

# Resources Safety and Health Queensland Bill 2019

## Explanatory Notes

### Short title

The short title of the Bill is the *Resources Safety and Health Queensland Bill 2019*.

### Policy objectives and the reasons for them

The objective of the Bill is to establish a revised regulatory framework for resources safety and health in Queensland that engenders worker trust, ensures appropriate independence and transparency, and enhances independent oversight of the performance of the regulator.

The Bill has arisen from the recommendations of the independently led Project Management Office (PMO), which was established by the Queensland Government to examine and develop for implementation key recommendations of the Coal Workers' Pneumoconiosis (CWP) select committee.

The CWP select committee was established by the 55th Queensland Parliament on 15 September 2016 to conduct an inquiry into the re-identification of CWP in Queensland.

The CWP select committee report no. 2 - *Inquiry into the re-identification of coal workers' pneumoconiosis in Queensland* made 68 recommendations, some of which concerned the structure of the regulator. The recommendations sought to ensure the independence of resources safety and health regulation from government's industry facilitation functions.

The Queensland Government response to the CWP select committee report supported, or supported in principle, all 68 recommendations. In supporting the recommendations, the government accepted the intent of the recommendations and acknowledged that additional analysis and consultation was required to determine the most appropriate implementation pathway.

The PMO examined recommendations of the CWP select committee relating to the structure and funding of the regulator. Following extensive consultation with stakeholders, the PMO completed its work program and finalised a report – *Queensland resources safety and health regulator and funding models*.

The PMO supported the CWP select committee's preference for a standalone regulator, making several recommendations about structure and governance. The

PMO report recommended establishing the resources safety and health regulator as a standalone statutory authority, and acknowledged that the regulator model could equally be implemented as a statutory body or department.

The Resources Safety and Health Queensland Bill 2019 establishes a statutory body, named Resources Safety and Health Queensland (RSHQ). The bill will ensure the genuine independence of the regulator, which was core to the CWP select committee's recommendations and the government's response.

Through the consultation process, stakeholder comments indicated a preference to retain a commissioner role, in particular, providing a source of advice to the Minister and improved oversight of regulatory performance. On the basis of that feedback, the PMO recommended the establishment of an independent Commissioner for Resources Safety and Health with functions across all resources sectors.

The Bill will create an independent Commissioner for Resources Safety and Health role consistent with the PMO's recommendation. The role will be established separate to RSHQ and will replace the existing Commissioner for Mine Safety and Health position.

Tripartite statutory advisory committees operate under the *Coal Mining Safety and Health Act 1999* and the *Mining and Quarrying Safety and Health Act 1999* to advise the Minister on safety and health matters in the mining and quarrying sectors.

The PMO recommended the establishment of an advisory council to provide advice to the Minister on the performance of the regulator, develop a five-year strategic plan to identify priority safety and health issues and establish action plans to address these, and create a mechanism to identify and prioritise critical safety and health risks. This recommendation was tested in consultation by the Department of Natural Resources, Mines and Energy (DNRME) and was not supported. Stakeholders noted in particular the challenges of ensuring adequate representation on an advisory council and expressed satisfaction with current arrangements. Stakeholders favoured retaining the existing advisory committee structures with an increased strategic focus.

Addressing recommendations of the PMO and feedback from stakeholders, the Bill amends the *Coal Mining Safety and Health Act 1999* and the *Mining and Quarrying Safety and Health Act 1999* to enhance the functions of the Coal Mining Safety and Health Advisory Committee and the Mining Safety and Health Advisory Committee.

The PMO and stakeholders identified the need for independent prosecutorial decision-making. The PMO recommended that the independent Work Health and Safety (WHS) prosecutor be utilised to prosecute serious offences under the resources safety legislation.

The PMO considered utilising the WHS prosecutor offers a number of benefits, including:

- independence - the prosecution function would be independent of existing agencies
- legal expertise - the office of the WHS prosecutor comprises expertise experience in prosecutorial functions

- consistency - a single point of reference for prosecutions would afford greater consistency in the interpretation and application of laws and legal instruments
- transparency - the WHS prosecutor a completely independent prosecutorial function with its own established governance and decision-making frameworks
- efficiency - having a single point to assess matters for prosecution is more efficient than those decisions being dispersed across several functional areas
- effectiveness - focussed expertise and consistent standards would be reflected in improved prosecution outcomes.

The Bill provides for the WHS prosecutor to be utilised to prosecute safety and health offences under the Resources Safety Acts, comprising the *Coal Mining Safety and Health Act 1999*, the *Mining and Quarrying Safety and Health Act 1999*, the *Explosives Act 1999* and the *Petroleum and Gas (Production and Safety) Act 2004*. Only the WHS prosecutor can prosecute serious offences under the Resources Safety Acts, while other offences may be prosecuted by the WHS prosecutor or the chief executive officer of RSHQ.

## **Achievement of policy objectives**

The Bill achieves the policy objectives by establishing a revised regulatory framework that provides independence, transparency and enhanced oversight.

### Resources Safety and Health Queensland

The Bill establishes RSHQ as an independent statutory body responsible for regulating safety and health in the state's resources industries. RSHQ will comprise the coal mines, mineral mines and quarries, explosives and petroleum and gas inspectorates. RSHQ will also include the Safety in Mines Testing and Research Station (Simtars) and the Coal Mine Workers' Health Scheme.

RSHQ's main function will be to administer the Resources Safety Acts, and to further their purposes. RSHQ's other functions will be to protect and regulate the safety and health of persons in the resources industry, monitor legislative compliance, and carry out incidental commercial activities.

Establishing RSHQ as a statutory body, rather than a statutory authority, ensures that RSHQ will not be part of, or subject to, oversight from an administering department, such as DNRME. This will ensure the function of protecting workers is separate from the government's functions of growing and facilitating mining and exploration projects and the resources sector as a whole.

As a statutory body, RSHQ will also have operational and administrative independence, with the power to enter into contracts, charge fees and deal with property in its own name. This will enable RSHQ to continue a range of government activities, including work carried out by Simtars.

The Bill provides for the appointment of a chief executive officer (CEO) to be made by the Governor in Council. The CEO of RSHQ may be appointed for a term not exceeding five years and may be reappointed. The CEO will be appointed under the

*Resources Safety and Health Queensland Act 2019*, rather than the *Public Service Act 2008*.

The CEO will be responsible for ensuring the effective administration and operation of RSHQ and the performance of its functions, and managing the organisational unit under the control of the CEO.

The Bill provides for governance arrangements for the CEO, including provisions for appointment and remuneration terms and conditions, responsibilities, powers, and removal from office.

To set high standards of accountability and integrity for the regulator, the Bill provides that RSHQ be:

- a statutory body under the *Financial Accountability Act 2009* and the *Statutory Bodies Financial Arrangements Act 1982*, and
- a unit of public administration under the *Crime and Corruption Act 2001*.

The Bill requires that RSHQ's annual report, which is prepared under the *Financial Accountability Act 2009*, include details of the functions performed by RSHQ during the year and how efficiently and effectively RSHQ performed its functions.

#### Resources Safety and Health Queensland employing office

The Bill establishes an employing office to engage staff under the *Public Service Act 2008* to undertake functions for RSHQ through work performance arrangements. The employing office will be constituted separately to RSHQ, comprising an executive officer and staff of the employing office.

The creation of an employing office will enable RSHQ to pursue its activities, while ensuring existing employment arrangements for staff continue under the *Public Service Act 2008*.

The employing office's main functions will be:

- entering into, for the State, a work performance arrangement with RSHQ under which employing office employees will perform work for RSHQ
- employing, for the State, staff to perform work for RSHQ under the work performance arrangement, and
- doing anything incidental to discharge these functions.

To ensure accountability, the Bill provides that the employing office be:

- a statutory body under the *Financial Accountability Act 2009* and the *Statutory Bodies Financial Arrangements Act 1982*, and
- a unit of public administration under the *Crime and Corruption Act 2001*.

The employing office will be a public service office for the purpose of the *Public Service Act 2008*. The executive officer of the employing office will be the public service office head. The Governor in Council may appoint the CEO as the executive officer.

By amending the *Public Service Act 2008* to provide that the employing office is a public service office, the *Public Service Act 2008* and other legislation such as the *Public Sector Ethics Act 1994* will automatically apply to the employing office as if it were a government department.

The Bill provides for the appointment of the executive officer to be made by the Governor in Council. The executive officer may be appointed for a term not exceeding five years and may be reappointed. The executive officer will be appointed under the *Resources Safety and Health Queensland Act 2019*, rather than the *Public Service Act 2008*.

The executive officer will be responsible for ensuring the effective administration and operation of the employing office and the performance of its functions.

The Bill provides for governance arrangements for the executive officer, including provisions for appointment and remuneration terms and conditions, responsibilities, powers, and removal from office.

### Commissioner for Resources Safety and Health

The Bill establishes the role of the Commissioner for Resources Safety and Health, with functions across all resources sectors. The position will deliver an independent monitoring, review and advisory function distinct from RSHQ. The role will replace the existing Commissioner for Mine Safety and Health position.

The commissioner will be appointed by the Governor in Council under the *Resources Safety and Health Queensland Act 2019*, rather than the *Public Service Act 2008*. The commissioner may be appointed for a term not exceeding five years and may be reappointed. The commissioner will be required to act independently, impartially and in the public interest.

The functions of the commissioner will be to:

- advise the Minister on matters relating to resources safety and health
- respond to Ministerial requests for advice
- fulfil the roles of chairperson of the coal mining safety and health advisory committee and the mining safety and health advisory committee
- engage with representatives of the explosives and petroleum and gas sectors about promoting and protecting safety and health
- monitor, review and report to the Minister on RSHQ's performance.

To be appointed as the commissioner, a person must have:

- a professional qualification relevant to the resources industry, and professional experience in safety and health in the resources sector, or
- professional experience in senior operational positions relating to the management of safety and health in the resources sector, and demonstrated competence in the management of safety and health in the resources sector.

The Bill provides for governance arrangements for the commissioner, including provisions for appointment and remuneration terms and conditions, responsibilities, powers, and removal from office.

The Bill allows the commissioner to arrange for the services of officers or employees of a government agency to be made available to the commissioner, with the agreement of the chief executive of the government agency.

The Bill also requires the commissioner to prepare an annual report about the operations of the commissioner during each financial year. The report must detail the functions performed by the commissioner and how efficiently and effectively the commissioner performed the functions.

### Advisory committees

The Bill amends the *Coal Mining Safety and Health Act 1999* and the *Mining and Quarrying Safety and Health Act 1999* to enhance the functions of the Coal Mining Safety and Health Advisory Committee and Mining Safety and Health Advisory Committee.

The advisory committees will provide advice and information to the Minister about critical risks to safety and health in the mining and quarrying sectors, and on RSHQ's performance. The advisory committees will also develop and evaluate progress against five-year strategic plans and develop action plans to achieve measurable targets. The strategic plans will identify, quantify and prioritise safety and health issues facing the mining and quarrying sectors. The enhanced functions of the advisory committees build on proven tripartite working arrangements and address recommendations of the PMO to provide a more strategic focus in identifying critical safety and health risks. The advisory committees form an important part of the accountability framework in the Bill.

### Work Health and Safety prosecutor

The Bill amends the Resources Safety Acts and the *Work Health and Safety Act 2011* to utilise the WHS prosecutor to prosecute offences under the Resources Safety Acts.

The WHS prosecutor will have sole responsibility for prosecuting serious offences under the Resources Safety Acts. Other offences may be prosecuted by the WHS prosecutor or the CEO of RSHQ. The Bill inserts a new definition of 'serious offence' in each of the Resources Safety Acts.

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

There are no alternative ways of achieving the policy objectives other than through legislation.

## **Estimated cost for government implementation**

The costs to establish the regulator as a statutory body are estimated to be \$2.0 million.

In the 2019-20 State Budget, the government committed funding of \$2.0 million over 2019-20 to establish RSHQ. Any further costs associated with implementation will be met by RSHQ.

## **Consistency with fundamental legislative principles**

The *Legislative Standards Act 1992* (LSA) requires an assessment of the consistency of the Bill with fundamental legislative principles (FLPs) and, if there are inconsistencies with FLPs, the reasons for the inconsistency. The Bill is consistent with FLPs.

## **Consultation**

Extensive consultation has occurred as part of this process. Between March and May 2018, the PMO released two discussion papers and five focus papers. The PMO also undertook face-to-face meetings, held three public information forums and implemented open-house information sessions with stakeholders.

The PMO report suggested that further consultation with key stakeholders was required to ensure stakeholders were fully aware and had an opportunity to comment on the additional components recommended in the PMO's regulator model. The government supported this approach and DNRME released an information paper and undertook targeted stakeholder consultation on the additional components of the regulator model proposed by the PMO, between September and October 2018.

Targeted consultation on the draft Bill also occurred with industry and union stakeholders in July and August 2019.

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

The Bill is specific to the State of Queensland and will achieve greater independent regulation of the resources safety and health industry, consistent with industry best practice.

# Notes on provisions

## Part 1 Preliminary

### Short title

*Clause 1* states that when enacted, the short title will be the *Resources Safety and Health Queensland Act 2019*.

### Commencement

*Clause 2* states the Act, other than sections 120 and 122, will commence on a day to be fixed by proclamation.

### Definitions

*Clause 3* provides that the dictionary in schedule 1 defines particular words used in the Act.

### Main purposes

*Clause 4* provides that the main purposes of the Act are to establish an independent statutory body called Resources Safety and Health Queensland to regulate safety and health in the resources sector, to establish the Resources Safety and Health Queensland employing office, and to provide for the Commissioner for Resources Safety and Health.

## Part 2 Resources Safety and Health Queensland

### Division 1 Establishment

#### Establishment of RSHQ

*Clause 5* establishes Resources Safety and Health Queensland (RSHQ).

#### Legal Status

*Clause 6* states RSHQ is a body corporate, and can sue or be sued in its corporate name.

#### Membership

*Clause 7* provides that RSHQ consists of the chief executive officer (CEO) and the organisational unit under the CEO's control.

#### RSHQ represents the State

*Clause 8* provides that RSHQ represents the State, and has the privileges and immunities of the State.



## **Application of other Acts**

*Clause 9* states that RSHQ will be a unit of public administration under the *Crime and Corruption Act 2001*, and a statutory body under the *Financial Accountability Act 2009* and the *Statutory Bodies Financial Arrangements Act 1982*. Part 2B of the *Statutory Bodies Financial Arrangements Act 1982* sets out the ways that Act affects RSHQ's powers.

## **Division 2                      Functions and powers**

### **Functions**

*Clause 10* provides for RSHQ's functions. Subclause 10(1) states RSHQ's main function is to administer the Resources Safety Acts and further their purposes.

Resources Safety Act is defined in schedule 1 to mean the *Coal Mining Safety and Health Act 1999*, the *Explosives Act 1999*, the *Mining and Quarrying Safety and Health Act 1999* or the *Petroleum and Gas (Production and Safety) Act 2004*.

Subclause 10(2) states the functions of RSHQ, which do not limit the main function. These functions are to protect the safety and health of persons in the resources industry, regulate safety and health in the resources industry, monitor compliance with and the effectiveness of the Resources Safety Acts, and carry out commercial activities incidental to RSHQ's main function.

Subclause 10(3) provides that RSHQ also has the functions given to it under the Act or another Act.

### **Powers**

*Clause 11* states RSHQ has all the powers of an individual and provides the following examples of these powers:

- enter into contracts or agreements
- deal in land or other property
- appoint agents and attorneys
- engage consultants or contractors
- establish funds and accounts with any financial institution in Australia
- charge an entity a fee for services or facilities it supplies
- do anything necessary or convenient to be done in the performance of RSHQ's functions.

The clause provides that RSHQ also has the powers given to it under the Act or another Act.

### **Performing functions and exercising powers inside and outside Queensland**

*Clause 12* provides RSHQ may perform its functions or exercise its powers inside or outside Queensland.

## **Ministerial direction**

*Clause 13* provides that the Minister may give a written direction to RSHQ about the performance of its functions or exercise of its powers under the Act, if the Minister is satisfied it is necessary to give the direction in the public interest. The direction may include a direction to give reports or information to the Minister. RSHQ must comply with a direction and publish a copy of the direction on a Queensland government website. To ensure independence in regulatory decision-making, a direction must not be about the performance of RSHQ's functions under a Resources Safety Act or the exercise of RSHQ's powers under a Resources Safety Act.

## **Division 3            Chief executive officer**

### **Appointment**

*Clause 14* provides that the Governor in Council must appoint a CEO of RSHQ. The CEO will be appointed under the Act, not the *Public Service Act 2008*.

### **Disqualification as CEO**

*Clause 15* provides for the disqualification of a person being appointed, or continuing as the CEO. A person is disqualified from being appointed, or continuing as, the CEO if the person:

- has a conviction, other than a spent conviction, for an indictable offence
- is an insolvent under administration
- is disqualified from managing corporations under part 2D.6 of the Corporations Act, or
- contravenes clauses 21 or 22.

### **Criminal history report**

*Clause 16* provides that to decide if a person is disqualified from becoming or continuing as the CEO, the Minister may ask the commissioner of the police service for a written criminal history report of the person, and a brief description of the circumstances of a conviction mentioned in the criminal history. However, the Minister may only make the request if the person has given the Minister written consent for the request. The commissioner must comply with the request, to the extent the commissioner possesses or has access to the information. The Minister must ensure the report is destroyed as soon as practicable after it is no longer needed for the purpose for which it was requested.

### **Term**

*Clause 17* provides that the CEO holds office for the term, not longer than 5 years, stated in the officer's instrument of appointment. A person appointed as the CEO may be reappointed.

## **Remuneration and conditions**

*Clause 18* provides that the CEO is to be paid the remuneration and other allowances decided by the Governor in Council. The remuneration must not be reduced during the CEO's term of office without the CEO's written consent. The CEO holds office on the terms and conditions, not provided for under the Act, that are decided by the Governor in Council.

## **Removal by Governor in Council**

*Clause 19* states that the Governor in Council may, on the Minister's recommendation, remove the CEO from office if the Minister is satisfied the CEO:

- has engaged in inappropriate or improper conduct in an official capacity
- has engaged in inappropriate or improper conduct in a private capacity that reflects seriously and adversely on the office
- has become incapable of performing the CEO's functions, or
- has neglected the CEO's duties or performed the CEO's functions incompetently.

## **Vacancy in office**

*Clause 20* provides that the office of the CEO becomes vacant if the CEO:

- completes a term of office and is not reappointed
- resigns office by signed notice given to the Minister
- becomes disqualified under clause 15 from continuing as CEO, or
- is removed under clause 19 as CEO.

## **CEO not to engage in other paid employment**

*Clause 21* states that the CEO must not, without the Minister's prior written approval:

- engage in paid employment, outside the responsibilities of the office of the CEO, or
- actively take part in the activities of a business, or in the management of a corporation carrying on a business, outside the responsibilities of the office of the CEO.

## **Conflicts of interest**

*Clause 22* provides that if the CEO has an interest that conflicts, or may conflict, with the discharge of the CEO's responsibilities, the CEO:

- must disclose the nature of the interest and conflict to the Minister as soon as practicable after the relevant facts come to the CEO's knowledge, and
- must not take action or further action concerning a matter that is, or may be, affected by the conflict unless authorised by the Minister.

## Functions

*Clause 23* states the functions of the CEO, which are to ensure the effective and efficient administration and operation of RSHQ and the performance of its functions, and manage the organisational unit under the control of the CEO. The CEO also has the functions given to the CEO under the Act or another Act.

## Powers

*Clause 24* states that the CEO has the power to do anything necessary or convenient for the performance of the CEO's functions. The CEO also has the powers given to the CEO under the Act or another Act.

## Delegation

*Clause 25* provides that the CEO may delegate the CEO's functions under the Act to an appropriately qualified person. In this section, the term functions includes powers.

## Acting CEO

*Clause 26* allows the Minister to appoint a person to act as CEO during a vacancy in the office, or during any period, or during all periods, when the CEO is absent from duty or from the State or is, for another reason, unable to perform the duties of the office. The acting CEO will be appointed under the Act, not the *Public Service Act 2008*.

## Preservation of rights

*Clause 27* provides for the preservation of rights and applies if a public service officer is appointed as the CEO. The clause states that a person keeps all rights accrued or accruing to the person as a public service officer as if service as the CEO were a continuation of service as a public service officer.

Subclause 27(3) confirms appointment does not prejudice the person's existing or accruing rights to superannuation or leave, or interrupt the person's continuity of service. However, the person cannot claim the benefit of a right or entitlement more than once in relation to the same service period and is not entitled to a payment or other benefit because the person is no longer a public service officer.

Subclause 27(4) sets out that at the completion of the person's term in office under clause 20(a) or resignation as the CEO under clause 20(b):

- a person has the right to be appointed to an office in the public service at a salary level no less than the current salary level of an office equivalent to that held by the person before being appointed as CEO, and
- the person's service as the CEO is taken to be service of a like nature in the public service for deciding the person's rights as a public service officer.

## **Division 4            Other matters**

### **Annual report**

*Clause 28* requires that RSHQ must include in its annual report prepared under section 63 of the *Financial Accountability Act 2009*:

- details of the functions it performed during the year
- information about how efficiently and effectively RSHQ performed its functions, including identifying key achievements and financial and non-financial performance
- details of any interest disclosed by the CEO to the Minister under clause 22(a);
- details of any action authorised by the Minister under clause 22(b)
- details of each direction given by the Minister under clause 13 during the financial year to which the report relates
- details of action taken by RSHQ because of the direction.

Subclause 28(2) states that the annual report must not be prepared in a way that discloses personal information.

## **Part 3                Employing office**

### **Division 1            Establishment**

#### **Establishment of employing office**

*Clause 29* establishes the Resources Safety and Health Queensland employing office. The employing office is a separate entity from RSHQ. The employing office consists of the executive officer and the staff of the employing office.

#### **Employing office represents the State**

*Clause 30* provides that the employing office represents the State, with the status, privileges and immunities of the State.

#### **Application of other Acts**

*Clause 31* states that the employing office will be a unit of public administration under the *Crime and Corruption Act 2001*, and a statutory body under the *Financial Accountability Act 2009* and *Statutory Bodies Financial Arrangements Act 1982*.

For applying the *Financial Accountability Act 2009* to the employing office as a statutory body:

- the executive officer is taken to be the chairperson of the employing office
- the *Financial Accountability Act 2009* is taken to require the executive officer to consider the annual financial statements and auditor-general's report after they are received by the employing office
- the *Financial Accountability Act 2009* is taken to require the executive officer to consider any observations, suggestions or comments given by the auditor-general as soon as practicable after the executive officer receives them.

## Functions

*Clause 32* states the functions of the employing office. The main functions of the employing office are to:

- enter into, for the State, a work performance arrangement with RSHQ under which employing office employees perform work for RSHQ
- employing, for the State, staff to perform work under the work performance arrangement
- doing anything incidental to the discharge of these functions.

The employing office will also have functions given to it under the Act or another Act.

The clause does not limit the employing office's power to enter into and give effect to a work performance arrangement with a government entity other than RSHQ.

## Powers

*Clause 33* provides that the employing office has the power to do anything necessary or convenient to be done for the performance of the employing office's functions. The employing office also has the powers given to it under the Act or another Act.

## Staff

*Clause 34* states that staff of the employing office are to be employed under the *Public Service Act 2008*.

## Division 2            Executive officer

### Appointment

*Clause 35* requires the employing office to have an executive officer. The executive officer is to be appointed by the Governor in Council and is appointed under the Act, not the *Public Service Act 2008*.

### Disqualification as executive officer

*Clause 36* provides for the disqualification of a person being appointed, or continuing as, the executive officer. A person is disqualified from becoming, or continuing as, the executive officer if the person:

- has a conviction, other than a spent conviction, for an indictable offence
- is an insolvent under administration
- is disqualified from managing corporations under part 2D.6 of the Corporations Act, or
- contravenes clauses 41 or 42.

### Term

*Clause 37* provides that the executive officer holds office for the term, not longer than 5 years, stated in the executive officer's instrument of appointment. A person appointed as executive officer may be reappointed.

## **Remuneration and conditions**

*Clause 38* provides that the executive officer is to be paid the remuneration and other allowances decided by the Governor in Council. The remuneration must not be reduced during the executive officer's term of office without the executive officer's written consent. The executive officer holds office on the terms and conditions, not provided for under the Act, that are decided by the Governor in Council.

## **Removal by Governor in Council**

*Clause 39* states that the Governor in Council may, on the Minister's recommendation, remove the executive officer from office if the Minister is satisfied the executive officer:

- has engaged in inappropriate or improper conduct in an official capacity
- has engaged in inappropriate or improper conduct in a private capacity that reflects seriously and adversely on the office
- has become incapable of performing the executive officer's functions, or
- has neglected the executive officer's duties or performed the executive officer's functions incompetently.

## **Vacancy in office**

*Clause 40* provides that the office of the executive officer becomes vacant if the executive officer:

- completes a term of office and is not reappointed
- resigns office by signed notice given to the Minister
- becomes disqualified under clause 36 from continuing as executive officer, or
- is removed under clause 39 as executive officer.

## **Executive officer not to engage in other paid employment**

*Clause 41* states that the executive officer must not, without the Minister's prior written approval:

- engage in paid employment, outside the responsibilities of the office of the executive officer, or
- actively take part in the activities of a business, or in the management of a corporation carrying on a business, outside the responsibilities of the office of the executive officer.

## **Conflicts of interest**

*Clause 42* provides that if the executive officer has an interest that conflicts or may conflict with the discharge of the executive officer's responsibilities, the executive officer:

- must disclose the nature of the interest and conflict to the Minister as soon as practicable after the relevant facts come to the executive officer's knowledge, and
- must not take action or further action concerning a matter that is, or may be, affected by the conflict unless authorised by the Minister.

## Functions

*Clause 43* states the functions of the executive officer. The executive officer has the function of ensuring the effective and efficient administration and operation of the employing office and the performance of its functions. The executive officer also has the functions given to the executive officer under the Act or another Act.

## Powers

*Clause 44* provides that the executive officer has the power to do anything necessary or convenient for the performance of the executive officer's functions. The executive officer also has the powers given to the executive officer under the Act or another Act.

## Delegation

*Clause 45* allows the executive officer to delegate functions and powers under the Act to an appropriately qualified officer of the employing office. In this section, functions include powers.

## Acting executive officer

*Clause 46* allows the Minister to appoint a person to act as executive officer during a vacancy in the office, or during any periods, or during all periods, when the executive officer is absent from duty or from the State or is, for another reason, unable to perform the duties of the office. The acting executive officer will be appointed under the Act, not the *Public Service Act 2008*.

## Preservation of rights

*Clause 47* provides for the preservation of rights and applies if a public service officer is appointed as the executive officer. *Clause 47* states that the person keeps all rights accrued or accruing to the person as a public service officer as if service as the executive officer were a continuation of service as a public service officer.

Subclause 47(3) confirms appointment does not prejudice the person's existing or accruing rights to superannuation or leave, or interrupt the person's continuity of service. However, the person cannot claim the benefit of a right or entitlement more than once in relation to the same service period and is not entitled to a payment or other benefit because the person is no longer a public service officer.

Subclause 47(4) sets out that at the completion of the person's term in office under clause 40(a) or resignation as the executive officer under clause 40(b):

- a person has the right to be appointed to an office in the public service at a salary level no less than the current salary level of an office equivalent to that held by the person before being appointed as executive officer, and
- the person's service as the executive officer is taken to be service of a like nature in the public service for deciding the person's rights as a public service officer.



## **Part 4 Commissioner for Resources Safety and Health**

### **Appointment**

*Clause 48* provides for the appointment of a Commissioner for Resources Safety and Health. The commissioner is appointed by the Governor in Council under the Act, not the *Public Service Act 2008*.

### **Qualifications for appointment**

*Clause 49* provides for the qualifications required for appointment to the role of commissioner. Clause 49 provides that to be appointed as the commissioner, a person must have:

- a professional qualification relevant to the resources industry, and professional experience in safety and health in the resources sector, or
- professional experience in senior operational positions relating to the management of safety and health in the resources sector, and demonstrated competence in the management of safety and health in the resources sector.

### **Disqualification as commissioner**

*Clause 50* provides for the disqualification of a person being becoming, or continuing as, the commissioner. A person is disqualified from becoming, or continuing as, the commissioner if the person:

- has a conviction, other than a spent conviction, for an indictable offence
- is an insolvent under administration
- is disqualified from managing corporations under part 2D.6 of the Corporations Act, or
- contravenes clauses 56 or 57.

### **Criminal history report**

*Clause 51* provides that to decide if a person is disqualified from becoming or continuing as the commissioner, the Minister may ask the commissioner of the police service for a written criminal history report of the person, and a brief description of the circumstances of a conviction mentioned in the criminal history. However, the Minister may only make the request if the person has given the Minister written consent for the request.

The commissioner of the police service must comply with the request, to the extent the commissioner of the police service possesses or has access to the information.

The Minister must ensure the report is destroyed as soon as practicable after it is no longer needed for the purpose for which it was requested.

### **Term**

*Clause 52* provides that the commissioner holds office for the term, not longer than 5 years, stated in the commissioner's instrument of appointment. A person appointed as commissioner may be reappointed.

## **Remuneration and conditions**

*Clause 53* provides that the commissioner is to be paid the remuneration and other allowances decided by the Governor in Council. The remuneration must not be reduced during the commissioner's term of office without the commissioner's written consent. The commissioner holds office on the terms and conditions, not provided for under the Act, that are decided by the Governor in Council.

## **Removal by Governor in Council**

*Clause 54* states that the Governor in Council may, on the Minister's recommendation, remove the commissioner from office if the Minister is satisfied the commissioner:

- has engaged in inappropriate or improper conduct in an official capacity
- has engaged in inappropriate or improper conduct in a private capacity that reflects seriously and adversely on the office
- has become incapable of performing the commissioner's functions, or
- has neglected the commissioner's duties or performed the commissioner's functions incompetently.

## **Vacancy in office**

*Clause 55* provides that the office of the commissioner becomes vacant if the commissioner:

- completes a term of office and is not reappointed
- resigns office by signed notice given to the Minister
- becomes disqualified under clause 50 from continuing as commissioner, or
- is removed under clause 54 as commissioner.

## **Commissioner not to engage in other paid employment**

*Clause 56* states that the commissioner must not, without the Minister's prior written approval:

- engage in paid employment, outside the responsibilities of the office of the commissioner, or
- actively take part in the activities of a business, or in the management of a corporation carrying on a business, outside the responsibilities of the office of the commissioner.

## **Conflicts of interest**

*Clause 57* provides that if the commissioner has an interest that conflicts, or may conflict, with the discharge of the commissioner's responsibilities, the commissioner:

- must disclose the nature of the interest and conflict to the Minister as soon as practicable after the relevant facts come to the commissioner's knowledge, and
- must not take action or further action concerning a matter that is, or may be, affected by the conflict unless authorised by the Minister.

## Functions

*Clause 58* states that the commissioner has the following functions:

- advising the Minister on matters relating to safety and health in the resources sector
- responding to requests by the Minister for advice on particular matters, including for example, the strategic direction of RSHQ
- fulfilling the roles of chairperson of the coal mining safety and health advisory committee and the mining safety and health advisory committee
- engaging with representatives of the explosives and petroleum and gas sectors about promoting and protecting the safety and health of persons who may be affected by the operation of those sectors
- monitoring, reviewing and reporting to the Minister on the performance of RSHQ's functions.

The commissioner also has the functions given to the commissioner under the Act or another Act.

In performing the commissioner's functions, the commissioner must act independently, impartially and in the public interest.

The commissioner does not have any regulatory powers under the Resources Safety Acts. This is to ensure the commissioner is able to discharge the function of monitoring and reviewing the performance of RSHQ's regulatory functions with objectivity.

## Powers

*Clause 59* provides that the commissioner has the power to do anything necessary or convenient to be done for the performance of the commissioner's functions. The commissioner also has the powers given to the commissioner under the Act or another Act.

## Acting commissioner

*Clause 60* allows the Minister to appoint a person to act as commissioner during a vacancy in the office, or during any periods, or during all periods, when the commissioner is absent from duty or the State or is, for another reason, unable to perform the duties of the office. The acting commissioner will be appointed under the Act, not the *Public Service Act 2008*.

## Preservation of rights

*Clause 61* provides for the preservation of rights and applies if a public service officer is appointed as the commissioner. The clause provides that a person keeps all rights accrued or accruing to the person as a public service officer as if service as the commissioner were a continuation of service as a public service officer.

Subclause 61(3) confirms appointment does not prejudice the person's existing or accruing rights to superannuation or leave, or interrupt the person's continuity of service. However, the person cannot claim the benefit of a right or entitlement more

than once in relation to the same service period and is not entitled to a payment or other benefit because the person is no longer a public service officer.

Subclause 61(4) sets out that at the completion of the person's term in office under clause 55(a) or resignation as the commissioner under clause 55(b):

- a person has the right to be appointed to an office in the public service at a salary level no less than the current salary level of an office equivalent to that held by the person before being appointed as commissioner, and
- the person's service as the commissioner is taken to be service of a like nature in the public service for deciding the person's rights as a public service officer.

### **Staff services from government agency**

*Clause 62* provides for the commissioner to arrange for the services of officers or employees of a government agency to be made available to the commissioner. Any such arrangement will be made with the agreement of the chief executive of the government agency.

An officer or employee made available to the commissioner continues to be an officer or employee of the government agency, and continues to be employed or engaged by the government agency on the same terms and conditions applying immediately before their services were made available. The officer or employee will be subject to the direction of the commissioner only in relation to the services made available to the commissioner and for the performance of the commissioner's functions.

The clause defines government agency as the following:

- a department or an administrative unit within a department
- a government owned corporation or a subsidiary of a government owned corporation
- an entity that is established under an Act and represents the State, including, for example, RSHQ or the employing office
- a local government.

The clause states that a chief executive includes:

- for RSHQ – the CEO
- for the employing office – the executive officer.

### **Ministerial direction**

*Clause 63* provides that the Minister may give a written direction to the commissioner about the performance of the commissioner's functions or the exercise of the commissioner's powers if the Minister is satisfied it is necessary to give the direction in the public interest. The direction may include a direction to give reports or information to the Minister. The direction cannot be about the content of any advice or recommendation given by the commissioner. The commissioner must comply with the direction and publish a copy of the direction on a Queensland government website.

## **Annual report**

*Clause 64* states the commissioner must prepare and give the Minister a written report about the operations of the commissioner during each financial year, and as soon as practicable after it is given to the Minister, publish it on a Queensland government website. The report must be given to the Minister within 4 months after the end of the financial year to which the report relates. The report must not disclose confidential information. The Minister must table a copy of the report in the Legislative Assembly within 14 sitting days after receiving it.

The report must include:

- details of the functions performed by the commissioner during the year
- information about how efficiently and effectively the commissioner performed the commissioner's functions, including identifying key achievements and financial and non-financial performance
- details of any interest disclosed by the commissioner under clause 57(a)
- details of any action authorised by the Minister under clause 57(b)
- details of each direction given by the Minister under clause 63 during the financial year to which the report relates, and details of action taken by the commissioner because of the direction.

## **Annual budget**

*Clause 65* provides for the annual budget of the commissioner. The commissioner must prepare a budget of estimated costs of the commissioner for the next financial year, before 31 March each year. The commissioner must consult with the CEO in preparing each budget. The commissioner is only able to spend money in a financial year under the approved budget, unless the Minister approves otherwise.

The Minister must approve, or refuse to approve, a budget by 31 May of each year. The Minister is not prevented from approving or refusing to approve the budget at a later time. A budget will have no effect until approved by the Minister on recommendation of the commissioner and the CEO. I

The commissioner will be able to prepare amendments to the budget for that year, in consultation with the CEO. An amendment will have no effect until approved by the Minister, on recommendation of the commissioner and the CEO.

If the commissioner and the CEO differ about what should be recommended to the Minister for an approval, the Minister may still give the approval.

The clause does not require the commissioner or the CEO to give the Minister any details that would prejudice a current investigation.

## Part 5                      General

### Disclosure of information

Clause 66 prohibits a person from disclosing certain information concerning the personal affairs of a person or commercially sensitive information obtained by the person in the administration of the Act unless the disclosure is made:

- with the consent of the person from whom the information was obtained
- in the administration of the Act
- in a proceeding before under the Act or a report of the proceeding, or
- in a proceeding before a court in which the information is relevant to the issue before the court.

The clause includes a maximum penalty of 100 penalty units.

### CEO may disclose information to particular entities

Clause 67 states the CEO may disclose anything that comes to the CEO's knowledge under the Act or a Resources Safety Act to a prescribed entity if the CEO is satisfied the disclosure would assist in the performance of the prescribed entity's functions under an Act or another law.

A 'prescribed entity' is defined in the clause as:

- the chief executive of a department in which a Resource Act is administered. A Resource Act is defined as the definition contained in the *Mineral and Energy Resources (Common Provisions) Act 2014*
- the Work Health and Safety (WHS) prosecutor, or
- the director of public prosecutions.

The clause applies despite clause 66 and the prescribed confidentiality provisions. The clause defines a 'prescribed confidentiality provision' as:

- section 275A of the *Coal Mining Safety and Health Act 1999*
- section 132 of the *Explosives Act 1999*
- section 255 of the *Mining and Quarrying Safety and Health Act 1999*, or
- chapter 6, part 5 of the *Petroleum and Gas (Production and Safety) Act 2004*.

### Regulation-making power

Clause 68 states that the Governor in Council may make regulations under the Act.

## Part 6                      Transfer notices

### Definitions for part

Clause 69 contains the following definitions for part 6:

- 'Instrument' means any document, and includes:
  - a written or oral agreement
  - an application

- an accreditation, approval, certificate, entitlement, exemption, licence, manual, notice, permit, plan and any other authority
- 'Right' includes power, privilege and immunity
- 'Transfer notice' is as defined at clause 70(1).

### **Minister may make transfer notice**

Clause 70 provides that for the purpose of the establishment of RSHQ or the employing office, the Minister may by gazette notice (a transfer notice), do any of the following:

- transfer a business, asset, or liability of the State to RSHQ or the employing office
- grant a lease, easement or other right from the State to RSHQ or the employing office
- vary or extinguish a lease, easement or other right held by the State
- for a lease held under the *Land Act 1994*:
  - transfer the lease, change the purpose of the lease or conditions of a lease, or grant a sublease
- for a reserve under the *Land Act 1994*:
  - change the community purpose for which the reserve is dedicated, remove a trustee of the reserve, or appoint a trustee of the reserve, subject to conditions or without conditions
- provide whether, and if so the extent to which, RSHQ is the successor in law of the State
- make provision for a legal proceeding that is being, or may be taken by or against the State to be continued or, taken by or taken against RSHQ or the employing office
- make provision for or about the issue, transfer, or application of an instrument to RSHQ or the employing office.

The clause also provides that a transfer notice may include conditions applying to something done or to be done under the notice.

If the Minister is satisfied it would be inappropriate for a particular matter to be stated in a transfer notice, the Minister may provide for the matter by including a reference in the transfer notice to another document that is signed by the Minister, and kept available at a place stated in the transfer notice for inspection by the persons to whom the matter relates.

The transfer of a liability of the State under a transfer notice discharges the State from the liability, other than to the extent stated in the notice. A transfer notice has effect despite any other law or instrument, and has effect on the day it is published or a later day stated.

If the transfer notice makes provision for a matter under subsection (1)(h) in relation to an instrument, the responsible entity for the instrument must take the action necessary to register or record the effect of the transfer notice, including updating a register or other record, and amending, cancelling or issuing an instrument.

The clause defines 'asset' to include a right, and 'lease' to include any derivative under lease. The clause also defines 'responsible entity' as the entity required or authorised by law to register or record matters in relation to the instrument.

### **Application of instruments**

*Clause 71* applies if a transfer notice provides for an instrument that applied to an entity (the transferor) to apply to another entity (the transferee), in place of the transferor. Without limiting the application of the transfer notice to the instrument, the following apply:

- any right, title, interest or liability of the transferor arising under or relating to the instrument will be taken to have transferred to the transferee
- if the instrument, including a benefit or right, is given to, by or in favour of the transferor, the instrument will be taken to be given, by or in favour of the transferee
- the transferee will be taken to be a party to the instrument in place of the transferor
- a reference to the transferor will be taken to be a reference to the transferee, to the extent possible and if the context permits
- an application in the name of the transferor will be taken to have been made in the name of the transferee
- amounts payable to or by the transferor will instead be payable to or by the transferee
- an instrument under which property, other than money, which is or may become liable to be transferred, conveyed or assigned by instrument to the transferee will instead do so in the way it was transferred, conveyed or assigned to or by the transferor.

## **Part 7                      Amendment of Acts and subordinate legislation**

### **Division 1                      Amendment of this Act**

#### **Act amended**

*Clause 72* states the division amends the Act.

#### **Amendment of long title**

*Clause 73* amends the long title of the Act to include the words 'and provide for' and to omit the words ', and to amend'.

### **Division 2                      Amendment of Coal Mining Safety and Health Act 1999**

#### **Act amended**

*Clause 74* provides that the division amends the *Coal Mining Safety and Health Act 1999*. The clause also includes a note to see amendments in schedule 2.



### **Amendment of s 7 (How objects are to be achieved)**

*Clause 75* removes section 7(1) of the *Coal Mining Safety and Health Act 1999*.

### **Amendment of s 72 (Recognised standards)**

*Clause 76* amends section 72 to require that the CEO must publish each recognised standard and any documents applied, adopted or incorporated by the standard on a Queensland government website. A Queensland government website is defined as a website with a URL that contains 'qld.gov.au', other than the website of a local government.

### **Omission of pt 5A (Commissioner for Mine Safety and Health)**

*Clause 77* omits part 5A of the Act, which provides for the Commissioner for Mine Safety and Health.

### **Amendment of s 76 (Functions of committee)**

*Clause 78* inserts a new heading, Primary function. The clause also broadens the primary function of the committee to give advice and make recommendations to the Minister about promoting and protecting the safety and health of persons at coal mines to also include persons who may be affected by coal mining operations. The clause removes the committee's function of reviewing the effectiveness of the Act, regulations and recognised standards.

### **Insertion of new s 76A**

*Clause 79* inserts a new section setting out the other functions of the committee.

### **New section 76A Other functions of committee**

The other functions of the committee are:

- recognising, establishing and publishing the following competencies:
  - competencies accepted by the committee as qualifying a person to perform the tasks prescribed by regulation
  - the safety and health competencies required to perform duties of a person under the *Coal Mining Safety and Health Act 1999*
- developing of a 5-year strategic plan for improving the safety and health of persons at coal mines and persons who may be affected by coal mining operations
- periodically evaluating, and at least once each year updating, the 5-year strategic plan
- developing action plans to achieve measurable targets set in the 5-year strategic plan
- obtaining information from RSHQ to assess the fulfilment of the 5-year strategic plan and action plans
- identifying and prioritising critical risks to the safety and health of persons at coal mines and persons who may be affected by coal mining operations
- providing advice to the coal mining industry about the critical risks

- providing information to the Minister about the performance of RSHQ.

### **Amendment of s 250 (Proof of appointments and authority unnecessary)**

*Clause 80* replaces the reference to the chief executive in the section with a reference to the CEO and the WHS prosecutor.

### **Amendment of s 251 (Proof of signatures unnecessary)**

*Clause 81* replaces the reference to the chief executive in the section with a reference to the CEO and the WHS prosecutor.

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

*Clause 82* replaces the reference to the chief executive in the section with a reference to the CEO and the WHS prosecutor.

### **Amendment of s 255 (Proceedings for offences)**

*Clause 83* amends section 255 to provide that proceedings for offences against the *Coal Mining Safety and Health Act 1999* may be taken only by:

- if the offence is a serious offence – the WHS prosecutor
- otherwise – the CEO or the WHS prosecutor.

The CEO may authorise in writing another appropriately qualified person to take a proceeding, provided it is not a serious offence. The authorisation may be general or limited to a particular proceeding or class of proceeding.

In deciding whether to bring a prosecution for an offence under the *Coal Mining Safety and Health Act 1999*, the WHS prosecutor must have regard to any guidelines issued under section 11 of the *Director of Public Prosecutions Act 1984*.

The clause inserts a definition of serious offence in section 255. A serious offence means:

- an offence against section 34 of the *Coal Mining Safety and Health Act 1999* if the contravention:
  - caused multiple deaths
  - caused death or grievous bodily harm
  - caused bodily harm
  - involved exposure to a substance likely to cause death or grievous bodily harm, or
- another offence prescribed by regulation.

### **Replacement of s 256 (Recommendation to prosecute)**

*Clause 84* inserts a replacement section 256.

## **256 WHS prosecutor may ask CEO for information**

The provision provides that the WHS prosecutor may ask the CEO for information relevant to the performance of a function of the WHS prosecutor under the *Coal Mining Safety and Health Act 1999*. The CEO must take reasonable steps to provide that information, which includes a document.

## **New section 256A CEO's duty to disclose information to WHS prosecutor**

New section 256A will apply in relation to a proceeding for an offence brought by the WHS prosecutor against the *Coal Mining Safety and Health Act 1999*.

The CEO has a duty to disclose to the WHS prosecutor all information relevant to the proceeding, including knowledge of a matter relevant to the proceeding, in the possession or control of the CEO. The duty continues until the proceeding is finally decided or otherwise ends. In this section, information includes a document.

## **New section 256B Procedure if prosecution not brought**

New section 256B provides that a person may make a written request to the WHS prosecutor that a prosecution be brought in relation to an act or omission if:

- the person reasonably believes the act or omission constitutes a serious offence, as defined under section 255(10) of the *Coal Mining Safety and Health Act 1999*, and
- no prosecution has been brought in relation to the act or omission, and
- at least 6 months but no more than 12 months has elapsed from when the act or omission happened.

The WHS prosecutor must, within 3 months of receiving the written request, give the person, and any other person the person believes committed the serious offence, a notice in writing stating:

- whether the relevant investigation is complete
- if the investigation is complete, whether a prosecution has or will be brought, and
- if a prosecution has not been or will not be brought – the reasons for not bringing the prosecution.

Where the WHS prosecutor gives notice that no prosecution has or will be brought, the prosecutor must advise in the notice that the applicant may ask the WHS prosecutor to refer the matter to the director of public prosecutions. If the applicant requests referral to the director of public prosecutions, the WHS prosecutor must make the referral within 1 month.

The director of public prosecutions must consider and give written advice to the WHS prosecutor on the matter within 1 month after the matter is referred stating whether the director considers a prosecution should be brought. The WHS prosecutor must give a copy of this advice to the person who made the request and any other person whom the person making the request believes committed the serious offence.

If the WHS prosecutor declines to follow the director of public prosecutions' advice, the WHS prosecutor must give reasons for the decision to the person who made the request and any other person whom the person making the request believes committed the serious offence.

#### **Amendment of s 264 (Costs of investigation)**

*Clause 85* provides that if a court convicts a person of an offence under the *Coal Mining Safety and Health Act 1999*, the court may order the person to pay the reasonable costs incurred by RSHQ in investigating and preparing for prosecution of an offence.

#### **Amendment of s 267A (Applying for injunction)**

*Clause 86* replaces references to the Commissioner for Mine Safety and Health in the section with a reference to the CEO.

#### **Amendment of s 275AC (Public statements)**

*Clause 87* replaces references to the chief executive and the Commissioner for Mine Safety and Health in the section with reference to the CEO.

#### **Amendment of s 277 (Delegations)**

*Clause 88* amends section 277.

#### **277 Delegation by Minister or CEO**

Section 277 provides that the Minister or the CEO, may delegate their functions and powers under the *Coal Mining Safety and Health Act 1999* to an appropriately qualified person.

#### **Amendment of s 282 (Regulation-making power)**

*Clause 89* expands the regulation-making power under section 282 of the *Coal Mining Safety and Health Act 1999* to include activities carried out under the Act or another Act relating to safety and health for coal mining operations. The clause removes reference to the chief executive in section 282.

#### **Insertion of new pt 20, div 8**

*Clause 90* inserts new part 20, division 8 into the *Coal Mining Safety and Health Act 1999*.

**Division 8                      Transitional provisions for Resources Safety and Health Queensland Act 2019**

**New section 311    Definitions for division**

New section 311 defines 'corresponding provision' and 'pre-amended Act' for the division.

Corresponding provision, for a provision of the pre-amended Act, means a provision of the Act that provides for the same, or substantially the same, matter as the provision of the pre-amended Act.

Pre-amended Act means the *Coal Mining Safety and Health Act 1999* as in force before commencement of this Act.

**New section 312    Functions performed and powers exercised by chief executive**

New section 312 provides that a function performed or a power exercised by the chief executive under a provision of the pre-amended Act, if the context permits, will be taken to have been performed or exercised by the CEO of RSHQ under the corresponding provision.

**New section 313    References to chief executive**

New section 313 provides that in documents made under or relating to provisions of the pre-amended Act, if the context permits, a reference to the chief executive is taken to be a reference to the CEO of RSHQ.

**New section 314    Functions performed and powers exercised by the Commissioner for Mine Safety and Health**

New section 314 provides that a function performed or power exercised by the Commissioner for Mine Safety and Health under a provision of the pre-amended Act, if the context permits, will be taken to have been performed or exercised by the Commissioner for Resources Safety and Health under the corresponding provision. This section is subject to new section 316.

**New section 315    References to Commissioner for Mine Safety and Health**

New section 315 provides that references to the Commissioner for Mine Safety and Health in documents made under or relating to provisions of the pre-amended Act, will be taken to be references to the Commissioner for Resources Safety and Health in a corresponding provision, if the context permits. This section is subject to new section 316.

**New section 316    Existing proceedings**

New section 316 provides that certain proceedings or appeals started before commencement of the Act by the chief executive or the Commissioner for Mine Safety

and Health will transfer to the CEO, or WHS prosecutor for serious offences. These proceedings are those concerning an offence, injunction or interim injunction, variation or rescinding of an injunction, or appeal against the decision made on any such proceeding. The CEO will be able to authorise another appropriately qualified person to become party to the proceeding in place of the CEO.

### **New section 317 Costs of investigation**

New section 317 provides that the court may order a person convicted of an offence under the *Coal Mining Safety and Health Act 1999* to pay the reasonable costs of investigating and preparing for prosecution of that offence. The order may be made whether the costs were incurred by the department or RSHQ, and whether the offence was committed before or after commencement of the Act.

### **New section 318 References to department**

New section 318 provides that references to the department, in documents made under or relating to provisions of the pre-amended Act, in corresponding provisions, will be taken to be references to RSHQ, if the context permits.

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

*Clause 91* amends the dictionary of the *Coal Mining Safety and Health Act 1999* to remove references to the chief executive and Commissioner for Mine Safety and Health, and insert definitions for the CEO, commissioner, RSHQ and the WHS prosecutor. The clause also amends the definition of official to include the CEO and the WHS prosecutor.

## **Division 3 Amendment of Explosives Act 1999**

### **Act Amended**

*Clause 92* states this division amends the *Explosives Act 1999*.

### **Amendment of s 76 (Report of offences)**

*Clause 93* removes reference to the Commissioner for Mine Safety and Health and inserts the WHS prosecutor and the CEO as persons to whom a board of inquiry may report an offence under section 76 of the *Explosives Act 1999*.

### **Amendment of s 106A (Applying for injunction)**

*Clause 94* replaces reference to the Commissioner for Mine Safety and Health in the section with a reference to the CEO.

### **Amendment of s 118 (Proceeding for offence)**

*Clause 95* amends section 118 to provide that proceedings for offences against the *Explosives Act 1999* may be taken only by:

- if the offence is a serious offence – the WHS prosecutor

- otherwise – the CEO or the WHS prosecutor.

The CEO may authorise in writing another appropriately qualified person to take a proceeding, provided it is not a serious offence. The authorisation may be general or limited to a particular proceeding or class of proceeding.

In deciding whether to bring a prosecution for an offence under the *Explosives Act 1999*, the WHS prosecutor must have regard to any guidelines issued under section 11 of the *Director of Public Prosecutions Act 1984*.

The clause inserts a definition of serious offence in section 118. A serious offence means:

- an offence against section 32 of the *Explosives Act 1999* if the contravention:
  - caused multiple deaths
  - caused death or grievous bodily harm
  - caused bodily harm
  - involved exposure to a substance likely to cause death or grievous bodily harm, or
- another offence prescribed by regulation.

### **Insertion of new ss 118A-118C**

*Clause 96* inserts new sections 118A, 118B and 118C.

#### **New section 118A WHS prosecutor may ask CEO for information**

New section 118A states that the WHS prosecutor may ask the CEO for information relevant to performing the WHS prosecutor's under the *Explosives Act 1999*. The CEO must take reasonable steps to provide that information, which includes documents.

#### **New section 118B CEO's duty to disclose information to WHS prosecutor**

New section 118B will apply in relation to a proceeding for an offence brought by the WHS prosecutor against the *Explosives Act 1999*.

The CEO has a duty to disclose to the WHS prosecutor all information relevant to the proceeding, including knowledge of a matter relevant to the proceeding, in the possession or control of the CEO. The duty continues until the proceeding is finally decided or otherwise ends. In this section, information includes a document.

#### **New section 118C Procedure if prosecution not brought**

New section 118C provides that a person may make a written request to the WHS prosecutor that a prosecution be brought in relation to an act or omission if:

- the person reasonably believes the act or omission constitutes a serious offence, as defined under section 118(6) of the *Explosives Act 1999*, and
- no prosecution has been brought in relation to the act or omission, and
- at least 6 months but no more than 12 months has elapsed from when the act or omission happened.

The WHS prosecutor must, within 3 months of receiving the written request, give the person, and any other person the person believes committed the serious offence, a notice in writing stating:

- whether the relevant investigation is complete
- if the investigation is complete, whether a prosecution has or will be brought, and
- if a prosecution has not been or will not be brought – the reasons for not bringing the prosecution.

Where the WHS prosecutor gives notice that no prosecution has or will be brought, the prosecutor must advise in the notice that the applicant may ask the WHS prosecutor to refer the matter to the director of public prosecutions. If the applicant requests referral to the director of public prosecutions, the WHS prosecutor must make the referral within 1 month.

The director of public prosecutions must consider and give written advice to the WHS prosecutor on the matter within 1 month after the matter is referred stating whether the director considers a prosecution should be brought.

The WHS prosecutor must give a copy of this advice to the person who made the request and any other person whom the person making the request believes committed the serious offence.

If the WHS prosecutor declines to follow the director of public prosecutions' advice, the WHS prosecutor must give reasons for the decision to the person who made the request and any other person whom the person making the request believes committed the serious offence.

### **Amendment of s 126C (Public statements)**

*Clause 97* replaces reference to the chief executive in the section with a reference to the CEO. The clause removes reference to the Commissioner for Mine Safety and Health in the section.

### **Replacement of s 129 (Delegation by chief executive)**

*Clause 98* inserts a new replacement section 129.

#### **129 Delegation by CEO**

New replacement section 129 replaces the delegation by the chief executive with a delegation by the CEO. The provision enables to the CEO to delegate the CEO's functions under the *Explosives Act 1999* to an appropriate qualified person. In this section, the term functions includes powers.

### **Amendment of s 133 (Evidentiary provision)**

*Clause 99* replaces references to the Commissioner for Mine Safety and Health and chief executive in the section with references to the WHS prosecutor and the CEO. The clause also removes reference to the chief inspector in section 133(4)(f).



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

*Clause 100* expands the regulation-making power to include activities carried out under the Act or another Act relating to safety and health for explosives. The clause also removes reference to the chief executive under section 135.

### **Insertion of new pt 10, div 7**

*Clause 101* inserts new part 10, division 7.

## **Division 7                      Transitional provisions for Resources Safety and Health Queensland Act 2019**

### **New section 154    Definitions for division**

New section 154 defines ‘corresponding provision’ and ‘pre-amended Act’ for the new division.

Corresponding provision, for a provision of the pre-amended Act, means a provision of the Act that provides for the same, or substantially the same, matter as the provision of the pre-amended Act.

Pre-amended Act means the *Explosives Act 1999* as in force before commencement of this Act.

### **New section 155    Functions performed and powers exercised by chief executive**

New section 155 provides that functions performed and powers exercised by the chief executive under the Act, if the context permits, will be taken to have been performed or exercised by the CEO of RSHQ under the corresponding provision.

### **New section 156    References to chief executive**

New section 156 provides that references to the chief executive, in documents made under or relating to provisions of the pre-amended Act, in corresponding provisions, will be taken to be references to the CEO of RSHQ if the context permits.

### **New section 157    Existing proceedings**

New section 157 provides certain proceedings or appeals started before commencement of the Act by the chief executive, the Commissioner for Mine Safety and Health, or another appropriately qualified person, will transfer to the CEO, or the WHS prosecutor for serious offences. These proceeding are those concerning an offence, injunction or interim injunction, variation or rescinding of an injunction, or appeal against the decision made on any such proceeding. The CEO may authorise another appropriately qualified person to become party to the proceeding in place of the CEO.

**New section 158 Costs of investigation**

New section 158 provides that the court may order a person convicted of an offence under the *Explosives Act 1999* to pay the reasonable costs of investigating and preparing for prosecution of that offence. The order may be made whether the costs were incurred by the department or RSHQ, and whether the offence was committed before or after commencement of the Act.

**New section 159 References to department**

New section 159 provides that references to the department, in documents made under or relating to provisions of the pre-amended Act, in corresponding provisions, will be taken to be references to the CEO of RSHQ if the context permits.

**Amendment of sch 2 (Dictionary)**

*Clause 102* amends the dictionary of the *Explosives Act 1999* to remove references to the chief executive and the Commissioner for Mine Safety and Health, and insert definitions for the CEO, RSHQ and the WHS prosecutor. The clause also amends the definition of official to include the CEO and the WHS prosecutor.

**Division 4 Amendment of Mining and Quarrying Safety and Health Act 1999****Act amended**

*Clause 103* states that the division amends the *Mining and Quarrying Safety and Health Act 1999*.

**Amendment of s 63 (Guidelines)**

*Clause 104* states the CEO must publish each guideline and any document applied, adopted or incorporated by the guidelines, under the *Mining and Quarrying Safety and Health Act 1999*, on a Queensland government website. A Queensland government website is defined as a website with a URL that contains 'qld.gov.au', other than the website of a local government.

**Amendment of s 67 (Functions of committee)**

*Clause 105* inserts a new heading, Primary Function.

The clause broadens the primary function of the committee to give advice and make recommendations to the Minister about promoting and protecting the safety and health of persons at mines, to include persons who may be affected by mining operations. The clause removes the committee's function of reviewing the effectiveness of the Act, regulations and recognised standards.

## **Insertion of new s 67A**

*Clause 106* inserts new section 67A.

### **New section 67A Other functions of committee**

New section 67A sets out the other functions of the committee. These are:

- recognising, establishing and publishing competencies accepted by the committee as qualifying a person to perform the tasks prescribed by regulation
- recognising, establishing and publishing safety and health competencies required to perform duties of a person under the *Mining and Quarrying Safety and Health Act 1999*
- developing a 5-year strategic plan for improving the safety and health of persons at mines and persons who may be affected by mining operations
- periodically evaluating, and at least once a year updating, the 5-year strategic plan
- developing action plans to achieve measurable targets set in the 5-year strategic plan
- obtaining information from RSHQ to assess the fulfilment of the 5-year strategic plan and action plans
- identifying and prioritising critical risks to the safety and health of persons at mines and persons who may be affected by mining operations
- providing advice to the mining industry about the critical risks
- providing information to the Minister about the performance of RSHQ.

### **Replacement of s 126 (Further functions of inspectors)**

*Clause 107* replaces section 126.

#### **126 Further function of inspectors**

New section 126 provides that inspectors under the *Mining and Quarrying Safety and Health Act 1999* will have the further function of advising the chief inspector on safety and health at mines.

### **Amendment of s 229 (Proof of appointments and authority unnecessary)**

*Clause 108* replaces the reference to the chief executive in the section with a reference to the CEO and WHS prosecutor.

### **Amendment of s 230 (Proof of signatures unnecessary)**

*Clause 109* replaces the reference to the chief executive in the section with a reference to the CEO and WHS prosecutor.

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

*Clause 110* replaces the reference to the chief executive in the section with a reference to the CEO and WHS prosecutor.

### **Amendment of s 234 (Proceedings for offences)**

Clause 111 amends section 234 to provide that proceedings for offences against the *Mining and Quarrying Safety and Health Act 1999* may be taken only by:

- if the offence is a serious offence – the WHS prosecutor
- otherwise – the CEO or the WHS prosecutor.

The CEO may authorise in writing another appropriately qualified person to take a proceeding, provided it is not a serious offence. The authorisation may be general or limited to a particular proceeding or class of proceeding.

In deciding whether to bring a prosecution for an offence under the *Mining and Quarrying Safety and Health Act 1999*, the WHS prosecutor must have regard to any guidelines issued under section 11 of the *Director of Public Prosecutions Act 1984*.

The clause inserts a definition of serious offence in section 234. A serious offence means:

- an offence against section 31 of the *Mining and Quarrying Safety and Health Act 1999* if the contravention:
  - caused multiple deaths
  - caused death or grievous bodily harm
  - caused bodily harm
  - involved exposure to a substance likely to cause death or grievous bodily harm, or
- another offence prescribed by regulation.

### **Replacement of s 235 (Recommendation to prosecute)**

Clause 112 inserts a new replacement section 235.

#### **235 WHS prosecutor may ask CEO for information**

New replacement section 235 provides that the WHS prosecutor may ask the CEO for information relevant to the performance of a function of the WHS prosecutor under the *Mining and Quarrying Safety and Health Act 1999*. The CEO must take reasonable steps to provide that information, which includes a document.

#### **New section 235A CEO's duty to disclose information to WHS prosecutor**

New section 235A will apply in relation to a proceeding for an offence brought by the WHS prosecutor against the *Mining and Quarrying Safety and Health Act 1999*.

The CEO has a duty to disclose to the WHS prosecutor all information relevant to the proceeding, including knowledge of a matter relevant to the proceeding, in the possession or control of the CEO. The duty continues until the proceeding is finally decided or otherwise ends. In this section, information includes a document.

### **New section 235B Procedure if prosecution not brought**

New section 235B provides that a person may make a written request to the WHS prosecutor that a prosecution be brought in relation to an act or omission if:

- the person reasonably believes the act or omission constitutes a serious offence, as defined under section 234(10) of the *Mining and Quarrying Safety and Health Act 1999*, and
- no prosecution has been brought in relation to the act or omission, and
- at least 6 months but no more than 12 months has elapsed from when the act or omission happened.

The WHS prosecutor must, within 3 months of receiving the written request, give the person, and any other person the person believes committed the serious offence, a notice in writing stating:

- whether the relevant investigation is complete
- if the investigation is complete, whether a prosecution has or will be brought, and
- if a prosecution has not been or will not be brought – the reasons for not bringing the prosecution.

Where the WHS prosecutor gives notice that no prosecution has or will be brought, the prosecutor must advise in the notice that the applicant may ask the WHS prosecutor to refer the matter to the director of public prosecutions. If the applicant requests referral to the director of public prosecutions, the WHS prosecutor must make the referral within 1 month.

The director of public prosecutions must consider and give written advice to the WHS prosecutor on the matter within 1 month after the matter is referred stating whether the director considers a prosecution should be brought.

The WHS prosecutor must give a copy of this advice to the person who made the request and any other person whom the person making the request believes committed the serious offence.

If the WHS prosecutor declines to follow the director of public prosecutions' advice, the WHS prosecutor must give reasons for the decision to the person who made the request and any other person whom the person making the request believes committed the serious offence.

### **Amendment of s 243 (Costs of investigation)**

*Clause 113* provides that if a court convicts a person of an offence under the *Mining and Quarrying Safety and Health Act 1999*, the court may order the person to pay the reasonable costs incurred by RSHQ in investigating and preparing for prosecution of an offence.

### **Amendment of s 246A (Applying for injunction)**

*Clause 114* replaces reference to the Commissioner for Mine Safety and Health in the section with a reference to the CEO.

### **Amendment of s 254C (Public statements)**

*Clause 115* replaces references to the chief executive and the Commissioner for Mine Safety and Health in the section with a reference to the CEO.

### **Replacement of s 257 (Delegations)**

*Clause 116* inserts a new replacement section 257.

### **257 Delegation by Minister or CEO**

This section provides the Minister or the CEO may delegate their functions to an appropriately qualified person, under *Mining and Quarrying Safety and Health Act 1999*. In this section, the term functions includes powers.

### **Amendment of s 262 (Regulation-making power)**

*Clause 117* expands the regulation-making power to include activities carried out under that Act or another Act relating to safety and health for operations.

### **Insertion of new pt 20, div 6**

*Clause 118* inserts new part 20, division 6.

## **Division 6                      Transitional provisions for Resources Safety and Health Queensland Act 2019**

### **New section 286    Definitions for division**

New section 286 defines 'corresponding provision' and 'pre-amended Act' for the new division.

Corresponding provision, for a provision of the pre-amended Act, means a provision of the Act that provides for the same, or substantially the same, matter as the provision of the pre-amended Act.

Pre-amended Act means the *Mining and Quarrying Safety and Health Act 1999* as in force before commencement of this Act.

### **New section 287    Functions performed and powers exercised by chief executive**

New section 287 provides that a function performed or a power exercised by the chief executive under the Act will be taken to have been performed or exercised by the CEO of RSHQ under the corresponding provision, if the context permits.

**New section 288 References to chief executive**

New section 288 provides that references to the chief executive, in documents made under or relating to provisions of the pre-amended Act, in corresponding provisions, will be taken to be references to the CEO of RSHQ if the context permits.

**New section 289 Functions performed and powers exercised by the Commissioner for Mine Safety and Health**

New section 289 provides that a function performed or power exercised by the Commissioner for Mine Safety and Health under a provision of the pre-amended Act, will be taken to have been performed or exercised by the Commissioner for Resources Safety and Health under the corresponding provision if the context permits. This is subject to section 291.

**New section 290 References to Commissioner for Mine Safety and Health**

New section 290 provides that references to the Commissioner for Mine Safety and Health in documents made under or relating to provisions of the pre-amended Act, will be taken to be references to the Commissioner for Resources Safety and Health in a corresponding provision, if the context permits.

**New section 291 Existing proceedings**

New section 291 provides certain proceedings or appeals started before commencement of the Act by the chief executive, the Commissioner for Mine Safety and Health, or another appropriately qualified person, will transfer to the CEO, or WHS prosecutor for serious offences. These proceeding are those concerning an offence, injunction or interim injunction, variation or rescinding of an injunction, or appeal against the decision made on any such proceeding. The CEO may authorise another appropriately qualified person to become party to the proceeding in place of the CEO.

**New section 292 Costs of investigation**

New section 292 provides that the court may order a person convicted of an offence under the *Mining and Quarrying Safety and Health Act 1999* to pay the reasonable costs of investigating and preparing for prosecution of that offence. The order may be made whether the costs were incurred by the department or RSHQ, and whether the offence was committed before or after commencement of the Act.

**New section 293 References to department**

New section 293 provides that references to the department, in documents made under or relating to provisions of the pre-amended Act, in corresponding provisions, will be taken to be references to the CEO of RSHQ if the context permits.

**Amendment of sch 2 (Dictionary)**

Clause 119 amends the dictionary of the *Mining and Quarrying Safety and Health Act 1999* to remove references to the chief executive and the Commissioner for Mine

Safety and Health, and insert definitions for the CEO, commissioner, RSHQ and the WHS prosecutor. The clause also amends the definition of official to include the CEO and the WHS prosecutor.

## **Division 5                      Amendment of Petroleum and Gas (Production and Safety) Act 2004**

### **Act amended**

*Clause 120* states the division amends the *Petroleum and Gas (Production and Safety) Act 2004*.

### **Amendment of s 734AC (Access to register)**

*Clause 121* replaces the reference to the department's register in the section with a reference to RSHQ's register.

### **Amendment of s 813 (False or misleading documents or statements)**

*Clause 122* amends section 813, which concerns false and misleading documents or statements, to replace references to authorised officer with references to an inspector or authorised officer.

### **Amendment of s 817 (Who may apply for internal review)**

*Clause 123* amends section 817, to allow applications for internal review of decisions to be made to the CEO of RSHQ where the original decision was made by the CEO.

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

*Clause 124* amends the definition of 'certificate' in section 834 to include certificates signed by the CEO and the WHS prosecutor.

### **Amendment of s 837 (Offences under Act are summary)**

*Clause 125* amends section 837 to provide that proceedings for an offence against a provision of chapter 7, 8, 9 or 10 of the *Petroleum and Gas (Production and Safety) Act 2004* may be taken only by:

- if the offence is a serious offence – the WHS prosecutor
- otherwise – the CEO or the WHS prosecutor.

The CEO may authorise in writing another appropriately qualified person to take a proceeding, provided it is not a serious offence. The authorisation may be general or limited to a particular proceeding or class of proceeding.

In deciding whether to bring a prosecution for an offence under the *Petroleum and Gas (Production and Safety) Act 2004*, the WHS prosecutor must have regard to any guidelines issued under section 11 of the *Director of Public Prosecutions Act 1984*.



The clause inserts a definition of serious offence in section 837. A serious offence means:

- an offence against chapter 9 of the *Petroleum and Gas (Production and Safety) Act 2004* if the act or omission that constitutes the offence caused any of the following circumstances:
  - the death of, or grievous bodily harm to, more than 1 person
  - the death of, or grievous bodily harm to, only 1 person
  - the exposure to anyone to a substance likely to cause death or grievous bodily harm
  - bodily harm, or
- another offence prescribed by regulation.

### **Insertion of new ss 837A-837C**

Clause 126 inserts new sections 837A, 837B and 837C into the *Petroleum and Gas (Production and Safety) Act 2004*.

#### **New section 837A WHS prosecutor may ask CEO for information**

New section 837A states the WHS prosecutor may ask the CEO for information relevant to the performance of a function of the WHS prosecutor under the *Petroleum and Gas (Production and Safety) Act 2004*. The CEO must take reasonable steps to provide that information, which includes a document. In this section, information includes a document.

#### **New section 837B CEO's duty to disclose information to WHS prosecutor**

New section 837B will apply in relation to a proceeding for an offence brought by the WHS prosecutor against the *Petroleum and Gas (Production and Safety) Act 2004*.

The CEO has a duty to disclose to the WHS prosecutor all information relevant to the proceeding, including knowledge of a matter relevant to the proceeding, in the possession or control of the CEO. The duty continues until the proceeding is finally decided or otherwise ends. In this section, information includes a document.

#### **New section 837C Procedure if prosecution not brought**

New section 837C provides that a person may make a written request to the WHS prosecutor that a prosecution be brought in relation to an act or omission if:

- the person reasonably believes the act or omission constitutes a serious offence, as defined under section 837(8) of the *Petroleum and Gas (Production and Safety) Act 2004*, and
- no prosecution has been brought in relation to the act or omission, and
- at least 6 months but no more than 12 months has elapsed from when the act or omission happened.

The WHS prosecutor must, within 3 months of receiving the written request, give the person, and any other person the person believes committed the serious offence, a notice in writing stating:

- whether the relevant investigation is complete
- if the investigation is complete, whether a prosecution has or will be brought, and
- if a prosecution has not been or will not be brought – the reasons for not bringing the prosecution.

Where the WHS prosecutor gives notice that no prosecution has or will be brought, the prosecutor must advise in the notice that the applicant may ask the WHS prosecutor to refer the matter to the director of public prosecutions. If the applicant requests referral to the director of public prosecutions, the WHS prosecutor must make the referral within 1 month.

The director of public prosecutions must consider and give written advice to the WHS prosecutor on the matter within 1 month after the matter is referred stating whether the director considers a prosecution should be brought.

The WHS prosecutor must give a copy of this advice to the person who made the request and any other person whom the person making the request believes committed the serious offence.

If the WHS prosecutor declines to follow the director of public prosecutions' advice, the WHS prosecutor must give reasons for the decision to the person who made the request and any other person whom the person making the request believes committed the serious offence.

#### **Amendment of s 841A (Applying for injunction)**

*Clause 127* replaces reference to the Commissioner for Mine Safety and Health in the section with a reference to the CEO.

#### **Amendment of s 851A (Public statements)**

*Clause 128* replaces references to the Commissioner for Mine Safety and Health in the section with a reference to the CEO.

#### **Amendment of s 857 (Delegation by Minister, chief executive or chief inspector)**

*Clause 129* amends the provision to include that the CEO may delegate the CEO's functions to an appropriately qualified person. In this section, the term functions includes powers.

## **Insertion of new ch 15, pt 26**

Clause 130 inserts chapter 15, part 26.

## **Part 26 Transitional provisions for Resources Safety and Health Queensland Act 2019**

### **New section 1008 Definitions for part**

New section 1008 defines 'corresponding provision' and 'pre-amended Act' for this part.

Corresponding provision, for a provision of the pre-amended Act, means a provision of the Act that provides for the same, or substantially the same, matter as the provision of the pre-amended Act.

Pre-amended Act means the *Petroleum and Gas (Production and Safety) Act 2004* as in force before commencement of this Act.

### **New section 1009 Functions performed and powers exercised by chief executive**

New section 1009 provides that a function performed or a power exercised by the chief executive under the Act will be taken to have been performed or exercised by the CEO of RSHQ under the corresponding provision, if the context permits.

### **New section 1010 References to chief executive**

New section 1010 provides that references to the chief executive, in documents made under or relating to provisions of the pre-amended Act, in corresponding provisions, will be taken to be references to the CEO of RSHQ if the context permits.

### **New section 1011 Existing proceedings**

New section 1011 provides certain proceedings started before commencement of the Act by the chief executive, Commissioner for Mine Safety and Health, or another appropriately qualified person, will transfer to the CEO, or WHS prosecutor for serious offences. These proceeding are those concerning an offence, injunction or interim injunction, variation or rescinding of an injunction, or appeal against the decision made on any such proceeding. The CEO may authorise another appropriately qualified person to become party to the proceeding in place of the CEO.

### **New section 1012 References to department**

New section 1012 provides that references to the department, in documents made under or relating to provisions of the pre-amended Act, in corresponding provisions, will be taken to be references to the CEO of RSHQ if the context permits.

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

*Clause 131* amends the dictionary of the *Petroleum and Gas (Production and Safety) Act 2004* to remove references to the chief executive and the Commissioner for Mine Safety and Health, and insert definitions for the CEO, RSHQ and the WHS prosecutor. The clause also amends the definition of official to include the CEO and the WHS prosecutor.

## **Division 6                    Amendment of Public Service Act 2008**

### **Act amended**

*Clause 132* states that the division amends the *Public Service Act 2008*.

## **Amendment of sch 1 (Public service offices and their heads)**

*Clause 133* prescribes the employing office and executive officer a public service office and public service office head, respectively, under Schedule 1 of the *Public Service Act 2008*.

## **Division 7                    Amendment of Statutory Bodies Financial Arrangements Regulation 2019**

### **Regulation amended**

*Clause 134* states that the division amends the *Statutory Bodies Financial Arrangements Regulation 2019*.

## **Amendment of sch 4 (Statutory bodies allocated category 2 investment power)**

*Clause 135* provides category 2 investment power to RSHQ, under the *Statutory Bodies Financial Arrangements Regulation 2019*, schedule 4.

## **Division 8                    Amendment of Work Health and Safety Act 2011**

### **Act amended**

*Clause 136* provides that the division amends the *Work Health and Safety Act 2011*.

## **Amendment of sch 1 (Application of Act)**

*Clause 137* inserts at schedule 1, part 2, division 1, section 2 a provision that the section is subject to schedule 2, part 4, division 2 of the *Work Health and Safety Act 2011*.

## **Amendment of sch 2 (The regulator and local tripartite consultation arrangements and other local arrangements)**

*Clause 138* states schedule 2, sections 27(c), 28(1) and 30 apply to the *Work Health and Safety Act 2011* or another Act.

**Division 9            Minor and consequential amendments**

**Acts amended**

*Clause 139* provides that schedule 2 amends the Acts it mentions.

**Schedule 1            Dictionary**

*Schedule 1* contains the dictionary defining terms used in the Act.

**Schedule 2            Acts amended**

*Schedule 2* identifies minor and consequential amendments in the *Coal Mining Safety and Health Act 1999*, the *Explosives Act 1999*, the *Mining and Quarrying Safety and Health Act 1999* and the *Petroleum and Gas (Production and Safety) Act 2004*.