to cancel the instrument in question and cause a replacement instrument of lease to be issued in its place.

### **Amendment of s 309 (Surrender of mining lease)**

Clause 71 amends section 309 to provide that the mining register may, in cases where an instrument of lease has been issued, endorse the instrument of lease, if a mining lease is surrendered for only part of the land that is the subject of the mining lease.

### **Insertion of new s 327A**

Clause 72 inserts new section 327A ‘Minister may require royalty estimate’ to provide the statutory power for the Minister to request details of mineral royalty estimates for a future period.

New subsection 327A(1) provides that the Minister may, by notice to a person liable to pay a royalty under section 320 of the Act require a royalty estimate for a future period.

New subsection 327A(2) provides that the royalty estimate provided must adhere to the conditions prescribed in the associated regulation and be provided no later than the day stated in the notice requesting the royalty estimate.

New subsection 327A(3) provides that for the new section 327A the ‘royalty estimate’, for a future period is to be taken to mean a written return containing information prescribed under a regulation about estimated royalties payable for a future period.

### **Replacement of s 344 (Access to abandoned mine)**

Clause 73 omits section 344 of the Act and inserts new part 10, division 2AA replacing omitted section 344 by expanding on the existing provisions under the section by providing conditions for entry to land adjacent to an abandoned mine site and additional conditions of entry to both primary and adjacent land.

The new division also provides guidance on information to be included in a notice of entry issued under this division and places obligations on authorised persons carrying out rehabilitation activities.

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

Clause 74 amends section 381B to make it clear that any decision made about the guarantee under subsection (1) is made under the *Mineral Resources Act 1989*.

### **Amendment of s 416B (Practice Manual)**

Clause 75 amends section 416B to correct a typographical error.

## **Part 9                      Amendment of Mining and Quarrying Safety and Health Act 1999**

### **Act amended**

Clause 76 provides that part 9 of the Bill amends the *Mining and Quarrying Safety and Health Act 1999*.

### **Replacement of s 11 (Meaning of quarry)**

Clause 77 replaces the definition of ‘quarry’ with a new definition as a result of amendments to the *Workplace Health and Safety Act 1995* where the definition of ‘construction workplace’ was omitted.

### **Amendment of s 22 (Meaning of site senior executive)**

Clause 78 amends section 22 to provide for situations where the most senior person working at a mine is not employed in the traditional sense. For example, the site senior executive may be a contractor or employed through an employment agency.

### **Amendment of s 39 (Obligations of site senior executive for mine)**

Clause 79 amends section 39 to make it clear that only one safety and health management system is to be in operation at each mine and that all persons working at the mine, including persons working for contractors at the mine, are to comply with that one safety and health management system.

### **Insertion of new s 42A**

Clause 80 inserts a new section into the Act to place obligations on designers, constructors and erectors of earthworks to ensure the earthworks will not expose people to an unacceptable level of risk when used properly.

### **Amendment of s 59 (Mine record)**

Clause 81 amends section 59 by renumbering subsection (5) as subsection (6), new subsection (5) is inserted to provide that if the coal mine operator is replaced they must give the new mine operator the mine record for the mine as soon as practicable.

A maximum penalty of 200 penalty units is included to ensure compliance with this requirement; this is considered to be an appropriate penalty.

Subsection (4) is omitted and replaced to provide that coal mine operators are to make the mine record for at least the previous six months available for inspection at all reasonable times to coal mine workers at the mine and the site senior executive.

The existing maximum penalty of 200 penalty points for a breach of this clause is maintained.

### **Amendment of s 138 (Failure to answer questions)**

Clause 82 amends section 138 by replacing 'person' with 'individual' to make it clear that a corporation is not entitled to claim privilege against self-incrimination. This implements a recommendation made by the Queensland Law Reform Commission in December 2004. Section 32D(1) of the *Acts Interpretation Act 1954* states that a reference to a person generally includes a reference to a corporation as well as an individual.

### **Amendment of s 151 (Power to require production of documents)**

Clause 83 amends section 151(6B) to make it clear that when an officer makes a requirement under subsection (1) or (3), the officer must warn the person it is an offence to fail to comply with the requirement unless the person has a reasonable excuse.

### **Amendment of s 152 (Failure to produce document)**

Clause 84 amends section 152 to make the provision consistent with modern drafting practices.

### **Amendment of s 155 (Failure to comply with requirement about attendance)**

Clause 85 amends section 155 by replacing ‘person’ with ‘individual’ to make it clear that a corporation is not entitled to claim privilege against self-incrimination. This implements a recommendation made by the Queensland Law Reform Commission in December 2004. Section 32D(1) of the *Acts Interpretation Act 1954* states that a reference to a person generally includes a reference to a corporation as well as an individual.

### **Replacement of s 156 (Person must answer question about serious accident of high potential incident)**

Clause 86 replaces the existing section 156 to update and clarify the operation of the section. It also removes the need for people to claim privilege before privilege applies.

### **Amendment of s 195A (Requirement to give primary information)**

Clause 87 amends section 195A(7) by replacing ‘person’ with ‘individual’ to make it clear that a corporation is not entitled to claim privilege against self-incrimination. This implements a recommendation made by the Queensland Law Reform Commission in December 2004. Section 32D(1) of the *Acts Interpretation Act 1954* states that a reference to a person generally includes a reference to a corporation as well as an individual.

### **Amendment of s 198 (Action to be taken in relation to site of accident or incident)**

Clause 88 amends section 198 to provide that it is not a defence for the site senior executive that carrying out an investigation, preparing a report or forwarding the report as required under subsection (1) might incriminate the site senior executive.

The report prepared under subsection (1) cannot be used as evidence against the site senior executive or any other coal mine worker mentioned in the report in any criminal proceeding other than proceedings about the falsity or misleading nature of the report.

### **Amendment of s 213 (Offences by witnesses)**

Clause 89 amends section 213 by replacing ‘person’ with ‘individual’ to make it clear that a corporation is not entitled to claim privilege against self-incrimination. This implements a recommendation made by the Queensland Law Reform Commission in December 2004. Section 32D(1) of the *Acts Interpretation Act 1954* states that a reference to a person generally includes a reference to a corporation as well as an individual.

### **Amendment of s 228 (Powers of court on appeal)**

Clause 90 amends section 288 to provide the Industrial Court with the power to award costs it considers appropriate.

### **Amendment of s 231 (Evidentiary aids)**

Clause 91 amends section 231 to allow for evidentiary certificates to state that a location of an incident or accident is within the boundaries of land that is subject of a mining tenure.

### **Insertion of new pt 14A**

Clause 92 inserts a new part 14A into the Act to provide for injunctions to ensure compliance with the Act. The Commissioner for Mine Safety and Health or the Chief Inspector may apply to the District Court for an injunction. The grounds for an injunction and the powers of the court are identified. The terms of the injunction will be determined by the court.

### **Insertion of new s 250A**

Clause 93 inserts new section 250A to place responsibility on site senior executives for mines to ensure children under the age of 16 do not operate or maintain plant at a mine site.

A maximum penalty of 100 penalty units is included to discourage non-compliance.

### **Insertion of new section 254C**

Clause 94 inserts new section 254C to provide the head of power for the Minister, Chief Executive, Commissioner for Mine Safety and Health or the Chief Inspector to issue public statements.

Subsection (1) provides that public statements can include information about offences against the Act and persons committing the offences, investigations conducted regarding serious accidents, actions taken by inspectors and cancellation of certificates of competency.

Subsection (2) provides that a public statement may identify particular information and persons.

Subsection (3) provides that a public statement may only be issued if it is considered that it is in the public interest to do so.

### **Amendment of s 255 (Disclosure of information)**

Clause 95 amends section 255 inserting new subsection (e) to provide a head of power for the disclosure of information for public statements made under the new section 254C.

### **Amendment of s 260 (Chief executive to keep records)**

Clause 96 amends section 260(1)(a)(ii) to specify that information about “lost time injuries” rather than “lost time accidents and illnesses” must be included in the records kept by the Chief Executive.

Subsection (2) is renumbered as subsection (4) and new subsection (2) is inserted to clarify that information recorded for lost time injuries must include the number of days the injured person is unable to work, regardless of the number of hours that would have been worked by that person each day.

New subsection (3) is also inserted to clarify that the number of days recorded as a lost time injury does not include the day of the injury.

New subsection (5) provides a definition for lost time injuries.

### **Replacement of pt 20, hdg (Transitional provisions for Mines and Energy Legislation Amendment Act 2010)**

Clause 97 replaces the heading of part 20 of the Act renaming it ‘Other transitional provisions’ and places existing provisions under the heading division 1 ‘Transitional provision for *Mines and Energy Legislation Amendment Act 2010*’.

### **Amendment of s 274 (Definitions for pt 20)**

Clause 98 amends section 274 as a result of amendments made in clause 97 of the Bill.

### **Insertion of new pt 20, div 2**

Clause 99 provides the transitional provisions for amendments contained in the Bill.

New section 279 is inserted into the Act to provide that appeal cost provisions in the Bill apply retrospectively to undecided appeals.

## **Part 10                      Amendment of Petroleum and Gas (Production and Safety) Act 2004**

### **Act amended**

Clause 100 provides that part 10 amends the *Petroleum and Gas (Production and Safety) Act 2004*.

### **Amendment of s 15 (When petroleum is produced)**

Clause 101 amends section 15 to remove any ambiguity as to when petroleum is produced for the purposes of the Act.

### **Amendment of s 36 (Right to tender)**

Clause 102 amends section 36 to make it clear that only an eligible person, as defined in section 19 of the Act, may tender for a proposed authority to prospect the subject of a call for tenders.

### **Amendment of s 128 (Right to tender)**

Clause 103 amends section 128 to make it clear that only an eligible person, as defined in section 19 of the Act, may tender for a proposed petroleum lease the subject of a call for tenders.

### **Amendment of s 306 (Content requirements for CSG statement)**

Clause 104 amends section 306(1)(b). The amendment clarifies the original intent of the section which is to provide the overview part of the plan, as the safety management plan itself is potentially a large system of documents and records.

### **Amendment of s 386 (Requirements for consultation with particular coal or oil shale mining tenement holders)**

Clause 105 amends section 386(7)(a). The amendment clarifies the original intent of the section which is to provide the overview part of the plan, as the safety management plan itself is potentially a large system of documents and records.

### **Amendment of s 392AG (content requirements for GHG statement)**

Clause 106 amends section 392AG(1)(b). The amendment clarifies the original intent of the section which is to provide the overview part of the plan, as the safety management plan itself is potentially a large system of documents and records.

### **Amendment of s 392BJ (Operation of pt 6)**

Clause 107 amends section 392BJ to correct a typographical error.

### **Amendment of s 392BO (Requirements for consultation with particular GHG tenure holders)**

Clause 108 amends section 392BO to clarify the original intent of the section which is to provide the overview part of the plan, as the safety management plan itself is potentially a large system of documents and records.

### **Insertion of new s 599A**

Clause 109 inserts new section 599A ‘Minister may require royalty estimate’ to provide the statutory power for the Minister to request details of mineral royalty estimates for a future period.

New subsection (1) provides that the Minister may, by notice to a person liable to pay a royalty under section 590 of the Act require a royalty estimate for a future period.

New subsection (2) provides that the royalty estimate provided must adhere to the conditions prescribed in the associated regulation and be provided no later than the day stated in the notice requesting the royalty estimate.

New subsection (3) provides that for the new section 599A the ‘royalty estimate’, for a future period is to be taken to mean a written return containing information prescribed under a regulation about estimated royalties payable for a future period.

### **Amendment of ch 9, pt 1, hdg (Safety requirements and labelling)**

Clause 110 amends the heading of chapter 9, part 1 for the purposes of consistency throughout the *Petroleum and Gas (Production and Safety) Act 2004*.

### **Amendment of s 669A (Labelling)**

Clause 111 amends section 669A to provide an appropriate head of power for making regulations to specify labelling requirements and minimum energy performance standards for gas devices and fittings inline with proposed energy performance and efficiency requirements.

### **Insertion of new s 678A**

Clause 112 inserts new section 678A into the Act. New section 678A requires the operator of an operating plant to make and keep records to demonstrate the safety management plan has been properly implemented and monitored. The records need to be kept for seven years. They include a wide range of records in relation to implementation and monitoring and reviewing the plan. The requirement is in line with safety management system common practice and is part of other changes to clarify the original intent that the safety management plan is an auditable system.

A maximum penalty of 1500 penalty units is included for non-compliance which is similar to related offences of not implementing a plan with all the section 675 content details in section 674 or for not revising a plan in section 678. These records are critical to the implementation of the plan as

they form part of the auditable documentation in support of a safety management plan as part of the greater auditable system.

### **Insertion of new s 708E**

Clause 113 inserts new section 708E to place responsibility on the operator of an operating plant to ensure children under the age of 16 do not operate or maintain equipment or machinery at a plant.

### **Amendment of s 718 (Witnesses)**

Clause 114 amends section 718 by replacing ‘person’ with ‘individual’ to make it clear that a corporation is not entitled to claim privilege against self-incrimination. This implements a recommendation made by the Queensland Law Reform Commission in December 2004. Section 32D(1) of the *Acts Interpretation Act 1954* states that a reference to a person generally includes a reference to a corporation as well as an individual.

### **Amendment of s 759 (Failure to produce document)**

Clause 115 amends section 759(1) to correct a drafting error.

### **Amendment of s 760 (Failure to certify copy of document)**

Clause 116 amends section 760 to correct a drafting error.

### **Amendment of s 834 (Other evidentiary aids)**

Clause 117 amends section 834 to allow for evidentiary certificates to state that a location of an incident or accident is within the boundaries of land that is subject of a petroleum authority.

### **Insertion of new ch 13, pt 3**

Clause 118 inserts a new part 3 in chapter 13 of the Act to provide for injunctions to ensure compliance with the Act. The Commissioner for Mine Safety and Health or the Chief Inspector may apply to the District Court for an injunction. The grounds for an injunction and the powers of the court are identified. The terms of the injunction will be determined by the court.

### **Insertion of new s 851A**

Clause 119 inserts new section 851A to provide the head of power for the Minister, Chief Executive, Commissioner for Mine Safety and Health or the Chief Inspector to issue public statements.

Subsection (1) provides that public statements can include information about offences against the Act and persons committing the offences, investigations conducted regarding serious accidents, actions taken by inspectors and cancellation of certificates of competency.

Subsection (2) provides that a public statement may identify particular information and persons.

Subsection (3) provides that a public statement may only be issued if it is considered that it is in the public interest to do so.

### **Amendment of sch 2 (Dictionary)**

Clause 120 amends the dictionary to add in a term for ‘overview’ in relation to a safety management plan. The amendment clarifies the original intent of various sections where a plan is required to be provided to other tenure holders. The intention always was that only an overview of the plan is required to be provided plus any other specified detail), as the safety management plan itself is potentially a large system of documents and records.

The definition of ‘safety management plan’ is also amended to make it clear that it is an auditable documented system. Also it clarifies that there does not have to be a separate plan for each stage of the plant rather one plan could have separate parts addressing each stage.

### **Amendment to omit footnotes**

Clause 121 provides for the omission of footnotes contained within the *Petroleum and Gas (Production and Safety Act) 2004*.

**Part 11**                      **Other amendment of Petroleum  
and Gas (Production and Safety)  
Act 2004**

**Act amended**

Clause 122 provides that the schedule in part 11 amends the *Petroleum and Gas (Production and Safety) Act 2004*.

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