



Queensland

This is a working draft provided for consultation purposes. It is subject to review and drafting changes will be made in the course of finalising the draft.

Resources Safety and Health Legislation Amendment Bill 2023

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2023

A Bill

for

An Act to amend the Coal Mining Safety and Health Act 1999, the Explosives Act 1999, the Mining and Quarrying Safety and Health Act 1999, the Petroleum and Gas (Production and Safety) Act 2004 and the Resources Safety and Health Queensland Act 2020 for particular purposes

[s 1]

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Resources Safety and Health Legislation Amendment Act 2023*.

2 Commencement

- (1) This Act, other than the provisions mentioned in subsection (2), commences on a day to be fixed by proclamation.
- (2) Sections 22, 26, 30, 31(1) and 34 commence on the day that is 5 years after the commencement.

Part 2 Amendment of Coal Mining Safety and Health Act 1999

3 Act amended

This part amends the *Coal Mining Safety and Health Act 1999*.

4 Amendment of s 9 (Meaning of *coal mine*)

- (1) Section 9(1)(b), ‘, adjacent to, or contiguous with,’—
omit, insert—
or adjacent to
- (2) Section 9(2), ‘, adjacent to, or contiguous with’—
omit, insert—
or adjacent to

5 Replacement of s 26 (Meaning of *supervisor*)

Section 26—

omit, insert—

26 Meaning of *supervisor*

A *supervisor* at a coal mine is a person appointed under section 56 to—

- (a) implement and monitor the coal mine's safety and health management system; and
- (b) give directions to other coal mine workers at the coal mine in accordance with the safety and health management system.

6 Amendment of s 30 (How is an acceptable level of risk achieved)

(1) Section 30(2)—

insert—

(ca) provide for critical controls; and

(2) Section 30(2)(ca) to (f)—

renumber as section 30(2)(d) to (g).

7 Amendment of s 33 (Obligations for safety and health)

(1) Section 33(2)—

insert—

(fa) designer, constructor or erector of earthworks at a coal mine;

(2) Section 33(2)(h)—

omit.

(3) Section 33(2)(fa) and (g)—

renumber as section 33(2)(g) and (h).

[s 8]

8 Amendment of s 39 (Obligations of persons generally)

(1) Section 39(1) and (2), after ‘other person at a coal mine’—

insert—

, or ROC worker for a coal mine,

(2) Section 39(1)(b), ‘or other person’—

omit, insert—

, other person or ROC worker

(3) Section 39(2)(d), from ‘by’—

omit, insert—

by any of the following persons—

(i) the coal mine operator;

(ii) the site senior executive for the mine;

(iii) a supervisor at the mine;

(iv) a ROC worker for the mine;

(4) Section 39(2)(e), after ‘at’—

insert—

or for

9 Amendment of s 41 (Obligations of coal mine operators)

(1) Section 41(1)—

insert—

(da) to ensure the site senior executive, or acting site senior executive, for the coal mine is located at or near the coal mine when performing the duties of site senior executive unless—

(i) the duties require the site senior executive, or acting site senior executive, to be temporarily absent for not more than 14 days; or

- (ii) the site senior executive, or acting site senior executive, is temporarily absent on leave for not more than 14 days.

- (2) Section 41(1)(da) to (g)—
renumber as section 41(1)(e) to (h).

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

- (1) Section 42(c)—
omit, insert—
 - (c) to develop and implement a safety and health management system for—
 - (i) all persons at the mine, including contractors; and
 - (ii) ROC workers for the mine;
- (2) Section 42(d), ‘at the mine information’—
omit, insert—
for the mine information
- (3) Section 42(d)(i)—
omit, insert—
 - (i) identify risks arising in relation to any work performed, service provided, or work or service arranged, by the contractor; and
- (4) Section 42(e)—
omit.
- (5) Section 42(f), from ‘contractors’ to ‘47’—
omit, insert—
contractors
- (6) Section 42(h), after ‘worker at the mine’—
insert—

[s 11]

, or ROC worker for the mine,

(7) Section 42(i)—

insert—

(va) the development of a schedule of when inspections, including regular periodic inspections, must be carried out; and

(8) Section 42(i)(vi), ‘and service providers’—

omit.

(9) Section 42(i)(va) and (vi)—

renumber as section 42(i)(vi) and (vii).

11 Insertion of new s 42A

After section 42—

insert—

42A Site senior executive to tell contractor certain things

- (1) A site senior executive for a coal mine must tell a contractor who has provided or arranged for a coal mine worker to perform work, or provide a service, at the mine about the following things—
 - (a) an injury or illness to the worker from coal mining operations that causes an absence from work of the worker;
 - (b) a high potential incident happening at the coal mine;
 - (c) any proposed changes to the coal mine, or plant or substances used at the coal mine, that affect, or may affect, the safety and health of persons at the mine.

Maximum penalty—40 penalty units.

- (2) For subsection (1), the site senior executive must tell the contractor as soon as practicable after the

thing comes to the site senior executive's knowledge.

12 Amendment of s 43 (Obligations of contractors)

- (1) Section 43(1), 'at a coal mine'—

omit, insert—

for a coal mine

- (2) Section 43(1)(a), (b) and (d), 'undertaken'—

omit, insert—

performed, service provided, or work or service arranged,

- (3) Section 43(1)(c), 'undertakes'—

omit, insert—

performs, provides a service, or arranges work or a service,

- (4) Section 43(1)(e)—

omit, insert—

(e) if the contractor is physically present at the mine—to ensure no work at the mine is performed by the contractor until the contractor—

(i) has been inducted in the mine's safety and health management system to the extent it relates to the work to be performed by the contractor; and

(ii) has received training about hazards and risks at the mine to the extent they relate to the work to be performed by the contractor;

(f) to ensure no work at the mine is performed by a coal mine worker engaged by the contractor, or a coal mine worker arranged

[s 13]

by the contractor to perform work or provide a service, until the worker—

- (i) has been inducted in the mine’s safety and health management system to the extent it relates to the work to be performed, or service to be provided, by the worker; and
- (ii) has received training about hazards and risks at the mine to the extent they relate to the work to be performed, or service to be provided, by the worker;
- (g) to ensure the fitness for use of plant at the coal mine is not adversely affected by the work performed or service provided by the contractor.

13 Amendment of s 44 (Obligations of designers, manufacturers, importers and suppliers of plant etc. for use at coal mines)

(1) Section 44(4)(b)(iii)—

omit, insert—

- (iii) the name of each coal mine operator or contractor to whom the designer, manufacturer, importer or supplier has supplied the plant; and

(2) Section 44(4)(b)(iv), ‘, contractors and service providers’ —

omit, insert—

and contractors

(3) Section 44(6), ‘to a contractor or service provider’ —

omit, insert—

to a contractor

(4) Section 44(6), ‘, contractor or service provider’ —

omit, insert—

or contractor

14 Amendment of s 46 (Obligations of manufacturers, importers and suppliers of substances for use at coal mines)

(1) Section 46(2)(b)(iii)—

omit, insert—

(iii) the name of each coal mine operator or contractor to whom the manufacturer, importer or supplier has supplied the substance; and

(2) Section 46(2)(b)(iv), ‘, contractors and service providers’ —

omit, insert—

and contractors

(3) Section 46(4), ‘, contractor or service provider’ —

omit, insert—

or contractor

15 Omission of s 47

Section 47—

omit.

16 Amendment of s 47A (Obligation of officers of corporations)

Section 47A(3)(b) and (d), ‘and risks’—

omit, insert—

, risks and critical controls

17 Amendment of s 48A (Definitions for part)

Section 48A(1), definition *employer*—

[s 18]

omit, insert—

employer, for a coal mine, means—

- (a) a person who employs or otherwise engages a coal mine worker for the coal mine; or
- (b) a person who arranges for a coal mine worker to work for the coal mine, including for example, a labour hire agency; or
- (c) the coal mine operator for the coal mine; or
- (d) a holder for the coal mine.

18 Amendment of s 49 (Notices by holder)

Section 49(1) and (3), ‘inspector located in’—

omit, insert—

inspector for

19 Amendment of s 50 (Notices by coal mine operator)

(1) Section 50(3), ‘inspector located in’—

omit, insert—

inspector for

(2) Section 50—

insert—

- (4) If coal mining operations permanently stop at the coal mine, the coal mine operator must, within 28 days after the operations permanently stop, give the inspector for the region in which the coal mine is situated notice of the date on which the operations permanently stopped.

Maximum penalty—100 penalty units.

20 Insertion of new pt 4, div 2, sdiv 1 hdg

Before section 53—

insert—

Subdivision 1 General

21 Amendment of s 54 (Limitations on appointment of site senior executive)

Section 54(4)—

omit, insert—

- (4) A coal mine operator must not appoint a person to be site senior executive for a coal mine unless the person holds—
- (a) for an underground mine—
 - (i) a site senior executive notice; and
 - (ii) the practising certificate required by the board to be held by a person holding the board qualifications mentioned in subparagraph (i); or
 - (b) for all or part of a surface mine—
 - (i) a site senior executive notice; and
 - (ii) the practising certificate required by the board to be held by a person holding the board qualification mentioned in subparagraph (i).

Maximum penalty—500 penalty units.

22 Amendment of s 54 (Limitations on appointment of site senior executive)

- (1) Section 54(4)(a)(ii)—

omit, insert—

[s 23]

- (ii) a first class certificate of competency for an underground mine; and
 - (iii) the practising certificate required by the board to be held by a person holding the board qualifications mentioned in subparagraphs (i) and (ii); or
- (2) Section 54(4)(b)(ii)—
omit, insert—
- (ii) a surface mine manager’s certificate of competency; and
 - (iii) the practising certificate required by the board to be held by a person holding the board qualifications mentioned in subparagraphs (i) and (ii).

23 Amendment of s 55 (Management structure for safe operations at coal mines)

- (1) Section 55(2)(ca), ‘and service providers’—
omit.
- (2) Section 55(2)(d), after ‘mine’—
insert—
- and for each ROC worker for the mine
- (3) Section 55(2)(ca) and (d)—
renumber as section 55(2)(d) and (e).
- (4) Section 55(4), ‘subsection (2)(d)’—
omit, insert—
- subsection (2)(e)

24 Replacement of s 56 (Competencies of supervisors)

Section 56—

omit, insert—

56 Supervisors and ROC workers who give instructions

- (1) A site senior executive for a coal mine must appoint 1 or more persons to be a supervisor at the mine.
- (2) The site senior executive must not appoint a person under subsection (1) unless the person—
 - (a) is competent to be a supervisor; and
 - (b) if there is a safety and health competency for supervisors recognised by the committee, has the relevant competency.

Maximum penalty—100 penalty units.

- (3) Also, a site senior executive must not assign the tasks of a ROC worker who gives instructions for operations at the coal mine to a person unless the person—
 - (a) is competent to perform the task assigned; and
 - (b) if there is a safety and health competency for ROC workers who give instructions for operations at coal mines recognised by the committee, has the relevant competency.

Maximum penalty—100 penalty units.

25 Amendment of s 57 (Acting site senior executive)

- (1) Section 57—

insert—

- (3A) A coal mine operator must not appoint a person to act as site senior executive for a mine under subsection (1) unless the person holds—
 - (a) a site senior executive notice; and

[s 26]

- (b) the practising certificate required by the board to be held by a person holding the board qualification mentioned in paragraph (a).

Maximum penalty—500 penalty units.

- (2) Section 57(5), ‘that ends 12 weeks or less after’—
omit, insert—
of not more than 12 weeks starting on
- (3) Section 57(6) and (7), ‘subsection (5)’—
omit, insert—
subsection (6)
- (4) Section 57(3A) to (9)—
renumber as section 57(4) to (10).

26 Amendment of s 57 (Acting site senior executive)

Section 57(4)—

omit, insert—

- (4) A coal mine operator must not appoint a person to act as site senior executive for a mine under subsection (1) unless the person holds—
 - (a) for an underground mine—
 - (i) a first or second class mine manager certificate of competency; and
 - (ii) the practising certificate required by the board to be held by a person holding the board qualification mentioned in subparagraph (i); or
 - (b) for all or part of a surface mine—
 - (i) a surface mine manager’s certificate of competency; and

- (ii) the practising certificate required by the board to be held by a person holding the board qualification mentioned in subparagraph (i).

Maximum penalty—500 penalty units.

27 Amendment of s 58 (Other appointments during absences)

- (1) Section 58(3)(c), ‘or (10)’—

omit, insert—

, (10) or (11)

- (2) Section 58(3)—

insert—

- (e) a person appointed under subdivision 2.

28 Insertion of new pt 4, div 2, sdiv 2 hdg and ss 58A and 58B

Before section 59—

insert—

Subdivision 2 Surface mines

58A Additional requirements for management of surface mines

- (1) This section applies to a surface mine or a separate part of a surface mine.
- (2) The site senior executive must appoint a person to be surface mine manager to control and manage the mine.

Maximum penalty—400 penalty units.

- (3) However, the site senior executive may be appointed surface mine manager by the coal mine

[s 28]

operator for the mine.

- (4) The coal mine operator or site senior executive must not appoint a person as a surface mine manager unless the person holds both of the following board qualifications—
- (a) a surface mine manager’s certificate of competency;
 - (b) the practising certificate required by the board to be held by a person holding the board qualification mentioned in paragraph (a).

Maximum penalty—400 penalty units.

- (5) The coal mine operator or site senior executive may appoint a person as surface mine manager for more than 1 mine at the same time only with the written approval of the chief inspector.

Maximum penalty—200 penalty units.

- (6) The coal mine operator or site senior executive may appoint more than 1 person as the surface mine manager to assume the duties of the manager at different times.
- (7) A person must not give a direction to the surface mine manager about a technical matter in relation to the surface mine unless the person holds both of the following board qualifications—
- (a) a surface mine manager’s certificate of competency;
 - (b) the practising certificate required by the board to be held by a person holding the board qualification mentioned in paragraph (a).

Maximum penalty—200 penalty units.

- (8) A person must not give a direction to the surface mine manager that may adversely affect safety

and health at the surface mine.

Maximum penalty—200 penalty units.

- (9) The surface mine manager must appoint a person, holding both of the following board qualifications, as electrical engineering manager to control and manage the electrical engineering activities of the surface mine—
- (a) an electrical engineering manager's certificate of competency for a surface mine;
 - (b) the practising certificate required by the board to be held by a person holding the board qualification mentioned in paragraph (a).

Maximum penalty—200 penalty units.

- (10) The surface mine manager must appoint a person, holding both of the following board qualifications, as mechanical engineering manager to control and manage the mechanical engineering activities of the surface mine—
- (a) a mechanical engineering manager's certificate of competency for a surface mine;
 - (b) the practising certificate required by the board to be held by a person holding the board qualification mentioned in paragraph (a).

Maximum penalty—200 penalty units.

- (11) The surface mine manager may appoint more than 1 person as the electrical engineering manager under subsection (9), or the mechanical engineering manager under subsection (10), to assume the duties of the manager at different times.
- (12) The coal mine operator for the surface mine must

[s 28]

ensure that a site senior executive required to appoint a person under subsection (2), or a surface mine manager required to appoint a person under subsection (9) or (10), appoints a person under the subsection only if the person is an employee of—

- (a) for an appointment under subsection (2)—
 - (i) the coal mine operator; or
 - (ii) an associated entity of the coal mine operator; or
 - (iii) an entity that employs or otherwise engages 80% or more of the coal mine workers at the coal mine; or
- (b) for an appointment under subsection (9) or (10)—
 - (i) the coal mine operator; or
 - (ii) an entity that employs or otherwise engages 80% or more of the coal mine workers at the coal mine.

Maximum penalty—500 penalty units.

58B Acting managers of surface mines

- (1) This section applies if—
 - (a) a person (the *appointer*) has appointed another person (the *appointee*) under section 58A(2), (9) or (10); and
 - (b) the appointee—
 - (i) vacates office; or
 - (ii) is temporarily absent from duty.
- (2) If subsection (1)(b)(i) applies, the appointer may appoint a person to act in the office of the appointee during the vacancy.
- (3) If subsection (1)(b)(ii) applies, the appointer must

appoint a person to act in the office of the appointee during the absence.

Maximum penalty—40 penalty units.

- (4) The coal mine operator for the surface mine must ensure a person appointed under subsection (2) or (3) acts in the office of the appointee for a period of not more than 12 weeks starting on the day the appointee—
- (a) vacated office; or
 - (b) was first temporarily absent from duty.

Maximum penalty—500 penalty units.

- (5) However, subsection (4) does not apply if the person appointed under subsection (2) or (3) is an employee of—
- (a) for an appointment to act in an office under section 58A(2)—
 - (i) the coal mine operator for the mine; or
 - (ii) an associated entity of the coal mine operator; or
 - (iii) an entity that employs or otherwise engages 80% or more of the coal mine workers at the coal mine; or
 - (b) for an appointment to act in an office under section 58A(9) or (10)—
 - (i) the coal mine operator for the mine; or
 - (ii) an entity that employs or otherwise engages 80% or more of the coal mine workers at the coal mine.

- (6) The coal mine operator for the surface mine must ensure a person appointed under subsection (2) or (3) meets the competency requirement for the appointment.

Maximum penalty—

[s 29]

- (a) for an appointment to act in an office under section 58A(2)—400 penalty units; or
 - (b) for an appointment to act in an office under section 58A(9) or (10)—200 penalty units.
- (7) The appointer is taken to comply with the requirement to appoint a person to the office under section 58A(2), (9) or (10) for the period of an appointment under subsection (2).
- (8) In this section—
- competency requirement**, for an appointment under subsection (2) or (3), means—
- (a) for an appointment to act in an office under section 58A(2)—holding both of the board qualifications mentioned in section 58A(4); or
 - (b) for an appointment to act in an office under section 58A(9)—holding both of the board qualifications mentioned in section 58A(9); or
 - (c) for an appointment to act in an office under section 58A(10)—holding both of the board qualifications mentioned in section 58A(10).

29 Amendment of s 59 (Appointment of open-cut examiner)

Section 59(1)—

omit, insert—

- (1) The site senior executive for a surface mine or a separate part of a surface mine must appoint a person holding both of the following board qualifications to be open-cut examiner for each surface mine excavation carried out at the mine or part of the mine—

-
- (a) an open-cut examiner's certificate of competency;
 - (b) the practising certificate required by the board to be held by a person holding the board qualification mentioned in paragraph (a).

Maximum penalty—200 penalty units.

30 Amendment of s 59 (Appointment of open-cut examiner)

- (1) Section 59(1), 'site senior executive'—

omit, insert—

surface mine manager

- (2) Section 59(2), 'site senior executive'—

omit, insert—

surface mine manager

31 Amendment of s 59A (Acting open-cut examiner)

- (1) Section 59A(2), (3), (4) and (7), 'site senior executive'—

omit, insert—

surface mine manager

- (2) Section 59A(4), 'that ends 12 weeks or less after'—

omit, insert—

of not more than 12 weeks starting on

- (3) Section 59A(6), from 'an' to 'competency.'—

omit, insert—

both of the following board qualifications—

- (a) an open-cut examiner's certificate of competency;

[s 32]

- (b) the practising certificate required by the board to be held by a person holding the board qualification mentioned in paragraph (a).

32 Insertion of new pt 4, div 2, sdiv 3 hdg

Before section 60—

insert—

Subdivision 3 Underground mines

33 Amendment of s 60 (Additional requirements for management of underground mines)

- (1) Section 60(5), from ‘a first’ to ‘mine.’—

omit, insert—

both of the following board qualifications—

- (a) a first class certificate of competency for an underground mine;
 - (b) the practising certificate required by the board to be held by a person holding the board qualification mentioned in paragraph (a).
- (2) Section 60(8) to (10)—

omit, insert—

 - (8) The underground mine manager must appoint a person holding both of the following board qualifications to be responsible for the control and management of underground activities when the manager is not in attendance at the mine—
 - (a) a first or second class certificate of competency or a deputy’s certificate of competency for an underground mine;

- (b) the practising certificate required by the board to be held by a person holding the board qualification mentioned in paragraph (a).

Maximum penalty—200 penalty units.

- (9) The underground mine manager must appoint a person holding both of the following board qualifications to have control of activities in 1 or more explosion risk zones—
 - (a) a first or second class, or deputy's, certificate of competency for an underground mine;
 - (b) the practising certificate required by the board to be held by a person holding the board qualification mentioned in paragraph (a).

Maximum penalty—200 penalty units.

- (10) The underground mine manager must appoint a person, holding both of the following board qualifications, as electrical engineering manager to control and manage the electrical engineering activities of the mine—
 - (a) an electrical engineering manager's certificate of competency for an underground mine;
 - (b) the practising certificate required by the board to be held by a person holding the board qualification mentioned in paragraph (a).

Maximum penalty—200 penalty units.

- (10A) The underground mine manager must appoint a person, holding both of the following board qualifications, as mechanical engineering manager to control and manage the mechanical engineering activities of the mine—

[s 34]

- (a) a mechanical engineering manager's certificate of competency for an underground mine;
- (b) the practising certificate required by the board to be held by a person holding the board qualification mentioned in paragraph (a).

Maximum penalty—200 penalty units.

(10B) The underground mine manager may appoint more than 1 person as the electrical engineering manager under subsection (10), or the mechanical engineering manager under subsection (11), to assume the duties of the manager at different times.

- (3) Section 60(10A) to (12)—
renumber as section 60(11) to (14).

34 Amendment of s 60 (Additional requirements for management of underground mines)

Section 60(8)(a), 'or a deputy's certificate of competency'—
omit.

35 Amendment of s 60A (Acting managers of underground mines)

- (1) Section 60A(1)(a), 'section 60(2), (4), (8), (9) or (10)'—
omit, insert—
section 60(2), (4), (8), (9), (10) or (11)
- (2) Section 60A(4), 'that is 12 weeks or less after'—
omit, insert—
of not more than 12 weeks starting on
- (3) Section 60A(5)(b), (6)(b) and (7), 'or (10)'—

omit, insert—

, (10) or (11)

(4) Section 60A(8), definition *competency requirement—*

omit, insert—

competency requirement, for an appointment under subsection (2) or (3), means—

- (a) for an appointment to act in an office under section 60(2) or (4)—holding both of the board qualifications mentioned in section 60(5);
- (b) for an appointment to act in an office under section 60(8)—holding both of the board qualifications mentioned in section 60(8);
- (c) for an appointment to act in an office under section 60(9)—holding both of the board qualifications mentioned in section 60(9);
- (d) for an appointment to act in an office under section 60(10)—holding both of the board qualifications mentioned in section 60(10);
- (e) for an appointment to act in an office under section 60(11)—holding both of the board qualifications mentioned in section 60(11).

36 Amendment of s 61 (Appointment of ventilation officer)

Section 61(3), from ‘a ventilation’ to ‘competency.’—

omit, insert—

both of the following board qualifications—

- (a) a ventilation officer’s certificate of competency;
- (b) the practising certificate required by the board to be held by a person holding the board qualification mentioned in paragraph (a).

[s 37]

37 Amendment of s 61A (Acting ventilation officer)

- (1) Section 61A(5), from ‘holds’ to ‘competency.’—
omit, insert—
holds both of the following board qualifications—
(a) a ventilation officer’s certificate of competency;
(b) the practising certificate required by the board to be held by a person holding the board qualification mentioned in paragraph (a).
- (2) Section 61A(6), ‘that is 12 weeks or less after’—
omit, insert—
of not more than 12 weeks starting on

38 Amendment of s 62 (Safety and health management system)

- (1) Section 62(5)—
insert—
(da) identifying critical controls; and
- (2) Section 62(5)(da) to (g)—
renumber as section 62(5)(e) to (h).
- (3) Section 62(6), after ‘mine,’—
insert—
and ROC workers employed for the coal mine,
- (4) Section 62(7)—
omit, insert—
(7) The site senior executive must give a copy of a principal hazard management plan to the following persons if the person requests a copy of the document—

-
- (a) a coal mine worker whose work at the coal mine is affected by the requirements of the plan;
 - (b) a ROC worker whose work for the coal mine is affected by the requirements of the plan.

Maximum penalty—100 penalty units.

39 Amendment of s 63 (Principal hazard management plan)

Section 63(1)—

insert—

- (c) include critical controls.

40 Amendment of s 68 (Mine record)

- (1) Section 68(2), before ‘7 years’—

insert—

at least

- (2) Section 68(4), ‘, relating to at least the previous 6 months, is available at all reasonable times’—

omit, insert—

is available

- (3) Section 68(4)(b)—

omit, insert—

- (b) industry safety and health representatives;
- (c) the site senior executive for the coal mine.

- (4) Section 68—

insert—

- (4A) Without limiting subsection (4), if a person mentioned in subsection (4)(a), (b) or (c) asks to inspect a matter kept in the mine record, the coal

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mine operator must ensure the matter is available for inspection as soon as practicable but not later than—

- (a) if the matter was recorded in the mine record within the previous 6 months—5 days after the request; or
- (b) if the matter was recorded in the mine record before the 6 month period mentioned in paragraph (a)—28 days after the request.

Maximum penalty—200 penalty units.

- (5) Section 68(4A) to (6)—
renumber as section 68(5) to (7).

41 Replacement of ss 69 and 69A

Sections 69 and 69A—

omit, insert—

69 Display of reports, directives and other information

- (1) The site senior executive for a coal mine must display a copy of the following documents at the coal mine—
 - (a) each directive, if any, currently applying to the coal mine;
 - (b) each report of an inspection, if any, carried out at the coal mine;
 - (c) each publication of information under section 254C that may be relevant to safety and health obligations at the coal mine.
- (2) For subsection (1), the document must be displayed in 1 or more conspicuous positions at the coal mine in a way likely to come to the attention of coal mine workers at the coal mine affected by the document.

69A Current or past coal mine worker entitled to training and assessment report

- (1) This section applies if a coal mine worker is employed, or had previously been employed, at a coal mine.
- (2) The coal mine worker may ask the site senior executive for the coal mine to give the worker a training and assessment report for the worker.
- (3) The site senior executive must comply with the request within 30 days after the request is made.
Maximum penalty—200 penalty units.
- (4) In this section—

training and assessment report, for a coal mine worker employed or previously employed at a coal mine, means a copy of that part of the coal mine's safety and health management system relating to records of training and assessment given to, and undertaken by, the worker during the worker's employment at the coal mine.

69B Site senior executive entitled to training and assessment report from another coal mine

- (1) This section applies if—
 - (a) a coal mine worker is employed at a coal mine; and
 - (b) the coal mine worker has previously been employed at another coal mine.
- (2) The site senior executive may ask the coal mine operator for the other coal mine to give the site senior executive a training and assessment report for the coal mine worker.
- (3) The coal mine operator for the other coal mine must comply with the request within 30 days after the request is made.

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Maximum penalty—200 penalty units.

(4) In this section—

training and assessment report, for a coal mine worker employed at another coal mine, means a copy of that part of the other coal mine’s safety and health management system relating to records of training and assessment given to, and undertaken by, the worker during the worker’s employment at the other coal mine.

42 Amendment of pt 7, div 2, hdg (Site safety and health representatives)

Part 7, division 2, heading, ‘Site’—

omit, insert—

Election of site

43 Replacement of ss 93 to 96

Sections 93 to 96—

omit, insert—

93 Election of site safety and health representatives

- (1) The coal mine workers at a coal mine may elect up to 2 of their number to be site safety and health representatives for the coal mine.
- (2) If there is more than 1 site senior executive at a coal mine, the coal mine workers at each part of the coal mine for which a site senior executive has responsibility may elect up to 2 of their number to be site safety and health representatives for each part of the coal mine.
- (3) Despite subsections (1) and (2), the coal mine workers at a coal mine, or part of a coal mine, may elect more than 2 of their number as site safety

and health representatives for the coal mine or part of the coal mine if—

- (a) the site senior executive for the coal mine, or part of the coal mine, agrees to the election of the additional representatives; or
 - (b) the chief inspector directs the site senior executive to allow the coal mine workers to elect the additional representatives.
- (4) A site safety and health representative elected under this section is appointed for—
- (a) the term decided by the coal mine workers; or
 - (b) if no term is decided by the coal mine workers—3 years.
- (5) A person elected under this section becomes a site safety and health representative only if the person holds the appropriate safety and health competencies recognised by the committee for a site safety health representative.
- (6) When performing functions or exercising powers under this part, a site safety and health representative is taken to be performing duties as a coal mine worker.
- (7) An election of a site safety and health representative for a coal mine, or part of a coal mine, under this section may be held only in the circumstances mentioned in section 98B.

94 Further election if site safety and health representative not available

- (1) If a site safety and health representative is not available when coal mining operations at a coal mine, or part of a coal mine, are considered unsafe by coal mine workers who are affected by the operations, the affected coal mine workers may

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- elect 2 coal mine workers who each have at least 2 years' experience in the operations that are considered unsafe to inspect the operations.
- (2) The method of election under subsection (1) must—
- (a) be decided by the affected coal mine workers; and
 - (b) be as straightforward as practicable, having regard to the need to deal with the coal mining operations that are considered unsafe in a way that is appropriate in the circumstances.
- (3) A coal mine worker elected under subsection (1) is taken to be a site safety and health representative for the period—
- (a) a site safety and health representative is not available; or
 - (b) the coal mining operations are considered unsafe by the affected coal mine workers.

95 Person must be qualified to act as site safety and health representative

- (1) A person must not act as a site safety and health representative unless the person holds the competencies mentioned in section 93(5).
Maximum penalty—40 penalty units.
- (2) Subsection (1) does not apply to a person elected under section 94.
- (3) A site safety and health representative must perform the functions and exercise the powers of a site safety and health representative under this Act for safety and health purposes and for no other purpose.

Maximum penalty for subsection (3)—40 penalty

units.

96 Ceasing to be a site safety and health representative

A coal mine worker for a coal mine, or part of a coal mine, stops being a site safety and health representative if the worker—

- (a) tells the site senior executive that the worker resigns as site safety and health representative; or
- (b) stops being a coal mine worker at the coal mine, or part of the coal mine; or
- (c) is removed from office by a vote of a majority of coal mine workers at the coal mine, or part of the coal mine, as notified in writing to the site senior executive for the coal mine.

44 Insertion of new pt 7, div 3 and div 4, hdg

After section 98—

insert—

Division 3 Process for election of site safety and health representatives

98A Definition for division

In this division—

election trigger, for an election, means the request for the election by a coal mine worker under section 98B(b).

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98B When election must be held

An election of a site safety and health representative for a coal mine, or part of a coal mine, must be held if—

- (a) the office of a site safety and health representative for the coal mine, or part of the coal mine, becomes vacant or will become vacant before the election; and
- (b) a coal mine worker for the coal mine, or part of the coal mine, asks the site senior executive for the coal mine, in writing, for an election to be conducted by an entity mentioned in section 98C(1).

98C Who is to conduct election

- (1) An election for a site safety and health representative for a coal mine, or part of a coal mine, must be conducted by 1 or more of the following entities—
 - (a) 1 or more involved unions for the election;
 - (b) the site senior executive for the coal mine;
 - (c) an appropriately qualified entity appointed by an entity mentioned in paragraph (a) or (b).
- (2) The site senior executive for the coal mine, or part of the coal mine, and any involved union for the election must use all reasonable endeavours to agree on which of the entities mentioned in subsection (1) is to conduct the election.
- (3) If the site senior executive for the coal mine, or part of the coal mine, and any involved union for the election cannot reach agreement under subsection (2), the coal mine workers at the coal mine, or part of the coal mine, must decide by majority vote which of the entities mentioned in

-
- subsection (1) is to conduct the election.
- (4) The site senior executive must use all reasonable endeavours to ensure the coal mine workers are able to vote under subsection (3) within 45 days after the election trigger.
 - (5) If the coal mine workers at the coal mine, or part of the coal mine, cannot make a decision under subsection (3) within 45 days after the election trigger, the election must be conducted—
 - (a) by an appropriately qualified entity appointed by the site senior executive for the coal mine or part of the coal mine; and
 - (b) as soon as possible after the appointment of the entity mentioned in paragraph (a).
 - (6) If an involved union participates in the conduct of the election, the election must be conducted by secret ballot under—
 - (a) the fair rules of the involved union, or, if more than 1 involved union participates in the conduct of the election, the fair rules agreed to by each of the involved unions; or
 - (b) otherwise—the process prescribed by regulation.
 - (7) If an involved union does not participate in the conduct of the election, the election must be conducted by secret ballot under the process prescribed by regulation.
 - (8) The reasonable costs of the election are to be paid by the coal mine operator.
 - (9) To remove any doubt, it is declared that nothing in this section compels an entity to conduct, or jointly conduct, an election of a site safety and health representative.
 - (10) In this section—
-

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Commonwealth industrial association means an industrial association under the *Fair Work Act 2009* (Cwlth), section 12.

involved union, for an election, means an industrial organisation, or Commonwealth industrial association, whose membership includes a coal mine worker entitled to vote in the election.

98D Obligations of entity or entities conducting election

An entity conducting an election under section 98C must ensure the election is—

- (a) supervised by a person who has had formal training as a returning officer; and
- (b) conducted under fair procedures that give each elector an equal opportunity to freely vote in the election.

Division 4 Functions and powers of site safety and health representatives

45 Amendment of s 100 (Powers of site safety and health representative)

(1) Section 100—

insert—

- (c) to copy, or to obtain from the site senior executive within a stated reasonable period a copy of, any document mentioned in paragraph (b);
- (d) to require the site senior executive to give the site safety and health representative

reasonable help to exercise the site safety and health representative's powers under paragraphs (b) and (c).

(2) Section 100—

insert—

- (2) If a site safety and health representative asks to copy documents under subsection (1)(c), the site senior executive must give access to the documents as soon as reasonably practicable after being asked, unless the site senior executive has a reasonable excuse.

Maximum penalty—100 penalty units.

- (3) A site senior executive who is required in a stated reasonable way to help the site safety and health representative under subsection (1)(d) must comply with the requirement.

Maximum penalty—100 penalty units.

46 Amendment of s 101 (Stopping of operations by site safety and health representatives)

(1) Section 101(2), before 'safety'—

insert—

site

(2) Section 101—

insert—

- (2A) The site safety and health representative must give a copy of the written report given to the site senior executive under subsection (2) to—

- (a) an inspector; and
(b) an industry safety and health representative.

(3) Section 101(4)—

omit, insert—

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(4) The site safety and health representative must give a written report to each of the following persons about any action taken under subsection (4) and the reasons for the action—

- (a) the site senior executive;
- (b) an inspector;
- (c) an industry safety and health representative.

(4) Section 101(2A) to (4)—
renumber as section 101(3) to (5).

47 Amendment of s 105 (Protection of site safety and health representatives performing functions)

(1) Section 105(a) and (b), ‘his or her’—
insert—

the representative’s

(2) Section 105(b), before ‘safety’—
insert—

site

48 Insertion of new pt 7, div 4, hdg

Before section 106—

insert—

Division 5 Duties of site senior executive

49 Amendment of s 107 (Site senior executive to display identity of site safety and health representatives)

(1) Section 107(1)—
omit, insert—

(1) A site senior executive for a coal mine must

display a notice as required under subsections (2) to (4) for each site safety and health representative for the mine.

Maximum penalty—40 penalty units.

(1A) The notice must—

- (a) state the name of the site safety and health representative; and
- (b) state the work group to which the site safety and health representative belongs; and
- (c) contain a recent photograph of the site safety and health representative.

(2) Section 107(1A) to (3)—

renumber as section 107(2) to (4).

50 Insertion of new pt 7A

After section 107—

insert—

Part 7A Site safety and health committees

107A Site safety and health committees

- (1) A site senior executive for a coal mine or part of a coal mine must establish a safety and health committee for the mine or part if—
- (a) asked by a site safety and health representative; or
 - (b) directed by the chief inspector.

Maximum penalty—100 penalty units.

- (2) However, the coal mine workers and the site senior executive may decide that there is to be more than 1 safety and health committee for the

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coal mine or part of the coal mine if they consider this is necessary because of the size and complexity of operations.

- (3) If more than 1 committee is established, the area of the coal mine or part to be covered by each committee must be decided.

107B Membership of site safety and health committee

- (1) A site safety and health committee for a coal mine or part of a coal mine consists of at least 2 members being—
 - (a) a site safety and health representative for the coal mine or part; and
 - (b) the site senior executive for the coal mine or part or the site senior executive's representative.
- (2) The site safety and health committee may include other members (*nominated members*) nominated by the site senior executive and the coal mine workers.
- (3) A site safety and health committee member must be a coal mine worker in the coal mine or part.
- (4) At least half the nominated members must be coal mine workers nominated by coal mine workers and must work in the area of the mine covered by the site safety and health committee.

107C Functions of site safety and health committee

A site safety and health committee has the following functions—

- (a) to facilitate consultation and cooperation between management and coal mine

workers in initiating, developing and implementing management of risk from coal mining operations;

- (b) to encourage an active interest in safety and health matters at the coal mine;
- (c) to review the circumstances of injuries, illness and high potential incidents, and recommend appropriate action;
- (d) to consider any proposed changes to coal mining operations that may reasonably be expected to affect the control of risk, and make appropriate recommendations;
- (e) to carry out inspections;
- (f) to consider matters referred to the committee by a site safety and health representative;
- (g) to help in the resolution of safety and health issues;
- (h) to perform other functions to promote safety and health.

107D Times of meetings

Meetings of a site safety and health committee are to be held at the times it decides, but must be held at least once every 3 months.

107E Proceedings at meetings

A site safety and health committee must keep minutes of its meetings, but may otherwise conduct its proceedings in the way it decides.

107F Minutes to be made available

The site senior executive must make the minutes

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of a meeting of a site safety and health committee available at all reasonable times for inspection by coal mine workers at the mine and by an inspector.

Maximum penalty—40 penalty units.

107G Duties of site senior executive

The site senior executive must—

- (a) provide to site safety and health committees access to appropriate facilities necessary to perform their functions; and
- (b) ensure that site safety and health representatives and committee members receive their normal pay for time spent in performing their functions.

Maximum penalty—100 penalty units.

51 Amendment of s 109 (Appointment of industry safety and health representatives)

- (1) Section 109(2), from ‘of a’—

omit, insert—

of both of the following board qualifications—

- (a) a first or second class certificate of competency or a deputy’s certificate of competency;
- (b) the practising certificate required by the board to be held by a person holding the board qualification mentioned in paragraph (a).

- (2) Section 109(3)—

omit, insert—

- (3) The term of the appointment must not be more

than 4 years.

52 Amendment of s 119 (Powers of industry safety and health representatives)

(1) Section 119(1)(b)—

omit, insert—

(b) to enter any part of a coal mine at any time to carry out the representative's functions;

(2) Section 119(1)(d), 'copy'—

omit, insert—

examine

(3) Section 119(1)—

insert—

(da) to copy any document mentioned in paragraph (c) or (d);

(db) to obtain from the site senior executive within a stated reasonable period and by a stated reasonable way, including, for example, by email, a copy of any document mentioned in paragraph (c) or (d);

(4) Section 119(1)(e), 'paragraphs (a) to (d)'—

omit, insert—

paragraphs (a) to (f)

(5) Section 119(1)(da) to (f)—

renumber as section 119(1)(e) to (h).

(6) Section 119(2), after 'required'—

insert—

in a stated reasonable way

(7) Section 119(2), 'subsection (1)(e)'—

omit, insert—

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subsection (1)(g)

(8) Section 119(3)—

omit, insert—

- (3) If an industry safety and health representative asks a person to give access to documents to enable the representative to examine documents under subsection (1)(c) or (d), or to copy documents under subsection (1)(e), the person must give access to the documents as soon as reasonably practicable after being asked, unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

53 Amendment of s 126 (Qualifications for appointment as inspector)

Section 126—

insert—

- (2) The CEO must not appoint under subsection (1) a person who holds a certificate of competency or site senior executive notice unless the person also holds the practising certificate required by the board to be held by a person holding that board qualification.

54 Replacement of s 129 (Further functions of inspectors)

Section 129—

omit, insert—

129 Further function of inspectors

Inspectors also have the function of advising the chief inspector on safety and health at coal mines.

55 Amendment of s 138 (Warrants—procedure before entry)

Section 138(2)(a), ‘himself or herself’—

omit, insert—

themselves

56 Replacement of ss 152 and 153

Sections 152 and 153—

omit, insert—

152 Power to require personal details

- (1) This section applies if an officer—
 - (a) finds a person committing an offence against this Act; or
 - (b) finds a person in circumstances that lead the officer to reasonably suspect the person has just committed an offence against this Act; or
 - (c) has information that leads the officer to reasonably suspect a person has just committed an offence against this Act.
- (2) The officer may require the person to state the person’s name and residential address.
- (3) The officer may also require the person to give evidence of the correctness of the stated name or address if, in the circumstances, it would be reasonable to expect the person to—
 - (a) be in possession of evidence of the correctness of the stated name or address; or
 - (b) otherwise be able to give the evidence.
- (4) When making a requirement under this section, the officer must give the person an offence warning for the requirement.
- (5) In this section—

[s 57]

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

153 Offence to contravene personal details requirement

- (1) A person of whom a requirement is made under section 152 must comply with the requirement unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

- (2) A person may not be convicted of an offence against subsection (1) unless the person is found guilty of the offence in relation to which the requirement under section 152 was made.

57 Amendment of pt 9, div 5, hdg

Part 9, div 5, heading, from ‘by’—
omit.

58 Renumbering of pt 9, div 5, sdiv 4 (Review of directives)

Part 9, div 5, subdivision 4—
renumber as part 9, div 5, subdivision 8.

59 Replacement of pt 9, div 5, subdvs 1 to 3

Part 9, division 5, subdivisions 1 to 3, before subdivision 8 as renumbered by this Act—
omit, insert—

Subdivision 1 Preliminary

161 Definition for this division

In this division—

authorised official means—

- (a) the chief inspector; or
- (b) an inspector; or
- (c) an inspection officer; or
- (d) an industry safety and health representative.

Subdivision 2 Power to give directives

162 Directive may be given

A directive may be given by an authorised official, and for a matter, mentioned in subdivision 3 or 4.

Subdivision 3 Directives relating to acceptable level of risk

163 When directive may be issued

- (1) A directive may be issued under this section if an authorised official believes a risk from coal mining operations at a coal mine is—
 - (a) at an unacceptable level; or
 - (b) may reach an unacceptable level.
- (2) The directive may require a person who has a safety and health obligation in relation to the coal mine to do 1 or more of the following—
 - (a) suspend coal mining operations in all or part of the coal mine;

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- (b) take action stated in the directive, including, for example—
 - (i) to review the safety and health management system or the principal hazard management plan to make the system or plan effective; or
 - (ii) to carry out a test to decide whether a risk is at an unacceptable level.
- (3) A directive to suspend coal mining operations may be issued under subsection (2)(a) by—
 - (a) an inspector; or
 - (b) an inspection officer; or
 - (c) an industry safety and health representative.
- (4) A directive to take action stated in the directive may be issued under subsection (2)(b) only by—
 - (a) an inspector; or
 - (b) an inspection officer.
- (5) Despite subsection (4), only an inspector may issue a directive under subsection (2)(b) that relates to—
 - (a) a review of the safety and health management system or the principal hazard management plan; or
 - (b) the carrying out of a test to decide whether a risk is at an unacceptable level.

Subdivision 4 Directives relating to other matters

164 Directive to ensure task performed only by coal mine worker with competency

- (1) This section applies if an inspector believes a

particular task at a coal mine should be performed only by persons with a particular competency.

- (2) The inspector may give the coal mine operator for the coal mine a directive that the task be performed only by a coal mine worker with the competency.

165 Directive to isolate site to preserve evidence

- (1) This section applies if an inspector believes evidence relating to a serious accident or high potential incident at a coal mine needs to be preserved.
- (2) The inspector may give a directive to a person to isolate and protect the accident or incident site.

166 Directive to operate part of surface mine as separate part

- (1) Subsection (2) applies if an inspector believes part of a surface mine taken to be a separate part of a surface mine under section 21(4) is being operated in a way that makes it no longer a separate part of a surface mine under section 21(4).
- (2) The inspector may give a directive to the coal mine operator for the coal mine to operate the part of the surface mine so that it is a separate part of a surface mine under section 21(4).
- (3) Subsection (4) applies if an inspector believes the coal mine operator for a coal mine has not complied with a directive given under subsection (2).
- (4) The inspector may give the coal mine operator for the coal mine a directive to suspend operations in the part of the surface mine.

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167 Directive to give report to chief inspector

- (1) The chief inspector may give a directive to a person who has a safety and health obligation in relation to a coal mine to give the chief inspector a report about—
 - (a) risks arising out of coal mining operations; or
 - (b) the safety of part or all of any plant, building or structure at the coal mine; or
 - (c) a serious accident or high potential incident at the coal mine.
- (2) The directive must state—
 - (a) the objectives of the report; and
 - (b) that the person who prepares the report must be a person approved by the chief inspector.
- (3) For subsection (2)(b), the chief inspector may approve a person only if the person—
 - (a) has relevant professional qualifications and experience to prepare the report; and
 - (b) is not an employee of the coal mine operator for the coal mine or of a contractor for the coal mine.
- (4) A report prepared under this section is not admissible in evidence against a site senior executive, or any other coal mine worker mentioned in the report, in any criminal proceeding other than proceedings about the falsity or misleading nature of the report.

Subdivision 5 How directives given

168 Contents of directive

A directive given to a person under subdivision 3

or 4 must state the following matters—

- (a) the action required under the directive;
- (b) the grounds for the directive;
- (c) a stated reasonable period within which the person must comply with the directive;
- (d) if the directive was given by an inspector, inspection officer or industry safety and health representative—that the person has a right to have the directive reviewed by the chief inspector under subdivision 9;
- (e) if the directive was given by the chief inspector—that the person has a right to appeal against the directive under part 14, division 2;
- (f) how, and the period within which, the person may apply for review of, or appeal against, the directive.

169 Directive may be given orally or by notice

- (1) A directive may be given to a person orally or by notice.
- (2) However, if a directive is given to a person orally, the directive must be confirmed by notice to the person as soon as reasonably practicable after the directive is given.
- (3) A copy of a notice given under subsection (1) or (2) must be given to—
 - (a) the site senior executive for the coal mine, or part of the coal mine, to which the directive relates; and
 - (b) the person in control of the coal mine, or part of the coal mine, to which the directive relates.
- (4) Failure to comply with subsection (2) or (3) does

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not affect the validity of the directive.

- (5) Also, a directive is not invalid only because of—
- (a) a formal defect or irregularity in a notice given under this section unless the defect or irregularity causes or is likely to cause substantial injustice; or
 - (b) a failure to use the correct name of a person in a notice given under this section if the notice sufficiently identifies the person.

170 Withdrawal of directive

A directive given under subdivision 3 or 4 may be withdrawn by notice given by—

- (a) for a directive given by an industry safety and health representative—the industry safety and health representative or an inspector; or
- (b) for a directive given by the chief inspector—the chief inspector; or
- (c) for a directive given by an inspector other than the chief inspector—the inspector or another inspector; or
- (d) for a directive given by an inspection officer—the inspection officer or an inspector.

Note—

See also section 160.

Subdivision 6 Compliance with directives

171 Person must comply with directive

A person to whom a directive is given must comply with the directive within the period stated

in the directive.

Maximum penalty—800 penalty units or 2 years imprisonment.

Subdivision 7 Records

172 Authorised official must keep record of directive

- (1) This section applies if an authorised official gives a directive under this division.
- (2) The authorised official must keep an accurate record of the directive for at least 7 years after the directive is given.

173 Directive must be entered in mine record

- (1) This section applies if an authorised official gives a directive relating to a coal mine under this division.
- (2) The authorised official must, as soon as reasonably practicable after giving the directive—
 - (a) enter in the mine record the directive; and
 - (b) state in the mine record the reason for the directive.
- (3) The site senior executive for the coal mine must enter in the mine record the action taken to comply with the directive as soon as practicable after taking the action.

Maximum penalty—40 penalty units.

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174 Coal mine workers must have access to directives

The site senior executive for a coal mine must make a copy of a directive issued under this division available for inspection by coal mine workers at the coal mine for at least 7 years after the directive is given.

Maximum penalty—40 penalty units.

174A Authorised official must keep record of report

- (1) This section applies if an authorised official gives a report to a person under this Act.
- (2) The authorised official must keep an accurate record of the report for at least 7 years after the report is given to the person.

174B Authorised official must keep record of inspection of coal mine

- (1) This section applies if an authorised official inspects a coal mine under this Act.
- (2) The authorised official must—
 - (a) make a written report of the inspection; and
 - (b) give a copy of the report to the coal mine operator, and site senior executive, for the coal mine; and
 - (c) keep an accurate record of the report for at least 7 years after the inspection.

60 Amendment of s 175 (Application for review)

Section 175, from ‘who’ to ‘may’—
omit, insert—

given a directive by an authorised official (other than the chief inspector) may

61 Amendment of s 178 (Stay of operation of directive)

Section 178(6), ‘section 167’—

omit, insert—

section 163(2)(a)

62 Amendment of s 181 (Obstructing inspectors, officers or industry safety and health representatives)

(1) Section 181(1), penalty—

omit, insert—

Maximum penalty—500 penalty units.

(2) Section 181—

insert—

(3) In this section—

obstruct includes assault, hinder, resist and attempt or threaten to assault, hinder or resist.

63 Amendment of pt 10, div 1, hdg (Purposes of part)

Part 10, division 1, heading—

omit, insert—

Division 1 Preliminary

64 Insertion of new s 182A

After section 182—

insert—

[s 65]

182A Definition for part

In this part—

board qualification means—

- (a) a certificate of competency; or
- (b) a site senior executive notice; or
- (c) a practising certificate.

65 Amendment of s 185 (Functions of board of examiners)

(1) Section 185—

insert—

- (ea) to develop and administer a scheme for the continuing professional development of holders of certificates of competency or site senior executive notices, including, for example—
 - (i) deciding the type of continuing professional development required; and
 - (ii) deciding the minimum continuing professional development particular holders must undertake; and
 - (iii) issuing practising certificates to holders who have completed the required continuing professional development; and
 - (iv) renewing practising certificates of holders who have completed the required continuing professional development;

(2) Section 185(ea) and (f)—

renumber as section 185(f) and (g).

66 Insertion of new s 185A

After section 185—

insert—

185A Minister’s power to give directions in public interest

- (1) The Minister may give the board of examiners a written direction about a matter relevant to the performance of the board’s functions under this Act if the Minister is satisfied it is necessary, in the public interest, to give the direction.
- (2) Without limiting subsection (1), the direction may be—
 - (a) to give reports and information; or
 - (b) to apply to the board a policy, standard or other instrument applying to a public sector unit.
- (3) The direction can not be about any of the following—
 - (a) issuing, or refusing to issue, a board qualification;
 - (b) renewing, or refusing to renew, a board qualification;
 - (c) imposing conditions on, or removing disciplinary conditions of, a board qualification;
 - (d) otherwise amending, or suspending or cancelling a board qualification.
- (4) The board must comply with the direction.

67 Replacement of s 186 (Membership and conduct of board proceedings)

Section 186—

[s 67]

omit, insert—

186 Membership and conduct of board proceedings

- (1) The board of examiners is to consist of a chairperson and at least the following other members—
- (a) at least 1 person with demonstrated expertise in the assessment of technical or safety competencies;
 - (b) the following inspectors—
 - (i) the chief inspector;
 - (ii) the chief inspector of mines under the *Mining and Quarrying Safety and Health Act 1999*;
 - (iii) at least 1 inspector who holds a first class certificate of competency for an underground coal mine and a practising certificate related to the certificate of competency;
 - (iv) at least 1 inspector who holds a first class certificate of competency for an underground mine, and a practising certificate related to the certificate of competency, under the *Mining and Quarrying Safety and Health Act 1999*;
 - (c) at least 1 person who—
 - (i) is employed by a coal mine operator; and
 - (ii) holds a first class certificate of competency for an underground coal mine and a practising certificate related to the certificate of competency;
 - (d) at least 1 person who—

-
- (i) is employed by an operator under the *Mining and Quarrying Safety and Health Act 1999*; and
 - (ii) holds a first class certificate of competency for an underground mine, and a practising certificate related to the certificate of competency, under the *Mining and Quarrying Safety and Health Act 1999*.
 - (2) The chairperson—
 - (a) must be appropriately qualified to perform the functions of chairperson of the board; and
 - (b) must not be currently engaged in the mining industry.
 - (3) All members, other than the chairperson or a member mentioned in subsection (1)(a), must—
 - (a) be currently engaged in the mining industry; and
 - (b) have at least 10 years' practical experience in the mining industry; and
 - (c) hold a certificate of competency under this Act or the *Mining and Quarrying Safety and Health Act 1999*; and
 - (d) hold the practising certificate required by the board to be held by a person holding the board qualification mentioned in paragraph (c).
 - (4) For subsection (3)(a), the following persons are taken to be currently engaged in the mining industry—
 - (a) an inspector;
 - (b) an industry safety and health representative;

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(c) a district workers' representative under the *Mining and Quarrying Safety and Health Act 1999*.

(5) A member, other than a member mentioned in subsection (1)(b)(i) or (ii), may be appointed for a term of not more than 5 years.

68 Amendment of s 188 (Appointment of board of examiners)

Section 188, 'section 186(3A)'—

omit, insert—

section 186(1)(b)(i) or (ii)

69 Amendment of s 190 (Presiding at meetings of the board of examiners)

(1) Section 190(3), after 'nominated'—

insert—

under subsection (2)

(2) Section 190—

insert—

(4) If the chairperson does not nominate an inspector under subsection (2), the chief inspector presides.

70 Amendment of s 193A (Register to be kept by board of examiners)

(1) Section 193A(1)—

insert—

(ba) practising certificates issued by the board;
and

(2) Section 193A(1)(ba) and (c)—

renumber as section 193A(1)(c) and (d).

- (3) Section 193A(2)(a), ‘certificate of competency or site senior executive notice’—

omit, insert—

board qualification

- (4) Section 193A(2)(a), ‘certificate or notice’—

omit, insert—

qualification

- (5) Section 193A(2)(b), ‘subsection (1)(c)’—

omit, insert—

subsection (1)(d)

- (6) Section 193(4)—

omit.

71 Amendment of s 194A (Board of examiners may consider previous suspension, cancellation or surrender of certificate of competency or site senior executive notice)

Section 194A, from ‘certificate’ to ‘notice’—

omit, insert—

board qualification

72 Amendment of s 195 (Obtaining certificates of competency or site senior executive notices by fraud)

- (1) Section 195, heading—

omit, insert—

195 Obtaining board qualifications by fraud

- (2) Section 195(1), (2) and (3), ‘certificate of competency or site senior executive notice’—

omit, insert—

board qualification

[s 73]

(3) Section 195(3)—

insert—

- (c) for a decision relating to a practising certificate held by a site senior executive—the coal mine operator for each coal mine at which the holder works;
- (d) for a decision relating to a practising certificate held by a person other than a site senior executive—the site senior executive for each coal mine at which the holder works.

73 Amendment of s 196 (Return of certificate of competency or site senior executive notice)

(1) Section 196, ‘certificate of competency or site senior executive notice’—

omit, insert—

board qualification

(2) Section 196, ‘certificate or notice’—

omit, insert—

board qualification

(3) Section 196(b), ‘an industrial magistrate’—

omit, insert—

a magistrate

74 Amendment of s 196A (Effect on particular appointments of suspension, cancellation or surrender of certificate of competency or site senior executive notice)

(1) Section 196A, heading, from ‘certificate’ to ‘notice’—

omit, insert—

board qualification

- (2) Section 196A(1)(a) and (c) and (2), ‘certificate of competency or site senior executive notice’—

omit, insert—

board qualification

75 Amendment of s 197A (Grounds for suspension or cancellation)

Section 197A—

insert—

- (3) The only ground for suspending or cancelling a person’s practising certificate is that the person has failed to complete the requirements of the board to hold the certificate.

76 Amendment of s 197B (Notice of proposed action)

Section 197B(1) and (2)(d), from ‘certificate’ to ‘notice’—

omit, insert—

board qualification

77 Amendment of s 197D (Decision to take proposed action)

- (1) Section 197D(2), ‘certificate of competency or site senior executive notice’—

omit, insert—

board qualification

- (2) Section 197D(2), ‘certificate or notice’—

omit, insert—

qualification

- (3) Section 197D(6)(a)—

insert—

[s 78]

- (iii) for a decision relating to a practising certificate held by a site senior executive—the coal mine operator for each coal mine at which the holder works;
- (iv) for a decision relating to a practising certificate held by a person other than a site senior executive—the site senior executive for each coal mine at which the holder works; and

78 Insertion of new s 197E

After section 197D—

insert—

197E Automatic cancellation or suspension of practising certificate

- (1) This section applies if a person's certificate of competency or site senior executive notice is cancelled or suspended under this part or by a court.
- (2) Any practising certificate, relating to the certificate of competency or site senior executive notice, held by the person is also cancelled or suspended for the same period and on the same conditions.

79 Replacement of s 198 (Notice of accidents, incidents, deaths or diseases)

Section 198—

omit, insert—

198 Notice of accidents, incidents or deaths

- (1) If the site senior executive for a coal mine becomes aware of a serious accident, high potential incident or death at the coal mine, the site senior executive must, as soon as possible

after becoming aware—

- (a) notify an inspector about the accident, incident or death by notice in the approved form; and
- (b) notify an industry safety and health representative about the accident, incident or death by notice.

Maximum penalty—100 penalty units.

- (2) The approved form mentioned in subsection (1)(a) must make provision for particular information (the *required information*) to be provided about the serious accident, high potential incident or death.
- (3) The notice mentioned in subsection (1)(b) must include the following information about the serious accident, high potential incident or death—
 - (a) the precise location where the accident, incident or death happened;
 - (b) when the accident, incident or death happened;
 - (c) the number of persons involved in the accident, incident or death;
 - (d) if the notification is about a death, whether or not caused by an accident—the name of the person who died;
 - (e) if the notification is about a serious accident or high potential incident—
 - (i) the name of any person who saw the accident or incident, or who was present when the accident or incident happened; and

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- (ii) the name of any person who was injured as a result of the accident or incident;
 - (f) if no one was present when the person mentioned in paragraph (d) died or the person mentioned in paragraph (e)(ii) was injured—the name of the person who found the deceased or injured person;
 - (g) a brief description of how the accident, incident or death happened.

Examples of types of descriptions that may be given under paragraph (g)—

 - ‘A light vehicle fell into the pit after the light vehicle collided with a truck on a ramp leading into the pit.’
 - ‘A worker fell from the top of a storage bin into the wash plant.’
- (4) If the site senior executive does not know the required information, or information mentioned in subsection (3), at the time the site senior executive is required to notify a person under subsection (1), the site senior executive must—
- (a) take all reasonable steps to find out the required information as soon as possible; and
 - (b) as soon as possible after the required information becomes known to the site senior executive, give the required information to the person.
- Maximum penalty—100 penalty units.
- (5) It is not a defence in a proceeding under subsection (1) or (4) that the giving of the required information, or the information mentioned in subsection (3), might tend to incriminate the site senior executive.
 - (6) The required information and the information

given under subsection (3) is not admissible in evidence against the site senior executive in any criminal proceeding.

- (7) Subsection (6) does not prevent the required information, or information given under subsection (3), being admitted in evidence in a criminal proceeding about the falsity or misleading nature of the required information.

198AA Notice of reportable diseases

- (1) If the site senior executive for a coal mine becomes aware that a relevant worker has been diagnosed with a reportable disease, the site senior executive must, as soon as practicable after becoming aware—
- (a) notify an inspector about the disease by notice in the approved form; and
 - (b) notify an industry safety and health representative about the disease by notice.

Maximum penalty—100 penalty units.

- (2) If a prescribed person becomes aware that a relevant worker has been diagnosed with a reportable disease, the prescribed person must, as soon as practicable after becoming aware, notify the chief inspector by notice in the approved form.

Maximum penalty—100 penalty units.

- (3) The approved form mentioned in subsection (1)(a) and (2) must make provision for stating the name and date of birth of the person diagnosed with the reportable disease.
- (4) This section does not apply in the circumstances prescribed by regulation.
- (5) In this section—

prescribed person means a person prescribed by

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regulation for subsection (2).

relevant worker means—

- (a) a person who is, was or may become a coal mine worker; or
- (b) a person who is or was a worker under the *Mining and Quarrying Safety and Health Act 1999*.

reportable disease means a disease prescribed by regulation to be a disease that must be reported under this section.

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

Section 201(1)(c), from ‘forward’—

omit, insert—

give the report mentioned in paragraph (b) to an inspector—

- (i) within 30 days after the accident or incident; or
- (ii) if the CEO or chief inspector by notice gives a longer period, of not more than 12 months, within which to give the report—within the longer period.

81 Amendment of s 216 (Offences by witnesses)

Section 216(1), (2) and (3), penalty—

omit, insert—

Maximum penalty—200 penalty units.

82 Insertion of new ss 216A and 216B

After section 216—

insert—

216A False or misleading statements to board of inquiry

A person must not state anything to the board of inquiry that the person knows is false or misleading in a material particular.

Maximum penalty—500 penalty units.

216B False or misleading documents to board of inquiry

- (1) A person must not give a document to the board of inquiry that the person knows is false or misleading in a material particular.

Maximum penalty—500 penalty units.

- (2) Subsection (1) does not apply to a person who, when giving the document—
- (a) informs the board, to the best of the person's ability, how it is false or misleading; and
 - (b) if the person has, or can reasonably get, the correct information—gives the correct information to the board.

83 Amendment of s 217 (Contempt of board)

- (1) Section 217—

insert—

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

- (2) Section 217(aa) to (c)—

renumber as section 217(b) to (d).

- (3) Section 217, penalty—

omit, insert—

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Maximum penalty—200 penalty units.

84 Amendment of s 255 (Proceedings for offences)

(1) Section 255(1)—

omit, insert—

(1) A charge of an offence against this Act, other than an offence against part 3A, must be heard and decided summarily.

(1A) A Magistrates Court must abstain from dealing summarily with a charge of an offence against this Act—

(a) if satisfied, on an application made by the prosecution or the defence, that because of exceptional circumstances the charge should not be heard and decided summarily; or

Examples of exceptional circumstances—

- There is sufficient connection between the offence the subject of the charge, and other offences allegedly committed by the defendant and to be tried on indictment, to allow all the offences to be tried together.
- There is an important issue of law involved.
- An issue of general community importance or public interest is involved, or the holding of a trial by jury is justified in order to establish contemporary community standards.

(b) if satisfied, at any stage and after hearing any submissions by the prosecution and defence, that because of the nature or seriousness of the offence or any other relevant consideration the defendant, if convicted, may not be adequately punished on summary conviction.

(1B) If the Magistrates Court abstains from jurisdiction—

-
- (a) the court must stop treating the proceeding as a proceeding to hear and decide the charge summarily; and
 - (b) the proceeding for the charge must be conducted as a committal proceeding; and
 - (c) a plea of the defendant at the start of the hearing must be disregarded; and
 - (d) the evidence already heard by the court is taken to be evidence in the committal proceeding; and
 - (e) the *Justices Act 1886*, section 104 must be complied with for the committal proceeding.
- (2) Section 255(3) and (4)—
omit.
 - (3) Section (10), definition *person dissatisfied with a decision*—
omit.
 - (4) Section 255(1A) to (2)—
renumber as section 255(2) to (4).
 - (5) Section 255(9A) and (10)—
renumber as section 255(10) and (11).

85 Amendment of s 257 (Limitation on time for starting proceedings)

Section 257(1)(a) and (b)—

omit, insert—

- (a) 2 years after the offence first comes to the notice of the complainant;
- (b) if an enforceable undertaking has been given in relation to the offence, within 6 months after—

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- (i) the enforceable undertaking is contravened; or
- (ii) it comes to the notice of the CEO that the enforceable undertaking has been contravened; or
- (iii) the CEO has agreed under section 267Q to the withdrawal of the enforceable undertaking;

86 Amendment of s 258 (Court may order suspension or cancellation of certificate or notice)

- (1) Section 258(2), 'An industrial magistrate'—

omit, insert—

A magistrate

- (2) Section 258(3), 'the industrial magistrate's'—

omit, insert—

a magistrate's

- (3) Section 258(3), 'Industrial Court'—

omit, insert—

District Court

- (4) Section 258(4), from 'The' to 'person's'—

omit, insert—

A magistrate must give notice of a decision to suspend or cancel a person's

- (5) Section 258(4)(a), 'industrial'—

omit.

87 Amendment of s 259 (Forfeiture on conviction)

Section 259(1), 'an Industrial Magistrates Court'—

omit, insert—

a Magistrates Court

88 Amendment of s 264 (Orders for costs)

Section 264(2), 'An Industrial Magistrates Court'—
omit, insert—

A Magistrates Court

89 Insertion of new pt 15C

After section 267K—

insert—

Part 15C Enforceable undertakings

267L CEO may accept enforceable undertakings

- (1) The CEO may accept a written undertaking (an *enforceable undertaking*) given by a person in connection with a matter relating to a contravention or alleged contravention of this Act by the person.
- (2) An enforceable undertaking can not be accepted for a contravention or alleged contravention that is—
 - (a) an offence against section 48C or 48D; or
 - (b) an offence involving a breach of a safety and health obligation causing death.
- (3) The giving of an enforceable undertaking does not constitute an admission of guilt by the person giving the undertaking in relation to the contravention or alleged contravention to which the undertaking relates.
- (4) The CEO must issue, and publish on a

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Queensland Government website, general guidelines in relation to the acceptance of enforceable undertakings under this Act.

267M Notice of decision and reasons for decision

- (1) The CEO must give the person seeking to make an enforceable undertaking notice of the CEO's decision to accept or reject the enforceable undertaking and of the reasons for the decision.
- (2) The CEO must publish, on a Queensland Government website, notice of a decision to accept an enforceable undertaking and the reasons for that decision.

267N When an enforceable undertaking is enforceable

An enforceable undertaking takes effect and becomes enforceable when the CEO's decision to accept the undertaking is given to the person who made the undertaking or at any later date stated by the CEO.

267O Compliance with enforceable undertaking

A person must not contravene an enforceable undertaking made by that person that is in effect.

Maximum penalty—500 penalty units.

267P Contravention of enforceable undertaking

- (1) The CEO may apply to a Magistrates Court for an order if a person contravenes an enforceable undertaking.
- (2) If the court is satisfied that the person who made the enforceable undertaking has contravened the undertaking, the court, in addition to the

-
- imposition of any penalty, may make—
- (a) an order directing the person to comply with the undertaking; or
 - (b) an order discharging the undertaking.
- (3) In addition to the orders mentioned in subsection (2), the court may make any other order the court considers appropriate in the circumstances, including orders directing the person to pay to the State—
- (a) the costs of the proceedings; and
 - (b) the reasonable costs of the CEO in monitoring compliance with the enforceable undertaking in the future.
- (4) Nothing in this section prevents proceedings being taken for the contravention or alleged contravention of this Act to which the enforceable undertaking relates.

Note—

Section 267R specifies circumstances affecting proceedings for a contravention for which an enforceable undertaking has been given.

267Q Withdrawal or variation of enforceable undertaking

- (1) A person who has made an enforceable undertaking may at any time, with the written agreement of the CEO—
 - (a) withdraw the undertaking; or
 - (b) vary the undertaking.
- (2) However, the provisions of the undertaking can not be varied to provide for a different alleged contravention of the Act.
- (3) The CEO must publish, on a Queensland Government website, notice of the withdrawal or

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variation of an enforceable undertaking.

267R Proceeding for alleged contravention

- (1) Subject to this section, no proceedings for a contravention or alleged contravention of this Act may be taken against a person if an enforceable undertaking is in effect in relation to that contravention.
- (2) No proceedings may be taken for a contravention or alleged contravention of this Act against a person who has made an enforceable undertaking in relation to that contravention and has completely discharged the enforceable undertaking.
- (3) The CEO may accept an enforceable undertaking in relation to a contravention or alleged contravention, other than a contravention or alleged contravention mentioned in section 267L(2)(a) or (b), before proceedings in relation to that contravention have been finalised.
- (4) If the CEO accepts an enforceable undertaking before the proceedings are finalised—
 - (a) the CEO must immediately notify the WHS prosecutor; and
 - (b) the WHS prosecutor must take all reasonable steps to have the proceedings discontinued as soon as possible.

90 Insertion of new pt 16, div 1, hdg

Before section 268—

insert—

Division 1 General

91 Insertion of new pt 16, div 2

After section 270—

insert—

Division 2 Sentencing for offences

270A Application of this division

This division applies if a court convicts a person or finds a person guilty (the *offender*) of an offence against this Act.

270B Orders generally

- (1) One or more orders may be made under this division against the offender.
- (2) Orders may be made under this division in addition to any penalty that may be imposed or any other action that may be taken in relation to the offence.

270C Adverse publicity orders

- (1) The court may make an order (an *adverse publicity order*), in relation to the offender, requiring the offender—
 - (a) to take either or both of the following actions within the period stated in the order—
 - (i) to publicise, in the way stated in the order, the offence, its consequences, the penalty imposed and any other related matter;
 - (ii) to notify a stated person or stated class of persons, in the way stated in the order, of the offence, its consequences,

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the penalty imposed and any other related matter; and

- (b) to give the CEO, within 7 days after the end of the period stated in the order, evidence that the action or actions were taken by the offender in accordance with the order.
- (2) The court may make an adverse publicity order on its own initiative or on the application of the person prosecuting the offence.
- (3) If the offender fails to give evidence to the CEO as provided under subsection (1)(b), the CEO, or a person authorised in writing by the CEO, may take the action or actions stated in the order.
- (4) However, if—
 - (a) the offender gives evidence to the CEO as provided under subsection (1)(b); and
 - (b) despite that evidence, the CEO is not satisfied that the offender has taken the action or actions stated in the order in accordance with the order;

the CEO may apply to the court for an order authorising the CEO, or a person authorised in writing by the CEO, to take the action or actions.

- (5) If the CEO or a person authorised in writing by the CEO takes an action or actions under subsection (3) or under an order under subsection (4), the CEO is entitled to recover from the offender, by action in a court of competent jurisdiction, an amount in relation to the reasonable expenses of taking the action or actions as a debt due to the CEO.

270D Orders for restoration

- (1) The court may order the offender to take steps stated in the order, within the period so stated, to

remedy any matter caused by the commission of the offence that appears to the court to be within the offender's power to remedy.

- (2) The period in which an order under this section must be complied with may be extended, or further extended, by order of the court but only if an application for the extension is made before the end of that period.

270E Safety and health project orders

- (1) The court may make an order requiring the offender to undertake a stated project for the general improvement of safety and health of persons at coal mines and persons who may be affected by coal mining operations within the period stated in the order.
- (2) The order may state conditions that must be complied with in undertaking the project.

270F Release on giving of court-ordered undertaking

- (1) The court may (with or without recording a conviction) adjourn the proceeding for a period of up to 2 years and make an order for the release of the offender on the offender giving an undertaking with stated conditions (a *court-ordered undertaking*).
- (2) A court-ordered undertaking must state the following conditions—
 - (a) that the offender appears before the court if called on to do so during the period of the adjournment and, if the court so states, at the time to which the further hearing is adjourned;

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- (b) that the offender does not commit, during the period of the adjournment, any offence against this Act;
 - (c) that the offender observes any special conditions imposed by the court.
- (3) In addition to the order mentioned in subsection (1), the court may make any other order the court considers appropriate in the circumstances, including orders directing the offender to pay to the State—
 - (a) the costs of the proceeding; and
 - (b) the reasonable costs of the CEO in monitoring compliance with the court-ordered undertaking in the future.
- (4) An offender who has given a court-ordered undertaking under this section may be called on to appear before the court by order of the court.
- (5) An order under subsection (4) must be served on the offender not less than 4 days before the time stated in the order for the appearance.
- (6) If the court is satisfied at the time to which a further hearing of a proceeding is adjourned that the offender has observed the conditions of the court-ordered undertaking, it must discharge the offender without any further hearing of the proceeding.

270G Injunctions

The court may issue an injunction requiring the offender to cease contravening this Act.

Note—

See also part 15A.

270H Training orders

The court may make an order requiring the offender to undertake or arrange for 1 or more coal mine workers to undertake a stated course of training.

270I Offence to fail to comply with order

- (1) A person must not, without reasonable excuse, fail to comply with an order under this division.
Maximum penalty—500 penalty units.
- (2) Subsection (1) places an evidential burden on the defendant to show a reasonable excuse.
- (3) This section does not apply to an order or injunction under section 270F or 270G.

92 Amendment of s 274 (Where coal mine worker exposed to immediate personal danger)

Section 274(1)(a) and (3), ‘himself or herself’—

omit, insert—

themselves

93 Amendment of s 275AA (Protection from reprisal)

Section 275AA(7)—

insert—

detriment includes—

- (a) personal injury or prejudice to safety; and
- (b) property damage or loss; and
- (c) intimidation or harassment; and
- (d) adverse discrimination, disadvantage or adverse treatment about career, profession, employment, trade or business; and

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- (e) financial loss; and
- (f) damage to reputation, including, for example, personal, professional or business reputation.

94 Amendment of s 275AC (Public statements)

- (1) Section 275AC, heading—

omit, insert—

275AC Publication of information

- (2) Section 275AC(1), from ‘make’ to ‘following—’

omit, insert—

publish information about any of the following matters—

- (3) Section 275AC(2)—

omit, insert—

- (2) Also, the Minister, CEO or chief inspector may publish any of the following information about serious accidents or high potential incidents—
 - (a) the total number of accidents or incidents that happened in a particular period;
 - (b) a description of an accident or incident, including, for example, where and when an accident or incident happened;
 - (c) the name of a coal mine at which an accident or incident happened;
 - (d) the operator of a coal mine at which an accident or incident happened;
 - (e) the injuries or deaths that occurred in an accident or incident;
 - (f) any other information about the accident or incident the Minister, CEO or chief inspector considers appropriate.

- (4) Section 275AC(3), ‘issue a public statement’—

omit, insert—

publish information

- (5) Section 275AC(4) and (5)—

omit, insert—

- (4) No liability is incurred by the State or any other person for the publication of, or for anything done for the purpose of publishing, information under this section in good faith.

- (5) Subsection (5) applies despite section 276.

95 Amendment of s 275A (Disclosure of information)

- (1) Section 275A(2), ‘in mining’—

omit.

- (2) Section 275A(1)(e)—

omit, insert—

- (e) in information published under section 275AC.

96 Amendment of s 280 (CEO to keep records)

- (1) Section 280(1)(a)—

omit, insert—

- (a) a database of information about serious accidents and high potential incidents; and

- (2) Section 280(2) to (5)—

omit, insert—

- (2) The CEO may give a person access to the records.

[s 97]

97 Amendment of s 281 (Approved forms)

Section 281, after ‘inspector’—

insert—

and CEO

98 Insertion of new pt 20, div 11

Part 20—

insert—

**Division 11 Transitional provisions for
Resources Safety and
Health Legislation
Amendment Act 2023**

327 Definitions for division

In this division—

former, for a provision of this Act, means the provision as in force from time to time before the commencement.

new, for a provision of this Act, means the provision as in force after the commencement.

328 Deferral of requirements relating to critical controls

- (1) New sections 30, 47A, 62(5) and 63(1) do not apply until the day that is 1 year after the commencement.
- (2) Former sections 30, 47A, 62(5) and 63(1) continue to apply until that day that is 1 year after the commencement.

329 Deferral of requirements relating to ROC workers

- (1) New sections 42(h) and 55(2)(d) do not apply until the day that is 6 months after the commencement.
- (2) Former sections 42(h) and 55(2)(d) continue to apply until the day that is 6 months after the commencement.

330 Deferral of additional requirements for management of surface mines

New sections 58A and 58B do not apply until the day that is 5 years after the commencement.

331 Deferral of requirement for electrical engineering manager for underground mine to hold board qualifications

- (1) New section 60(10) does not apply to the appointment of an electrical engineering manager for an underground mine, or to an acting electrical engineering manager appointed under section 60A(2) or (3), until the day that is 5 years after the commencement.
- (2) If, on the day that is 5 years after the commencement, an electrical engineering manager for an underground mine, or an acting electrical engineering manager appointed under section 60A(2) or (3), does not hold both of the board qualifications required under new section 60(10), the appointment of the manager or acting manager is terminated.
- (3) Former section 60(10) continues to apply until the day that is 5 years after the commencement.

[s 98]

332 Deferral of requirement for mechanical engineering manager for underground mine to hold board qualifications

- (1) New section 60(11) does not apply to the appointment of a mechanical engineering manager for an underground mine, or to an acting mechanical engineering manager appointed under section 60A(2) or (3), until the day that is 5 years after the commencement.
- (2) If, on the day that is 5 years after the commencement, a mechanical engineering manager for an underground mine, or an acting underground mechanical engineering manager appointed under section 60A(2) or (3), does not hold both of the board qualifications required under new section 60(11), the appointment of the manager or acting manager is terminated.
- (3) Former section 60(11) continues to apply until the day that is 5 years after the commencement.

333 Deferral of particular requirements to hold practising certificate

- (1) This section applies to the following requirements to hold a practising certificate—
 - (a) the requirement under new section 54(4) for a site senior executive for a mine to hold a practising certificate;
 - (b) the requirement under new section 57(4) for an acting site senior executive for a mine to hold a practising certificate;
 - (c) the requirement under new section 59(1)(b) for an open cut examiner for a surface mine to hold a practising certificate;
 - (d) the requirement under new section 59A(6) for a person acting in a position mentioned

-
- in paragraph (a) to hold a practising certificate;
- (e) the requirement under new section 60(5)(b) for an underground mine manager to hold a practising certificate;
 - (f) the requirement under new section 60(8)(b) for a person responsible for the control and management of underground activities when the manager is not in attendance at the mine to hold a practising certificate;
 - (g) the requirement under new section 60(9)(b) for a person who is to have control of activities in 1 or more explosion risk zones to hold a practising certificate;
 - (h) the requirement under new section 60A(6) for a person acting in a position mentioned in paragraph (c), (d) or (e) to hold a practising certificate;
 - (i) the requirement under new section 61(3)(b) for a ventilation officer to hold a practising certificate;
 - (j) the requirement under new section 61A(5) for a person acting as a ventilation officer to hold a practising certificate;
 - (k) the requirement under new section 109(2)(b) for an industry safety and health representative to hold a practising certificate;
 - (l) the requirement under new section 126(2) for an inspector to hold a practising certificate;
 - (m) the requirement under new section 186(1)(b)(iii) or (iv), (c)(ii) or (d)(ii) for a member of the board of examiners to hold a practising certificate.

[s 98]

- (2) The requirement does not apply until 10 June 2025.
- (3) If, on 10 June 2025, the person mentioned in subsection (1) does not hold the required practising certificate, the appointment of the person to the position mentioned in subsection (1) is terminated.
- (4) Former sections 54, 57, 59(1), 60(5) and (8), 60A(6), 61(3), 61A(5), 109(2), 126 and 186(3), (4), and (5) continue to apply until 10 June 2025.

334 Deferral of requirement for board of examiners to include person with expertise in competencies

- (1) New section 186(1)(a) does not apply until the day that is 2 years after the commencement.
- (2) Former section 186(1)(a) continues to apply until that day that is 2 years after the commencement.

335 Deferral of requirement for chairperson of board of examiners to have particular qualifications

- (1) New section 186(2) does not apply until the day that is 2 years after the commencement.
- (2) Former section 186(2) continues to apply until the day that is 2 years after the commencement.

336 Administrative region established by chief executive before commencement

- (1) This section applies if—
 - (a) before the commencement, the chief executive established an administrative region for the administration of this Act

under former schedule 2, definition *region*;
and

- (b) immediately before the commencement, the administrative region was still in effect.
- (2) The administrative region is taken to have been established by the CEO under new schedule 3, definition *region*.

99 Amendment of sch 2 (Subject matter for regulations)

Schedule 2, part 2—

insert—

29B Matters relating to board qualifications.

100 Amendment of sch 3 (Dictionary)

- (1) Schedule 3, definitions *coal mine worker*, *obstruct* and *service provider*—

omit.

- (2) Schedule 3—

insert—

board of inquiry means a board of inquiry established under section 202.

board qualification see section 182A.

coal mine worker means an individual who carries out work at a coal mine and includes the following individuals who carry out work at a coal mine—

- (a) an employee of the coal mine operator; and
- (b) a contractor; and
- (c) an employee of a contractor.

contractor includes—

[s 100]

- (a) a person contracted to carry out work at a coal mine; and
- (b) a person contracted to provide a service to a coal mine; and
- (c) a person contracted to provide coal mine workers to a coal mine, including, for example, a labour hire agency.

critical control means a risk control measure—

- (a) that is critical to—
 - (i) preventing an event that, directly or indirectly, has the potential to cause injury or illness to a person; or
 - (ii) mitigating the consequences of an event that, directly or indirectly, has the potential to cause injury or illness to a person; and
- (b) whose absence or failure would significantly increase risk despite the existence of other risk control measures.

electrical engineering manager means a person appointed to control and manage a coal mine's electrical engineering activities under section 58A(9) or 60(10).

enforceable undertaking see section 267L(1).

mechanical engineering manager means a person appointed to control and manage a coal mine's mechanical engineering activities under section 58A(10) or 60(11).

mutual recognition Act means—

- (a) the *Mutual Recognition Act 1992* (Cwlth);
or
- (b) the *Trans-Tasman Mutual Recognition Act 1997* (Cwlth).

practising certificate means a practising certificate issued, or renewed, by the board of examiners under this Act.

Queensland Government website means a website with a URL that contains ‘qld.gov.au’, other than the website of a local government.

remote operating centre, for a coal mine, means a facility located away from the mine that receives ongoing information about coal mining operations at the mine that is used for making decisions about and giving instructions for operations at the mine.

ROC worker, for a coal mine, means a person giving instructions to coal mine workers at the mine from a remote operating centre for the mine.

- (3) Schedule 3, definition *supplier*, ‘, contractor or service provider’—

omit, insert—

or contractor

- (4) Schedule 3, definition *region*, ‘chief executive’—

omit, insert—

CEO

Part 3 **Amendment of Explosives Act 1999**

101 Act amended

This part amends the *Explosives Act 1999*.

102 Amendment of s 7 (Exemptions)

Section 7(1)—

[s 103]

omit, insert—

- (1) A regulation may exempt an explosive from this Act or any of its provisions.
- (1A) A regulation may also exempt any of the following from this Act or any of its provisions—
 - (a) a government entity;
 - (b) a Commonwealth entity.

103 Amendment of s 15A (Persons who are not appropriate persons)

Section 15A—

insert—

- (4) Despite subsections (2) and (3), if the person is a licensed dealer, the person is an appropriate person to hold, or to continue to hold, a security sensitive authority if the only employees of the person who have or will have unsupervised access to an explosive in the course of the employee's employment, and who do not hold security clearances, are qualified weapons employees.

104 Amendment of s 33 (Employers' obligations about employees)

(1) Section 33—

insert—

- (1A) However, if the employer is a licensed dealer who holds a security sensitive authority, an employee of the licensed dealer who is a qualified weapons employee—
 - (a) is not required to hold a security clearance; and

(b) is not required to have access to an explosive under the direct supervision of a person who holds a security clearance.

- (2) Section 33(1A) and (2)—
renumber as section 33(2) and (3).

105 Replacement of s 37 (Notice to chief inspector)

Section 37—

omit, insert—

37 Notice to chief inspector

- (1) This section applies if an authority holder intends to—
- (a) bring an import explosive into the State from another country; or
 - (b) send an export explosive to another country.
- (2) The authority holder must give the chief inspector notice in the approved form of—
- (a) the holder's intention; and
 - (b) if the holder intends to bring an import explosive into the State—the expected arrival date and arrival time for the import explosive.
 - (c) if the holder intends to send an export explosive to another country—the expected departure date and departure time for the export explosive.

Maximum penalty—20 penalty units.

- (3) For subsection (2), the notice must be given to the chief inspector—
- (a) for an import explosive—at least 7 days before the expected arrival date for the import explosive; or

[s 105]

- (b) for an export explosive—at least 7 days before the expected departure date for the export explosive.

Maximum penalty—20 penalty units.

- (4) However, if the holder is not aware of the expected arrival date for the import explosive, or the expected departure date for the export explosive in the period mentioned in subsection (3), the notice required under subsection (2) must be given to the chief inspector—
 - (a) as soon as practicable after the holder becomes aware of the expected arrival date or expected departure date; and
 - (b) not later than the day before the arrival date or departure date.

Maximum penalty—20 penalty units.

- (5) Also, if any information stated in a notice given under subsection (2), or a written notice given under this subsection, changes, the holder must give the chief inspector written notice of the change—
 - (a) as soon as practicable after the holder becomes aware of the change; and
 - (b) not later than the day before the arrival date or departure date.

Maximum penalty—20 penalty units.

- (6) Subsections (2) and (5) do not apply if the holder has a reasonable excuse.
- (7) In this section—

arrival date, for an import explosive, means the day the import explosive will arrive at an airport or port in the State.

arrival time, for an import explosive, means the time at which the import explosive will arrive at

an airport or port in the State.

departure date, for an export explosive, means the day the export explosive will be sent from an airport or port in the State.

departure time, for an export explosive, means the time at which the export explosive will be sent from an airport or port in the State.

106 Amendment of s 54A (Definitions for part)

(1) Section 54A(1), definitions *employee* and *employer*—

omit.

(2) Section 54A(1)—

insert—

employer, for an act involving explosives, means—

- (a) a person who employs or otherwise engages a person to do the act involving explosives; or
- (b) a person who arranges for a person to do the act involving explosives; or
- (c) the holder of an authority relating to the act involving explosives.

107 Replacement of ss 54C and 54D

Section 54C—

omit, insert—

54C Industrial manslaughter—employer

- (1) An employer for an act involving explosives commits an offence if—
 - (a) an individual who does an act involving explosives—

[s 107]

- (i) dies in the course of doing an act involving explosives; or
- (ii) is injured in the course of doing an act involving explosives and later dies; and
- (b) the employer's conduct causes the death of the individual; and
- (c) the employer is negligent about causing the death of the individual by the conduct.

Maximum penalty—

- (a) for an individual—20 years imprisonment; or
- (b) for a body corporate—100,000 penalty units.

Note—

See section 119 in relation to imputing to a body corporate particular conduct of executive officers, employees or agents of the body corporate.

- (2) An offence against subsection (1) is a crime.

54D Industrial manslaughter—senior officer

- (1) A senior officer of an employer for an act involving explosives commits an offence if—
 - (a) an individual who does an act involving explosives—
 - (i) dies in the course of doing an act involving explosives; or
 - (ii) is injured in the course of doing an act involving explosives and later dies; and
 - (b) the senior officer's conduct causes the death of the individual; and
 - (c) the senior officer is negligent about causing the death of the individual by the conduct.

Maximum penalty—20 years imprisonment.

- (2) An offence against subsection (1) is a crime.

108 Replacement of s 56 (Notification of explosives incidents)

Section 56—

omit, insert—

56 Notice of explosives incidents

- (1) The relevant person for explosives involved in an explosives incident must, as soon as possible after the incident, notify the chief inspector of the incident in the approved form.

Maximum penalty—170 penalty units.

- (2) The approved form must make provision for particular information (the ***required information***) to be provided about the explosives incident.
- (3) It is not a defence in a proceeding under subsection (1) that the giving of the required information might tend to incriminate the relevant person for explosives.
- (4) The required information is not admissible in evidence against the relevant person for explosives in any criminal proceeding.
- (5) Subsection (3) does not prevent the required information being admitted in evidence in a criminal proceeding about the falsity or misleading nature of the required information.

109 Replacement of s 62B (Chief executive to arrange for services of staff for board of inquiry)

Section 62B—

omit, insert—

[s 110]

62B CEO to arrange for services of staff for board of inquiry

As soon as practicable after the board of inquiry is established, the CEO must, in consultation with the chairperson of the board, arrange for the services of RSHQ or other persons to be made available to the board for the conduct of the inquiry.

110 Amendment of s 72 (Offences by witnesses)

Section 72(1) and (2), penalty—

omit, insert—

Maximum penalty—200 penalty units.

111 Amendment of s 73 (False or misleading statements to inquiry)

Section 73, penalty—

omit, insert—

Maximum penalty—500 penalty units.

112 Amendment of s 74 (False or misleading documents to inquiry)

Section 74(1), penalty—

omit, insert—

Maximum penalty—500 penalty units.

113 Amendment of s 75 (Contempt of board)

(1) Section 75(a)—

omit.

(2) Section 75(b) to (e)—

renumber as section 75(a) to (d).

114 Amendment of s 80A (Functions of inspectors)

Section 80A(1)(g), ‘the department’—

omit, insert—

RSHQ

115 Amendment of s 81 (Powers of inspector)

(1) Section 81(1)(a), ‘Minister’—

omit, insert—

CEO

(2) Section 81(2)(c), ‘Minister’—

omit, insert—

CEO

116 Amendment of s 88 (Warrants—procedure before entry)

Section 88(2)(a), ‘himself or herself’—

omit, insert—

themselves

117 Amendment of s 89 (General powers after entering places)

Section 89(3), penalty—

omit, insert—

Maximum penalty—100 penalty units.

118 Replacement of s 96 (Power to require name and address)

Section 96—

omit, insert—

96 Power to require personal details

- (1) This section applies if an inspector—
 - (a) finds a person committing an offence against this Act; or
 - (b) finds a person in circumstances that lead the inspector to reasonably suspect the person has just committed an offence against this Act; or
 - (c) has information that leads the inspector to reasonably suspect a person has just committed an offence against this Act.
- (2) The inspector may require the person to state the person's name and residential address.
- (3) The inspector may also require the person to give evidence of the correctness of the stated name or address if, in the circumstances, it would be reasonable to expect the person to—
 - (a) be in possession of evidence of the correctness of the stated name or address; or
 - (b) otherwise be able to give the evidence.
- (4) When making a requirement under this section, the inspector must give the person an offence warning for the requirement.
- (5) In this section—

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

96A Offence to contravene personal details requirement

- (1) A person of whom a requirement is made under section 96 must comply with the requirement

unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

- (2) A person may not be convicted of an offence against subsection (1) unless the person is found guilty of the offence in relation to which the requirement under section 96 was made.

119 Amendment of s 99 (False or misleading information)

Section 99(1), penalty—

omit, insert—

Maximum penalty—100 penalty units.

120 Amendment of s 100 (Power to require production of documents)

Section 100(2), penalty—

omit, insert—

Maximum penalty—100 penalty units.

121 Replacement of s 102 (Power to give direction about contravention)

Section 102—

omit, insert—

102 Power to give direction about contravention

- (1) This section applies if an inspector reasonably suspects a person—
- (a) has contravened, or is contravening, this Act; or
 - (b) is involved in an activity that is likely to result in a contravention of this Act.
- (2) The inspector may give the person a written notice (a *remedial action notice*) to take steps

[s 121]

reasonably necessary to remedy the contravention or avoid the likely contravention.

- (3) The remedial action notice must state the following—
 - (a) that the inspector believes the person—
 - (i) has contravened, or is contravening, this Act; or
 - (ii) is involved in an activity that is likely to result in a contravention of this Act;
 - (b) the provision of the Act the inspector believes is being, has been, or is likely to be, contravened;
 - (c) the reasons for the belief;
 - (d) that the person must take steps reasonably necessary to remedy the contravention, or avoid the likely contravention, within a stated reasonable period.
- (4) The remedial action notice must include, or be accompanied by, an information notice about the decision to give the notice.
- (5) If the notice relates to a vehicle or thing, it may be given by securely attaching it to the vehicle or thing in a conspicuous position.
- (6) A person to whom a remedial action notice has been given must comply with the notice unless the person has a reasonable excuse.

Maximum penalty—the maximum penalty for the contravention of the provision stated in the notice by an individual.

- (7) If the remedial action notice states steps the person may take to remedy the contravention, or avoid the likely contravention, the subject of the notice, the person is taken to have complied with the notice if all the steps have been taken.

- (8) Subsection (7) does not prevent the person from complying with the notice in another way.
- (9) A person must not remove a remedial action notice from a vehicle or thing before the steps stated in the notice are taken.

Maximum penalty for subsection (9)—100 penalty units.

122 Amendment of s 105 (Obstruction of inspectors)

- (1) Section 105(1), penalty—

omit, insert—

Maximum penalty—500 penalty units.

- (2) Section 105(4)—

omit, insert—

- (4) In this section—

obstruct includes assault, hinder, resist and attempt or threaten to assault, hinder or resist.

123 Amendment of s 105E (Appointment conditions and limit on powers)

Section 105E(3), ‘Minister’—

omit, insert—

CEO

124 Replacement of pt 6, div 3, hdg (Additional power of Minister)

Part 6, division 3, heading—

omit, insert—

Division 3

**Seized things to be
forfeited to the State**

[s 125]

125 Amendment of s 118 (Proceeding for offence)

(1) Section 118, heading—

omit, insert—

118 Proceedings for offences

(2) Section 118(1)—

omit, insert—

(1) A charge of an offence against this Act, other than an offence against part 4A, must be heard and decided summarily.

(1A) A Magistrates Court must abstain from dealing summarily with a charge of an offence against this Act—

(a) if satisfied, on an application made by the prosecution or the defence, that because of exceptional circumstances the charge should not be heard and decided summarily; or

Examples of exceptional circumstances—

- There is sufficient connection between the offence the subject of the charge, and other offences allegedly committed by the defendant and to be tried on indictment, to allow all the offences to be tried together.
- There is an important issue of law involved.
- An issue of general community importance or public interest is involved, or the holding of a trial by jury is justified in order to establish contemporary community standards.

(b) if satisfied, at any stage and after hearing any submissions by the prosecution and defence, that because of the nature or seriousness of the offence or any other relevant consideration the defendant, if convicted, may not be adequately punished on summary conviction.

(1B) If the Magistrates Court abstains from

jurisdiction—

- (a) the court must stop treating the proceeding as a proceeding to hear and decide the charge summarily; and
 - (b) the proceeding for the charge must be conducted as a committal proceeding; and
 - (c) a plea of the defendant at the start of the hearing must be disregarded; and
 - (d) the evidence already heard by the court is taken to be evidence in the committal proceeding; and
 - (e) the *Justices Act 1886*, section 104 must be complied with for the committal proceeding.
- (3) Section 118(3), ‘subsection (2)(b)’—
omit, insert—
subsection (4)(b)
- (4) Section 118(4), ‘subsection (3)’—
omit, insert—
subsection (5)
- (5) Section 118—
insert—
(4A) An authorisation under subsection (5) is sufficient authority to continue proceedings in any case where the court amends the charge, warrant or summons.
- (6) Section 118(6)(a) and (b)—
omit, insert—
(a) 2 years after the offence first comes to the notice of the complainant;

[s 126]

- (b) if an enforceable undertaking has been given in relation to the offence, within 6 months after—
 - (i) the enforceable undertaking is contravened; or
 - (ii) it comes to the notice of the CEO that the enforceable undertaking has been contravened; or
 - (iii) the CEO has agreed under section 123F to the withdrawal of the enforceable undertaking;
- (7) Section 118(6A), ‘Subsection (6)’—
omit, insert—
Subsection (9)
- (8) Section 118(1A) to (7)—
renumber as section 118(2) to (12).

126 Amendment of s 118C (Procedure if prosecution not brought)

Section 118C(1), ‘section 118(7)’—
omit, insert—
section 118(12)

127 Insertion of new s 121A

After section 121—
insert—

121A Court may order suspension or cancellation of authority

- (1) This section applies if a person convicted of an offence against this Act is the holder of an authority or a security clearance.

- (2) A magistrate, on application by the complainant during the proceedings for the offence, may suspend or cancel the authority or security clearance of the person convicted.
- (3) A person dissatisfied with the magistrate's decision to suspend or cancel the person's authority or security clearance who wants to appeal against the decision, must appeal to the District Court.
- (4) The magistrate must give notice of the decision to suspend or cancel the authority or security clearance to the chief inspector.

128 Amendment of s 122 (Recovery of costs from convicted person)

Section 122(1)(b), 'the department's'—
omit, insert—
RSHQ's

129 Renumbering of s 123A (Treatment of partnerships)

Section 123A—
renumber as section 123AG.

130 Insertion of new pt 8, divs 1AA and 1AB

After section 123—
insert—

Division 1AA Enforceable undertakings

123A CEO may accept enforceable undertakings

- (1) The CEO may accept a written undertaking (an *enforceable undertaking*) given by a person in

[s 130]

connection with a matter relating to a contravention or alleged contravention of this Act by the person.

- (2) An enforceable undertaking can not be accepted for a contravention or alleged contravention that is—
 - (a) an offence against section 54C or 54D; or
 - (b) an offence causing death.
- (3) The giving of an enforceable undertaking does not constitute an admission of guilt by the person giving the undertaking in relation to the contravention or alleged contravention to which the undertaking relates.
- (4) The CEO must issue, and publish on a Queensland Government website, general guidelines in relation to the acceptance of enforceable undertakings under this Act.

123B Notice of decision and reasons for decision

- (1) The CEO must give the person seeking to make an enforceable undertaking notice of the CEO's decision to accept or reject the enforceable undertaking and of the reasons for the decision.
- (2) The CEO must publish, on a Queensland Government website, notice of a decision to accept an enforceable undertaking and the reasons for that decision.

123C When an enforceable undertaking is enforceable

An enforceable undertaking takes effect and becomes enforceable when the CEO's decision to accept the undertaking is given to the person who made the undertaking or at any later date stated by the CEO.

123D Compliance with enforceable undertaking

A person must not contravene an enforceable undertaking made by that person that is in effect.

Maximum penalty—500 penalty units.

123E Contravention of enforceable undertaking

- (1) The CEO may apply to a Magistrates Court for an order if a person contravenes an enforceable undertaking.
- (2) If the court is satisfied that the person who made the enforceable undertaking has contravened the undertaking, the court, in addition to the imposition of any penalty, may make—
 - (a) an order directing the person to comply with the undertaking; or
 - (b) an order discharging the undertaking.
- (3) In addition to the orders mentioned in subsection (2), the court may make any other order the court considers appropriate in the circumstances, including orders directing the person to pay to the State—
 - (a) the costs of the proceedings; and
 - (b) the reasonable costs of the CEO in monitoring compliance with the enforceable undertaking in the future.
- (4) Nothing in this section prevents proceedings being taken for the contravention or alleged contravention of this Act to which the enforceable undertaking relates.

Note—

Section 123G specifies circumstances affecting proceedings for a contravention for which an enforceable undertaking has been given.

123F Withdrawal or variation of enforceable undertaking

- (1) A person who has made an enforceable undertaking may at any time, with the written agreement of the CEO—
 - (a) withdraw the undertaking; or
 - (b) vary the undertaking.
- (2) However, the provisions of the undertaking can not be varied to provide for a different alleged contravention of the Act.
- (3) The CEO must publish, on a Queensland Government website, notice of the withdrawal or variation of an enforceable undertaking.

123G Proceeding for alleged contravention

- (1) Subject to this section, no proceedings for a contravention or alleged contravention of this Act may be taken against a person if an enforceable undertaking is in effect in relation to that contravention.
- (2) No proceedings may be taken for a contravention or alleged contravention of this Act against a person who has made an enforceable undertaking in relation to that contravention and has completely discharged the enforceable undertaking.
- (3) The CEO may accept an enforceable undertaking in relation to a contravention or alleged contravention, other than a contravention or alleged contravention mentioned in section 123A(2)(a) or (b), before proceedings in relation to that contravention have been finalised.
- (4) If the CEO accepts an enforceable undertaking before the proceedings are finalised—

- (a) the CEO must immediately notify the WHS prosecutor; and
- (b) the WHS prosecutor must take all reasonable steps to have the proceedings discontinued as soon as possible.

Division 1AB Sentencing for offences

123H Application of division

This division applies if a court convicts a person or finds a person guilty (the *offender*) of an offence against this Act.

123I Orders generally

- (1) One or more orders may be made under this division against the offender.
- (2) Orders may be made under this division in addition to any penalty that may be imposed or any other action that may be taken in relation to the offence.

123J Adverse publicity orders

- (1) The court may make an order (an *adverse publicity order*), in relation to the offender, requiring the offender—
 - (a) to take either or both of the following actions within the period stated in the order—
 - (i) to publicise, in the way stated in the order, the offence, its consequences, the penalty imposed and any other related matter;

[s 130]

- (ii) to notify a stated person or stated class of persons, in the way stated in the order, of the offence, its consequences, the penalty imposed and any other related matter; and
 - (b) to give the CEO, within 7 days after the end of the period stated in the order, evidence that the action or actions were taken by the offender in accordance with the order.
- (2) The court may make an adverse publicity order on its own initiative or on the application of the person prosecuting the offence.
- (3) If the offender fails to give evidence to the CEO as provided under subsection (1)(b), the CEO, or a person authorised in writing by the CEO, may take the action or actions stated in the order.
- (4) However, if—
 - (a) the offender gives evidence to the CEO as provided under subsection (1)(b); and
 - (b) despite that evidence, the CEO is not satisfied that the offender has taken the action or actions stated in the order in accordance with the order;the CEO may apply to the court for an order authorising the CEO, or a person authorised in writing by the CEO, to take the action or actions.
- (5) If the CEO or a person authorised in writing by the CEO takes an action or actions under subsection (3) or under an order under subsection (4), the CEO is entitled to recover from the offender, by action in a court of competent jurisdiction, an amount in relation to the reasonable expenses of taking the action or actions as a debt due to the CEO.

123K Orders for restoration

- (1) The court may order the offender to take steps stated in the order, within the period so stated, to remedy any matter caused by the commission of the offence that appears to the court to be within the offender's power to remedy.
- (2) The period in which an order under this section must be complied with may be extended, or further extended, by order of the court but only if an application for the extension is made before the end of that period.

123L Safety and health project orders

- (1) The court may make an order requiring the offender to undertake a stated project for the general improvement of safety and health of persons who may be affected by explosives within the period stated in the order.
- (2) The order may state conditions that must be complied with in undertaking the project.

123M Release on giving of court-ordered undertaking

- (1) The court may (with or without recording a conviction) adjourn the proceeding for a period of up to 2 years and make an order for the release of the offender on the offender giving an undertaking with stated conditions (a *court-ordered undertaking*).
- (2) A court-ordered undertaking must state the following conditions—
 - (a) that the offender appears before the court if called on to do so during the period of the adjournment and, if the court so states, at the

[s 130]

- time to which the further hearing is adjourned;
- (b) that the offender does not commit, during the period of the adjournment, any offence against this Act;
 - (c) that the offender observes any special conditions imposed by the court.
- (3) In addition to the order mentioned in subsection (1), the court may make any other order the court considers appropriate in the circumstances, including orders directing the offender to pay to the State—
- (a) the costs of the proceeding; and
 - (b) the reasonable costs of the CEO in monitoring compliance with the court-ordered undertaking in the future.
- (4) An offender who has given a court-ordered undertaking under this section may be called on to appear before the court by order of the court.
- (5) An order under subsection (4) must be served on the offender not less than 4 days before the time stated in the order for the appearance.
- (6) If the court is satisfied at the time to which a further hearing of a proceeding is adjourned that the offender has observed the conditions of the court-ordered undertaking, the court must discharge the offender without any further hearing of the proceeding.

123N Injunctions

The court may issue an injunction requiring the offender to cease contravening this Act.

Note—

See also part 6, division 4.

123O Training orders

The court may make an order requiring the offender to undertake or arrange for 1 or more persons handling explosives to undertake a stated course of training.

123P Offence to fail to comply with order

- (1) A person must not, without reasonable excuse, fail to comply with an order under this division.
Maximum penalty—500 penalty units.
- (2) Subsection (1) places an evidential burden on the defendant to show a reasonable excuse.
- (3) This section does not apply to an order or injunction under section 123M or 123N.

131 Amendment of s 123AF (When biometric information must be destroyed if authority or security clearance given)

Section 123AF(2), after ‘expires’—

insert—

or is cancelled or surrendered

132 Insertion of new s 124A

After section 124—

insert—

124A Recovery of fees

- (1) A fee payable under this Act and not paid may be recovered by the CEO—
 - (a) in summary proceedings under the *Justices Act 1886*; or

[s 133]

- (b) by action for a debt in a court of competent jurisdiction.
- (2) A fee may also be recovered in a proceeding for an offence against this Act.
- (3) An order made under subsection (2) is enforceable under the *Justices Act 1886* as an order for payment of money made by a magistrate under that Act.
- (4) If an order is made under subsection (2)—
 - (a) the order may be filed in the registry of a Magistrates Court; and
 - (b) on being filed, is taken to be an order made by a Magistrates Court and may be enforced accordingly.

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

Section 126(2), 'his or her'—

omit, insert—

the doctor's or psychologist's

134 Amendment of s 126A (Protection from reprisal)

(1) Section 126A(1), penalty—

omit, insert—

Maximum penalty—1000 penalty units.

(2) Section 126A(7)—

insert—

detriment includes—

- (a) personal injury or prejudice to safety; and
- (b) property damage or loss; and

- (c) intimidation or harassment; and
- (d) adverse discrimination, disadvantage or adverse treatment about career, profession, employment, trade or business; and
- (e) financial loss; and
- (f) damage to reputation, including, for example, personal, professional or business reputation.

135 Amendment of s 126C (Public statements)

- (1) Section 126C, heading—

omit, insert—

126C Publication of information

- (2) Section 126C(2), from ‘make’ to ‘following—’

omit, insert—

publish information about any of the following matters—

- (3) Section 126C(3)—

omit, insert—

- (3) Also, the person may publish any of the following information about explosives incidents—
- (a) the total number of incidents that happened in a particular period;
 - (b) a description of an incident, including, for example, where and when an incident happened;
 - (c) the holder of an authority in relation to which an incident happened;
 - (d) the injuries or deaths that occurred in an incident;

[s 136]

- (e) any other information about the incident the person considers appropriate.
 - (4) Section 126C(4), ‘issue a public statement’—
omit, insert—
publish information
 - (5) Section 126C—
insert—
 - (5) No liability is incurred by the State or any other person for the publication of, or for anything done for the purpose of publishing, information under this section in good faith.
 - (6) Subsection (5) applies despite section 127.
- 136 Amendment of s 126D (Chief inspector may issue safety and security alerts)**
Section 126D(3)(b), ‘the department’s website’—
omit, insert—
a Queensland Government website
- 137 Amendment of s 132 (Disclosure of information)**
 - (1) Section 132(1)(e)—
omit, insert—
 - (e) in information published under section 126C; or
 - (2) Section 132(2)(b), ‘explosives’—
omit, insert—
safety and health
- 138 Amendment of s 134 (Approval of forms)**
Section 134, after ‘inspector’—

insert—

and CEO

139 Insertion of new pt 10, div 8

Part 10—

insert—

**Division 8 Transitional provisions for
Resources Safety and
Health Legislation
Amendment Act 2023**

160 Definitions for division

In this division—

former, for a provision of this Act, means the provision as in force from time to time before the commencement.

new, for a provision of this Act, means the provision as in force from the commencement.

161 Notice given to chief inspector about import or export of explosive before commencement

- (1) This section applies if—
 - (a) before the commencement, an authority holder gave the chief inspector a notice under former section 37 about an import explosive or an export explosive; and
 - (b) immediately before the commencement, the import or export of the explosive was not complete.
- (2) The notice is taken to have been given by the authority holder under new section 37(2).

[s 140]

- (3) To remove any doubt, it is declared that new section 37(5) applies to the authority holder.

162 Notice limiting powers of inspector given by Minister before commencement

- (1) This section applies if—
- (a) before the commencement, the Minister gave a notice limiting the powers of an inspector under former section 81(2)(c); and
 - (b) immediately before the commencement, the notice was still in effect.
- (2) The notice is taken to have been given by the CEO under new section 81(2)(c).

163 Direction given by Minister to authorised officer before commencement

- (1) This section applies if—
- (a) before the commencement, the Minister gave a direction to an authorised officer under former section 105E(3); and
 - (b) immediately before the commencement, the direction was still in effect.
- (2) The direction is taken to have been given by the CEO under new section 105E(3).

140 Amendment of sch 2 (Dictionary)

- (1) Schedule 2—

insert—

board of inquiry means a board of inquiry established under section 60.

Commonwealth entity means—

(a) an entity established under an Act or another law of the Commonwealth for a public or Commonwealth purpose; or

(b) part of an entity mentioned in paragraph (a).

employing office see the *Resources Safety and Health Queensland Act 2020*, schedule 1.

enforceable undertaking see section 123A(1).

licensed dealer see the *Weapons Act 1990*, schedule 2.

qualified weapons employee has the meaning given in the *Weapons Act 1990*, section 70(2).

Queensland Government website means a website with a URL that contains ‘qld.gov.au’, other than the website of a local government.

(2) Schedule 2, definition *appropriately qualified*, example, ‘department’—

omit, insert—

employing office

Part 4 **Amendment of Mining and Quarrying Safety and Health Act 1999**

141 **Act amended**

This part amends the *Mining and Quarrying Safety and Health Act 1999*.

142 **Amendment of s 9 (Meaning of *mine*)**

Section 9(1)(b) and (2), ‘, adjacent to, or contiguous with,’—
omit, insert—

[s 143]

or adjacent to

143 Amendment of s 10 (Meaning of *operations*)

(1) Section 10(1), ‘exploring for, winning, or winning and treating’—

omit, insert—

exploring for, winning or treating

(2) Section 10(1)(c), ‘winning, or winning and treating,’—

omit, insert—

winning or treating

(3) Section 10(2)(d)(i), ‘, adjacent to, or contiguous with,’—

omit, insert—

or adjacent to

(4) Section 10(2)(d)(ii), ‘, adjacent to or contiguous with,’—

omit, insert—

or adjacent to

144 Amendment of s 11 (Meaning of *quarry*)

(1) Section 11(2)(a), ‘, is adjacent to, or contiguous with,’—

omit, insert—

or is adjacent to

(2) Section 11(2)(c)—

omit, insert—

(c) to extract, but not crush or shape—

(i) any type of gravel; or

Examples of gravel—

road gravel or river gravel

(ii) river sand; or

145 Replacement of s 23 (Meaning of *supervisor*)

Section 23—

omit, insert—

23 Meaning of *supervisor*

A *supervisor* at a mine is a person appointed under section 51 to—

- (a) implement and monitor the mine's safety and health management system; and
- (b) give directions to other mine workers at the mine in accordance with the safety and health management system.

146 Amendment of s 27 (Risk management)

(1) Section 27(3)—

insert—

(ca) provide for critical controls; and

(2) Section 27(3)(ca) to (f)—

renumber as section 27(3)(d) to (g).

147 Amendment of s 30 (Obligations for safety and health)

(1) Section 30(2)—

insert—

(fa) designer, constructor or erector of earthworks at a mine;

(2) Section 30(2)(h)—

omit.

(3) Section 30(2)(fa) to (h)—

renumber as section 30(2)(g) to (i).

[s 148]

148 Amendment of s 36 (Obligations of persons generally)

(1) Section 36(1) and (2), after ‘other person at a mine’—

insert—

, or ROC worker for a mine,

(2) Section 36(1)(b), ‘or other person’—

omit, insert—

, other person or ROC worker

(3) Section 36(2)(a), ‘himself or herself’—

omit, insert—

themselves

(4) Section 36(2)(d), from ‘by’—

omit, insert—

by any of the following persons—

- (i) the mine operator;
- (ii) the site senior executive for the mine;
- (iii) a supervisor at the mine;
- (iv) a ROC worker for the mine;

(5) Section 36(2)(e), after ‘at’—

omit, insert—

or for

149 Amendment of s 38 (Obligations of operators)

(1) Section 38(1)—

insert—

(da) to ensure the site senior executive, or acting site senior executive, for the mine is located at or near the mine when performing the duties of site senior executive unless—

-
- (i) the duties require the site senior executive, or acting site senior executive, to be temporarily absent for not more than 14 days; or
 - (ii) the site senior executive, or acting site senior executive, is temporarily absent on leave for not more than 14 days.
- (2) Section 38(1)(da) to (f)—
renumber as section 38(1)(e) to (g).

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

- (1) Section 39(1)(c)—
omit, insert—
- (c) to develop and implement a safety and health management system for—
 - (i) all persons at the mine, including contractors; and
 - (ii) ROC workers for the mine;
- (2) Section 39(1)(d), ‘a contractor at the mine’—
omit, insert—
a contractor for the mine
- (3) Section 39(1)(d)(i)—
omit, insert—
- (i) identify risks arising in relation to any work performed, service provided, or work or service arranged, by the contractor; and
- (4) Section 39(1)(e)—
omit.
- (5) Section 39(1)(f), ‘and service providers within the meaning of section 40 or 44’—

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omit.

- (6) Section 39(1)(h), after ‘worker at the mine’—

insert—

, or ROC worker for the mine,

- (7) Section 39(1)(i)—

insert—

(va) the development of a schedule of when inspections, including regular periodic inspections, must be carried out;

- (8) Section 39(1)(i)(vi), ‘and service providers’—

omit.

- (9) Section 39(1)(i)(va) and (vi)—

renumber as section 39(1)(i)(vi) and (vii).

- (10) Section 39(1)(f) to (i)—

renumber as section 39(1)(e) to (h).

151 Insertion of new s 39A

After section 39—

insert—

39A Site senior executive to tell contractor certain things

- (1) A site senior executive for a mine must tell a contractor who has provided or arranged for a worker to perform work, or provide a service, at the mine about the following things—
- (a) an injury or illness to the worker from mining operations that causes an absence from work of the worker;
 - (b) a high potential incident happening at the mine;

- (c) any proposed changes to the mine, or plant or substances used at the mine, that affect, or may affect, the safety and health of persons at the mine.

Maximum penalty—40 penalty units.

- (2) For subsection (1), the site senior executive must tell the contractor as soon as practicable after the thing comes to the site senior executive's knowledge.

152 Amendment of s 40 (Obligations of contractors)

- (1) Section 40(1), 'contractor at a mine'—

omit, insert—

contractor for a mine

- (2) Section 40(1)(a), (b) and (d), 'undertaken'—

omit, insert—

performed, service provided, or work or service arranged,

- (3) Section 40(1)(c), 'undertakes work'—

omit, insert—

performs work, provides a service, or arranges work or a service,

- (4) Section 40(1)(e)—

omit, insert—

- (e) if the contractor is physically present at the mine—to ensure no work at the mine is performed by the contractor until the contractor—

- (i) has been inducted in the mine's safety and health management system to the extent it relates to the work to be performed by the contractor; and

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- (ii) has received training about hazards and risks at the mine to the extent they relate to the work to be performed by the contractor;
- (f) to ensure no work at the mine is performed by a worker engaged by the contractor, or a worker arranged by the contractor to perform work or provide a service, until the worker—
 - (i) has been inducted in the mine’s safety and health management system to the extent it relates to the work to be performed, or service to be provided, by the worker; and
 - (ii) has received training about hazards and risks at the mine to the extent they relate to the work to be performed, or service to be provided, by the worker;
- (g) to ensure the fitness for use of plant at the mine is not adversely affected by the work performed or service provided by the contractor.

153 Amendment of s 41 (Obligations of designers, manufacturers, importers and suppliers of plant etc. for use at mines)

(1) Section 41(4)(b)(iii)—

omit, insert—

- (iii) the name of each operator or contractor to whom the designer, manufacturer, importer or supplier has supplied the plant; and

(2) Section 41(4)(b)(iv), ‘, contractors and service providers’—

omit, insert—

and contractors

154 Amendment of s 43 (Obligations of manufacturers, importers and suppliers of substances for use at mines)

(1) Section 43(2)(b)(iii)—

omit, insert—

(iii) the name of each operator or contractor to whom the manufacturer, importer or supplier has supplied the substance; and

(2) Section 43(2)(b)(iv), ‘, contractors and service providers’—

omit, insert—

and contractors

(3) Section 43(4), ‘, contractor or service provider’—

omit, insert—

or contractor

155 Omission of s 44 (Obligations of service providers)

Section 44—

omit.

156 Amendment of s 44A (Obligation of officers of corporations)

Section 44A(3)(b) and (d), ‘and risks’—

omit, insert—

, risks and critical controls

157 Amendment of s 45A (Definitions for part)

Section 45A(1), definition *employer*—

omit, insert—

employer, for a mine, means—

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- (a) a person who employs or otherwise engages a worker for the mine; or
- (b) a person who arranges for a worker to work for the mine, including for example, a labour hire agency; or
- (c) the operator for the mine; or
- (d) a holder for the mine.

158 Amendment of s 47 (Notices by operator)

Section 47—

insert—

- (6) If operations permanently stop at the mine, the operator must, within 28 days after the operations permanently stop, give an inspector for the region in which the mine is situated notice of the date on which the operations permanently stopped.

Maximum penalty—100 penalty units.

159 Amendment of s 49 (Appointment of site senior executive)

- (1) Section 49(3)(c), ‘winning, or winning and treating,’—

omit, insert—

winning or treating

- (2) Section 49(4), ‘a site senior executive notice.’—

omit, insert—

both of the following board qualifications—

- (a) a site senior executive notice;
- (b) the practising certificate required by the board to be held by a person holding the board qualification mentioned in paragraph (a).

160 Amendment of s 50 (Management structure for safe operations at mines)

- (1) Section 50(2)(ca), ‘and service providers’—
omit.
- (2) Section 50(2)(ca), after ‘mine’—
insert—
and for each ROC worker for the mine
- (3) Section 50(2)(ca) and (d)—
renumber as section 50(2)(d) and (e).

161 Replacement of s 51 (Competencies of supervisors)

Section 51—

omit, insert—

51 Supervisors and ROC workers who give instructions

- (1) A site senior executive for a mine must appoint 1 or more persons to be a supervisor at the mine.
- (2) The site senior executive must not appoint a person under subsection (1) unless the person—
 - (a) is competent to be a supervisor; and
 - (b) if there is a safety and health competency for supervisors recognised by the committee, has the relevant competency.

Maximum penalty—100 penalty units.

- (3) Also, a site senior executive must not assign the tasks of a ROC worker who gives instructions for operations at the mine to a person unless the person—
 - (a) is competent to perform the task assigned; and

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- (b) if there is a safety and health competency for ROC workers who give instructions for operations at mines recognised by the committee, has the relevant competency.

Maximum penalty—100 penalty units.

162 Amendment of s 52 (Appointment of another site senior executive during temporary absence)

Section 52, heading—

omit, insert—

52 Acting site senior executive

163 Amendment of s 53 (Additional requirements for management of underground mines)

Section 53(3)—

omit, insert—

- (3) If 20 or more persons work underground in a mine—
 - (a) the site senior executive must not appoint a person as an underground mine manager unless the person has both of the following board qualifications—
 - (i) a first class certificate of competency for an underground mine;
 - (ii) the practising certificate required by the board to be held by a person holding the board qualification mentioned in subparagraph (i); and
 - (b) the operator must not appoint the site senior executive as underground mine manager unless the site senior executive holds both of the following board qualifications—

- (i) a first class certificate of competency for an underground mine;
- (ii) the practising certificate required by the board to be held by a person holding the board qualification mentioned in subparagraph (i).

Maximum penalty—400 penalty units.

164 Amendment of s 54 (Appointment of another underground mine manager during temporary absence)

Section 54, heading—

omit, insert—

54 Acting underground mine manager

165 Amendment of s 55 (Safety and health management system)

- (1) Section 55(5)—

insert—

(da) identifying critical controls; and

- (2) Section 55(5)(da) to (g)—

renumber as section 55(5)(e) to (h).

166 Insertion of new s 56A

Before section 57—

insert—

56A Changes in management structure to be reported to inspector

- (1) The site senior executive for a mine must give notice of any change in the management structure at the mine to an inspector for the region in which the mine is situated within 14 days after the

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change happens.

Maximum penalty—50 penalty units

- (2) Subsection (1) does not apply to a site senior executive for a mine that is an opal or gem mine, if no more than 4 workers are employed at the mine.

167 Amendment of s 59 (Mine record)

- (1) Section 59(2), before ‘7 years’—

insert—

at least

- (2) Section 59(4), ‘, relating to the previous 6 months, is available at all reasonable times’—

omit, insert—

is available

- (3) Section 59(4)(b)—

omit, insert—

- (b) district workers’ representatives;
(c) the site senior executive for the mine.

- (4) Section 59—

insert—

(4A) Without limiting subsection (4), if a person mentioned in subsection (4)(a), (b) or (c) asks to inspect a matter kept in the mine record, the operator must ensure the matter is available for inspection as soon as practicable but not later than—

- (a) if the matter was recorded in the mine record within the previous 6 months—5 days after the request; or

- (b) if the matter was recorded in the mine record before the 6 month period mentioned in paragraph (a)—28 days after the request.

Maximum penalty—200 penalty units.

- (5) Section 59(4A) to (6)—
renumber as section 59(5) to (7).

168 Replacement of s 60

Section 60—

omit, insert—

60 Display of reports, directives and other information

- (1) The site senior executive for a mine must display a copy of the following documents at the mine—
- (a) each directive, if any, currently applying to the mine;
 - (b) each report of an inspection, if any, carried out at the mine;
 - (c) each publication of information under section 254C that may be relevant to safety and health obligations at the mine.
- (2) For subsection (1), the document must be displayed in 1 or more conspicuous positions at the mine in a way likely to come to the attention of workers at the mine affected by the document.

60A Current or past worker entitled to training and assessment report

- (1) This section applies if a worker is employed, or had previously been employed, at a mine.
- (2) The worker may ask the site senior executive for the mine to give the worker a training and assessment report for the worker.

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- (3) The site senior executive must comply with the request within 30 days after the request is made.

Maximum penalty—200 penalty units.

- (4) In this section—

training and assessment report, for a worker employed or previously employed at a mine, means a copy of that part of the mine’s safety and health management system relating to records of training and assessment given to, and undertaken by, the worker during the worker’s employment at the mine.

60B Site senior executive entitled to training and assessment report from another mine

- (1) This section applies if—

- (a) a worker is employed at a mine; and
(b) the worker has previously been employed at another mine.

- (2) The site senior executive may ask the operator for the other mine to give the site senior executive a training and assessment report for the worker.

- (3) The operator for the other mine must comply with the request within 30 days after the request is made.

Maximum penalty—200 penalty units.

- (4) In this section—

training and assessment report, for a worker employed at another mine, means a copy of that part of the other mine’s safety and health management system relating to records of training and assessment given to, and undertaken by, the worker during the worker’s employment at the other mine.

169 Amendment of s 63 (Guidelines)

Section 63(4)—

omit.

170 Amendment of s 93 (Powers of site safety and health representative)

(1) Section 93—

insert—

(c) to copy, or to obtain from the site senior executive within a stated reasonable period a copy of, any document mentioned in paragraph (b);

(d) to require the site senior executive to give the site safety and health representative reasonable help to exercise the site safety and health representative's powers under paragraphs (b) and (c).

(2) Section 93—

insert—

(2) If a site safety and health representative asks to copy documents under subsection (1)(c), the site senior executive must give access to the documents as soon as reasonably practicable after being asked, unless the site senior executive has a reasonable excuse.

Maximum penalty—100 penalty units.

(3) A site senior executive who is required in a stated reasonable way to help the site safety and health representative under subsection (1)(d) must comply with the requirement.

Maximum penalty—100 penalty units.

[s 171]

171 Amendment of s 94 (Stopping operations by site safety and health representatives)

Section 94(4)—

omit, insert—

- (4) The site safety and health representative must give a written report to each of the following persons about any action taken under subsection (3) and the reasons for the action—
- (a) the site senior executive;
 - (b) an inspector;
 - (c) a district workers' representative.

172 Amendment of s 97 (Protection of site safety and health representatives performing functions)

Section 97, 'his or her'—

omit, insert—

the representative's

173 Amendment of s 104 (Provision for help to representatives and committees)

Section 104, penalty—

omit, insert—

Maximum penalty—100 penalty units.

174 Amendment of s 106 (Site senior executive to display identity of site safety and health representatives)

(1) Section 106(1)—

omit, insert—

- (1) A site senior executive for a mine must display a notice as required by subsections (2) to (5) for each site safety and health representative for the

mine.

Maximum penalty—40 penalty units.

(1A) The notice must—

- (a) state the name of the site safety and health representative; and
- (b) state the work group to which the site safety and health representative belongs; and
- (c) contain a recent photograph of the site safety and health representative.

(2) Section 106(1A) to (4)—

renumber as section 106(2) to (5).

175 Replacement of s 108 (Nomination and appointment of district workers' representatives)

Section 108—

omit, insert—

108 Nomination and appointment of district workers' representatives

- (1) The Minister may appoint up to 4 persons to be district workers' representatives from individuals nominated under subsection (2) for the positions.
- (2) An industrial organisation whose membership includes members in the mining industry may nominate individuals to be district workers' representatives.
- (3) The Minister must not appoint a person under subsection (1) unless the Minister is satisfied the person—
 - (a) has appropriate competencies and adequate experience to perform the functions of a district workers' representative; and

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- (b) is employed in a position that enables the person to adequately represent the safety and health interests of a majority of workers.
- (4) Also, the Minister must not appoint a person under subsection (1) who holds a certificate of competency or site senior executive notice unless the person also holds the practising certificate required by the board to be held by a person holding that board qualification.
- (5) The term of office of a district workers' representative must not be more than 4 years.
- (6) A district workers' representative is appointed under this Act and not under the *Public Sector Act 2022*.

176 Amendment of s 116 (Powers of district workers' representatives)

- (1) Section 116(1)(b)—

omit, insert—

- (b) to enter any part of a mine at any time to carry out the representative's functions;

- (2) Section 116(1)(d), 'copy'—

omit, insert—

examine

- (3) Section 116(1)—

insert—

- (da) to copy any document mentioned in paragraph (c) or (d);

- (db) to obtain from the site senior executive within a stated reasonable period and by a stated reasonable way, including, for example, by email a copy of any document mentioned in paragraph (c) or (d);

-
- (4) Section 116(1)(e), ‘paragraphs (a) to (db)’—
omit, insert—
paragraphs (a) to (f)
- (5) Section 116(1)(da) to (f)—
renumber as section 116(1)(e) to (h).
- (6) Section 116(1)(f), ‘section 164’—
omit, insert—
section 162
- (7) Section 116(2), after ‘required’—
insert—
in a stated reasonable way
- (8) Section 116(2), ‘subsection (1)(e)’—
omit, insert—
subsection (1)(g)
- (9) Section 116(3)—
omit, insert—
(3) If a district workers’ representative asks a person to give access to documents to enable the representative to examine documents under subsection (1)(c) or (d), or to copy documents under subsection (1)(e), the person must give access to the documents as soon as reasonably practicable after being asked, unless the person has a reasonable excuse.
Maximum penalty—100 penalty units.

177 Amendment of s 123 (Qualifications for appointment as inspector)

Section 123—
insert—

[s 178]

- (2) The CEO must not appoint under subsection (1) a person who holds a certificate of competency or site senior executive notice unless the person also holds the practising certificate required by the board to be held by a person holding that board qualification.

178 Amendment of s 135 (Warrants—procedure before entry)

Section 135(2)(a), ‘himself or herself’—

omit, insert—

themselves

179 Replacement of ss 149 and 150

Sections 149 and 150—

omit, insert—

149 Power to require personal details

- (1) This section applies if an officer—
- (a) finds a person committing an offence against this Act; or
 - (b) finds a person in circumstances that lead the officer to reasonably suspect the person has just committed an offence against this Act; or
 - (c) has information that leads the officer to reasonably suspect a person has just committed an offence against this Act.
- (2) The officer may require the person to state the person’s name and residential address.
- (3) The officer may also require the person to give evidence of the correctness of the stated name or address if, in the circumstances, it would be reasonable to expect the person to—

-
- (a) be in possession of evidence of the correctness of the stated name or address; or
 - (b) otherwise be able to give the evidence.
- (4) When making a requirement under this section, the officer must give the person an offence warning for the requirement.
- (5) In this section—
- offence warning*, for a requirement by an officer, means a warning that, without a reasonable excuse, it is an offence for the person of whom the requirement is made not to comply with the requirement.

150 Offence to contravene personal details requirement

- (1) A person of whom a requirement is made under section 149 must comply with the requirement unless the person has a reasonable excuse.
- Maximum penalty—100 penalty units.
- (2) A person may not be convicted of an offence against subsection (1) unless the person is found guilty of the offence in relation to which the requirement under section 149 was made.

180 Amendment of pt 9, div 5, hdg (Directives by inspectors, inspection officers and district workers' representatives)

Part 9, div 5, heading, from 'by'—
omit.

181 Renumbering of pt 9, div 5, sdiv 4 (Review of directives)

Part 9, div 5, subdivision 4—
renumber as part 9, div 5, subdivision 8.

[s 182]

182 Replacement of pt 9, div 5, sdivs 1 to 3

Part 9, division 5, subdivisions 1 to 3, before subdivision 8 as renumbered by this Act—

omit, insert—

Subdivision 1 Preliminary

158 Definition for division

In this division—

authorised official means—

- (a) the chief inspector; or
- (b) an inspector; or
- (c) an inspection officer; or
- (d) a district workers' representative.

Subdivision 2 Power to give directives

159 Directive may be given

A directive may be given by an authorised official, and for a matter, mentioned in subdivision 3 or 4.

Subdivision 3 Directives relating to acceptable level of risk

160 When directive may be issued

- (1) A directive may be issued under this section if an authorised official believes a risk from operations at a mine is—
 - (a) at an unacceptable level; or

-
- (b) may reach an unacceptable level.
 - (2) The directive may require a person who has a safety and health obligation in relation to the mine to do 1 or more of the following—
 - (a) suspend operations in all or part of the mine;
 - (b) take action stated in the directive, including, for example—
 - (i) to review the safety and health management system to make the system effective; or
 - (ii) to carry out a test to decide whether a risk is at an unacceptable level.
 - (3) A directive to suspend operations may be issued under subsection (2)(a) by—
 - (a) an inspector; or
 - (b) an inspection officer; or
 - (c) a district workers' representative.
 - (4) A directive to take action stated in the directive may be issued under subsection (2)(b) only by—
 - (a) an inspector; or
 - (b) an inspection officer.
 - (5) Despite subsection (4), only an inspector may issue a directive under subsection (2)(b) that relates to—
 - (a) a review of the safety and health management system; or
 - (b) the carrying out of a test to decide whether a risk is at an unacceptable level.

Subdivision 4 Directives relating to other matters

[s 182]

161 Directive to ensure task performed only by worker with competency

- (1) This section applies if an inspector believes a particular task at a mine should be performed only by persons with a particular competency.
- (2) The inspector may give the operator for the mine a directive that the task be performed only by a worker with the competency.

162 Directive to isolate site to preserve evidence

- (1) This section applies if an inspector believes evidence relating to a serious accident or high potential incident at a mine needs to be preserved.
- (2) The inspector may give a directive to a person to isolate and protect the accident or incident site.

163 Directive about separate part of mine

- (1) Subsection (2) applies if an inspector believes part of a mine taken to be a separate part of a mine under section 21(4) is being operated in a way that makes it no longer a separate part of a mine under section 21(4).
- (2) The inspector may give a directive to the operator for the mine to operate the part of the mine so that it is a separate part of a mine under section 21(4).
- (3) Subsection (4) applies if an inspector believes the operator for a mine has not complied with a directive given under subsection (2).
- (4) The inspector may give the operator for the mine a directive to suspend operations in the part of the mine.

164 Directive to give report to chief inspector

- (1) The chief inspector may give a directive to a

person who has a safety and health obligation in relation to a mine to give the chief inspector a report about—

- (a) risks arising out of operations; or
 - (b) the safety of part or all of any plant, building or structure at the mine; or
 - (c) a serious accident or high potential incident at the mine.
- (2) The directive must state—
- (a) the objectives of the report; and
 - (b) that the person who prepares the report must be a person approved by the chief inspector.
- (3) For subsection (2)(b), the chief inspector may approve a person only if the person—
- (a) has relevant professional qualifications and experience to prepare the report; and
 - (b) is not an employee of the operator for the mine or of a contractor at the mine.
- (4) A report prepared under this section is not admissible in evidence against a site senior executive, or any other worker mentioned in the report, in any criminal proceeding other than proceedings about the falsity or misleading nature of the report.

Subdivision 5 How directives given

165 Contents of directive

A directive given to a person under subdivision 3 or 4 must state the following matters—

- (a) the action required under the directive;
- (b) the grounds for the directive;

[s 182]

- (c) a stated reasonable period within which the person must comply with the directive;
- (d) if the directive was given by an inspector, inspection officer or district workers' representative—that the person has a right to have the directive reviewed by the chief inspector under subdivision 9;
- (e) if the directive was given by the chief inspector—that the person has a right to appeal against the directive under part 13, division 2;
- (f) how, and the period within which, the person may apply for review of, or appeal against, the directive.

166 Directive may be given orally or by notice

- (1) A directive may be given to a person orally or by notice.
- (2) However, if a directive is given to a person orally, the directive must be confirmed by notice to the person as soon as reasonably practicable after the directive is given.
- (3) A copy of a notice given under subsection (1) or (2) must be given to—
 - (a) the site senior executive for the mine, or part of the mine, to which the directive relates; and
 - (b) the person in control of the mine, or part of the mine, to which the directive relates.
- (4) Failure to comply with subsection (2) or (3) does not affect the validity of the directive.
- (5) Also, a directive is not invalid only because of—
 - (a) a formal defect or irregularity in a notice given under this section unless the defect or

irregularity causes or is likely to cause substantial injustice; or

- (b) a failure to use the correct name of a person in a notice given under this section if the notice sufficiently identifies the person.

167 Withdrawal of directive

A directive given under subdivision 3 or 4 may be withdrawn by notice given by—

- (a) for a directive given by a district workers' representative—the district workers' representative or an inspector; or
- (b) for a directive given by the chief inspector—the chief inspector; or
- (c) for a directive given by an inspector other than the chief inspector—the inspector or another inspector; or
- (d) for a directive given by an inspection officer—the inspection officer or an inspector.

Note—

See also section 157.

Subdivision 6 Compliance with directives

168 Person must comply with directive

A person to whom a directive is given must comply with the directive within the period stated in the directive.

Maximum penalty—800 penalty units or 2 years imprisonment.

Subdivision 7 Records

169 Authorised official must keep record of directive

- (1) This section applies if an authorised official gives a directive under this division.
- (2) The authorised official must keep an accurate record of the directive for at least 7 years after the directive is given.

170 Directive must be entered in mine record

- (1) This section applies if an authorised official gives a directive relating to a mine under this division.
- (2) The authorised official must, as soon as reasonably practicable after giving the directive—
 - (a) enter in the mine record the directive; and
 - (b) state in the mine record the reason for the directive.
- (3) The site senior executive for the mine must enter in the mine record the action taken to comply with the directive as soon as practicable after taking the action.

Maximum penalty—40 penalty units.

171 Workers must have access to directives

The site senior executive for a mine must make a copy of a directive issued under this division available for inspection by workers at the mine for at least 7 years after the directive is given.

Maximum penalty—40 penalty units.

171A Authorised official must keep record of report

- (1) This section applies if an authorised official gives a report to a person under this Act.
- (2) The authorised official must keep an accurate record of the report for at least 7 years after the report is given to the person.

171B Authorised official must keep record of inspection of mine

- (1) This section applies if an authorised official inspects a mine under this Act.
- (2) The authorised official must—
 - (a) make a written report of the inspection; and
 - (b) give a copy of the report to the mine operator, and site senior executive, for the mine; and
 - (c) keep an accurate record of the report for at least 7 years after the inspection.

183 Amendment of s 172 (Application for review)

Section 172, from ‘who’ to ‘may’—

omit, insert—

given a directive by an authorised official (other than the chief inspector) may

184 Amendment of s 174 (Review of directive)

Section 174(5), ‘time’—

omit, insert—

period

[s 185]

185 Amendment of s 175 (Stay of operation of directive)

Section 175(6), ‘section 164’—

omit, insert—

section 160(2)(a)

186 Amendment of s 178 (Obstructing inspectors, officers or district workers’ representatives)

(1) Section 178(1), penalty—

omit, insert—

Maximum penalty—500 penalty units.

(2) Section 178—

insert—

(3) In this section—

obstruct includes assault, hinder, resist and attempt or threaten to assault, hinder or resist.

187 Amendment of s 180 (Functions of the board of examiners)

(1) Section 180, heading, ‘the’—

omit.

(2) Section 180—

insert—

(ea) to develop and administer a scheme for the continuing professional development of holders of certificates of competency or site senior executive notices, including, for example—

(i) deciding the type of continuing professional development required; and

-
- (ii) deciding the minimum continuing professional development particular holders must undertake; and
 - (iii) issuing practising certificates to holders who have completed the required continuing professional development; and
 - (iv) renewing practising certificates of holders who have completed the required continuing professional development;
- (3) Section 180(ea) and (f)—
renumber as section 180(f) and (g).

188 Insertion of new s 180A

After section 180—

insert—

180A Minister's power to give directions in public interest

- (1) The Minister may give the board of examiners a written direction about a matter relevant to the performance of the board's functions under this Act if the Minister is satisfied it is necessary, in the public interest, to give the direction.
- (2) Without limiting subsection (1), the direction may be—
 - (a) to give reports and information; or
 - (b) to apply to the board a policy, standard or other instrument applying to a public sector unit.
- (3) The direction can not be about any of the following—

[s 189]

- (a) issuing, or refusing to issue, a board qualification;
 - (b) renewing, or refusing to renew, a board qualification;
 - (c) imposing conditions on, or removing conditions of, a board qualification;
 - (d) otherwise amending, or suspending or cancelling a board qualification.
- (4) The board must comply with the direction.

189 Amendment of s 181A (Board of examiners may consider previous suspension, cancellation or surrender of certificate of competency or site senior executive notice)

- (1) Section 181A, heading, from ‘certificate’ to ‘notice’—

omit, insert—

board qualification

- (2) Section 181A, from ‘certificate’ to ‘notice’—

omit, insert—

board qualification

190 Amendment of s 182 (Obtaining certificates of competency or site senior executive notices by fraud)

- (1) Section 182, heading—

omit, insert—

182 Obtaining board qualifications by fraud

- (2) Section 182(1), (2) and (3), ‘certificate of competency or site senior executive notice’—

omit, insert—

board qualification

- (3) Section 182(3)—

insert—

- (c) for a decision relating to a practising certificate held by a site senior executive—the operator for each mine at which the holder works;
- (d) for a decision relating to a practising certificate held by a person other than a site senior executive—the site senior executive for each mine at which the holder works.

191 Amendment of s 183 (Return of certificate of competency or site senior executive notice)

- (1) Section 183, heading, from ‘certificate’ to ‘notice’—

omit, insert—

board qualification

- (2) Section 183, ‘certificate of competency or site senior executive notice’—

omit, insert—

board qualification

- (3) Section 183, ‘certificate or notice’—

omit, insert—

board qualification

- (4) Section 183(b), ‘an industrial magistrate’—

omit, insert—

a magistrate

192 Amendment of s 184 (Effect on particular appointments of suspension, cancellation or surrender of certificate of competency or site senior executive notice)

- (1) Section 184, heading, from ‘certificate’ to ‘notice’—

omit, insert—

[s 193]

board qualification

- (2) Section 184(1)(a) and (c) and (2), ‘certificate of competency or site senior executive notice’—

omit, insert—

board qualification

193 Amendment of s 185 (Register to be kept by board of examiners)

- (1) Section 185(1)—

insert—

(ba) practising certificates issued by the board;
and

- (2) Section 185(1)(ba) and (c)—

renumber as section 185(1)(c) and (d).

- (3) Section 185(2)(a), ‘certificate of competency or site senior executive notice’—

omit, insert—

board qualification

- (4) Section 185(2)(a), ‘certificate or notice’—

omit, insert—

qualification

- (5) Section 185(2)(b), ‘subsection (1)(c)’—

omit, insert—

subsection (1)(d)

- (6) Section 185(4)—

omit.

194 Amendment of s 186 (Grounds for suspension or cancellation)

Section 186—

insert—

- (3) The only ground for suspending or cancelling a person's practising certificate is that the person has failed to complete the requirements of the board to hold the certificate.

195 Amendment of s 187 (Notice of proposed action)

Section 187(1) and (2)(d), from 'certificate' to 'notice'—

omit, insert—

board qualification

196 Amendment of s 189 (Decision to take proposed action)

- (1) Section 189(2), 'certificate of competency or site senior executive notice'—

omit, insert—

board qualification

- (2) Section 189(2), 'certificate or notice'—

omit, insert—

qualification

- (3) Section 189(6)(a)—

insert—

(iii) for a decision relating to a practising certificate held by a site senior executive—the operator for each mine at which the holder works;

(iv) for a decision relating to a practising certificate held by a person other than a site senior executive—the site senior executive

[s 197]

for each mine at which the holder works;
and

197 Insertion of new s 190

After section 189—

insert—

190 Automatic cancellation or suspension of practising certificate

- (1) This section applies if a person's certificate of competency or site senior executive notice is cancelled or suspended under this part or by a court.
- (2) Any practising certificate, relating to the certificate of competency or site senior executive notice, held by the person is also cancelled or suspended for the same period and on the same conditions.

198 Replacement of s 195 (Notice of accidents, incidents, deaths or diseases)

Section 195—

omit, insert—

195 Notice of accidents, incidents or deaths

- (1) If the site senior executive for a mine becomes aware of a serious accident, high potential incident or death at the mine, the site senior executive must, as soon as possible after becoming aware of the accident, incident or death, notify both of the following persons in the approved form—
 - (a) an inspector; and
 - (b) a district workers' representative.

Maximum penalty—100 penalty units.

-
- (2) The approved form must make provision for particular information (the *required information*) to be provided about the serious accident, high potential incident or death.
 - (3) If the site senior executive does not know the required information at the time the site senior executive is required to notify a person under subsection (1), the site senior executive must—
 - (a) take all reasonable steps to find out the required information as soon as possible; and
 - (b) as soon as possible after the required information becomes known to the site senior executive, give the required information to the person.

Maximum penalty—100 penalty units.

- (4) It is not a defence in a proceeding under subsection (1) or (3) that the giving of the required information might tend to incriminate the site senior executive.
- (5) The required information is not admissible in evidence against the site senior executive in any criminal proceeding.
- (6) Subsection (5) does not prevent the required information being admitted in evidence in a criminal proceeding about the falsity or misleading nature of the required information.

195AA Notice of reportable diseases

- (1) If the site senior executive for a mine becomes aware that a relevant worker has been diagnosed with a reportable disease, the site senior executive must, as soon as practicable after becoming aware—

[s 199]

- (a) notify an inspector about the disease by notice in the approved form; and
- (b) notify a district workers' representative about the disease by notice.

Maximum penalty—100 penalty units.

- (2) If a prescribed person becomes aware that a relevant worker has been diagnosed with a reportable disease, the prescribed person must, as soon as practicable after becoming aware, notify the chief inspector by notice in the approved form.

Maximum penalty—100 penalty units.

- (3) The approved form mentioned in subsection (1)(a) and (2) must make provision for stating the name and date of birth of the person diagnosed with the reportable disease.
- (4) This section does not apply in the circumstances prescribed by regulation.
- (5) In this section—

prescribed person means a person prescribed by regulation for subsection (2).

relevant worker means—

- (a) a person who is, was or may become a worker; or
- (b) a person who is or was a coal mine worker under the *Coal Mining Safety and Health Act 1999*.

reportable disease means a disease prescribed by regulation to be a disease that must be reported under this section.

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

Section 198(1)(c), from ‘, forward’—

omit, insert—

—, give the report mentioned in paragraph (b) to an inspector—

- (i) within 30 days after the accident or incident; or
- (ii) if the CEO or chief inspector by notice gives a longer period, of not more than 12 months, within which to give the report—within the longer period.

200 Amendment of s 213 (Offences by witnesses)

Section 213(1), (2) and (3), penalty—

omit, insert—

Maximum penalty—200 penalty units.

201 Insertion of new ss 213A and 213B

After section 213—

insert—

213A False or misleading statements to board of inquiry

A person must not state anything to the board of inquiry that the person knows is false or misleading in a material particular.

Maximum penalty—500 penalty units.

213B False or misleading documents to board of inquiry

- (1) A person must not give a document to the board of inquiry that the person knows is false or misleading in a material particular.

Maximum penalty—500 penalty units.

[s 202]

- (2) Subsection (1) does not apply to a person who, when giving the document—
 - (a) informs the board, to the best of the person's ability, how it is false or misleading; and
 - (b) if the person has, or can reasonably get, the correct information—gives the correct information to the board.

202 Amendment of s 214 (Contempt of board)

- (1) Section 214—
 - insert—*
 - (aa) impede or obstruct the board in the exercise of its powers; or
- (2) Section 214(aa) to (c)—
 - renumber* as section 214(b) to (d).
- (3) Section 214, penalty—
 - omit, insert—*
 - Maximum penalty—200 penalty units.

203 Amendment of s 234 (Proceedings for offences)

- (1) Section 234(1)—
 - omit, insert—*
 - (1) A charge of an offence against this Act, other than an offence against part 3A, must be heard and decided summarily.
 - (1A) A Magistrates Court must abstain from dealing summarily with a charge of an offence against this Act—
 - (a) if satisfied, on an application made by the prosecution or the defence, that because of

exceptional circumstances the charge should not be heard and decided summarily; or

Examples of exceptional circumstances—

- There is sufficient connection between the offence the subject of the charge, and other offences allegedly committed by the defendant and to be tried on indictment, to allow all the offences to be tried together.
- There is an important issue of law involved.
- An issue of general community importance or public interest is involved, or the holding of a trial by jury is justified in order to establish contemporary community standards.

(b) if satisfied, at any stage and after hearing any submissions by the prosecution and defence, that because of the nature or seriousness of the offence or any other relevant consideration the defendant, if convicted, may not be adequately punished on summary conviction.

(1B) If the Magistrates Court abstains from jurisdiction—

- (a) the court must stop treating the proceeding as a proceeding to hear and decide the charge summarily; and
- (b) the proceeding for the charge must be conducted as a committal proceeding; and
- (c) a plea of the defendant at the start of the hearing must be disregarded; and
- (d) the evidence already heard by the court is taken to be evidence in the committal proceeding; and
- (e) the *Justices Act 1886*, section 104 must be complied with for the committal proceeding.

(2) Section 234(3) and (4)—

[s 204]

omit.

- (3) Section (10), definition *person dissatisfied with a decision*—
omit.
- (4) Section 234(1A) to (2)—
renumber as section 234(2) to (4).
- (5) Section 234(9A) and (10)—
renumber as section 234(10) and (11).

204 Amendment of s 236 (Limitation on time for starting proceedings)

Section 236(1)(a) and (b)—

omit, insert—

- (a) 2 years after the offence first comes to the notice of the complainant;
- (b) if an enforceable undertaking has been given in relation to the offence, within 6 months after—
 - (i) the enforceable undertaking is contravened; or
 - (ii) it comes to the notice of the CEO that the enforceable undertaking has been contravened; or
 - (iii) the CEO has agreed under section 246Q to the withdrawal of the enforceable undertaking;

205 Amendment of s 237 (Court may order suspension or cancellation of certificate or notice)

- (1) Section 237(2), ‘The industrial magistrate’—

omit, insert—

A magistrate

- (2) Section 237(3), ‘the industrial magistrate’s’—

omit, insert—

a magistrate’s

- (3) Section 237(3), ‘Industrial Court’—

omit, insert—

District Court

- (4) Section 237(4), from ‘The industrial magistrate’ to ‘the person’s’—

omit, insert—

A magistrate must give notice of a decision to suspend or cancel a person’s

- (5) Section 237(4)(a), ‘industrial’—

omit.

206 Amendment of s 238 (Forfeiture on conviction)

Section 238(1), ‘an Industrial Magistrates Court’—

omit, insert—

a Magistrates Court

207 Amendment of s 243 (Orders for costs)

Section 243(2), ‘An Industrial Magistrates Court’—

omit, insert—

A Magistrates Court

208 Insertion of new pt 14C

After section 246K—

insert—

Part 14C Enforceable undertakings

246L CEO may accept enforceable undertakings

- (1) The CEO may accept a written undertaking (an *enforceable undertaking*) given by a person in connection with a matter relating to a contravention or alleged contravention of this Act by the person.
- (2) An enforceable undertaking can not be accepted for a contravention or alleged contravention that is—
 - (a) an offence against section 45C or 45D; or
 - (b) an offence involving a breach of a safety and health obligation causing death.
- (3) The giving of an enforceable undertaking does not constitute an admission of guilt by the person giving the undertaking in relation to the contravention or alleged contravention to which the undertaking relates.
- (4) The CEO must issue, and publish on a Queensland Government website, general guidelines in relation to the acceptance of enforceable undertakings under this Act.

246M Notice of decision and reasons for decision

- (1) The CEO must give the person seeking to make an enforceable undertaking notice of the CEO's decision to accept or reject the enforceable undertaking and of the reasons for the decision.
- (2) The CEO must publish, on a Queensland Government website, notice of a decision to accept an enforceable undertaking and the reasons for that decision.

246N When an enforceable undertaking is enforceable

An enforceable undertaking takes effect and becomes enforceable when the CEO's decision to accept the undertaking is given to the person who made the undertaking or at any later date stated by the CEO.

246O Compliance with enforceable undertaking

A person must not contravene an enforceable undertaking made by that person that is in effect.

Maximum penalty—500 penalty units.

246P Contravention of enforceable undertaking

- (1) The CEO may apply to a Magistrates Court for an order if a person contravenes an enforceable undertaking.
- (2) If the court is satisfied that the person who made the enforceable undertaking has contravened the undertaking, the court, in addition to the imposition of any penalty, may make—
 - (a) an order directing the person to comply with the undertaking; or
 - (b) an order discharging the undertaking.
- (3) In addition to the orders mentioned in subsection (2), the court may make any other order the court considers appropriate in the circumstances, including orders directing the person to pay to the State—
 - (a) the costs of the proceedings; and
 - (b) the reasonable costs of the CEO in monitoring compliance with the enforceable undertaking in the future.

[s 208]

- (4) Nothing in this section prevents proceedings being taken for the contravention or alleged contravention of this Act to which the enforceable undertaking relates.

Note—

Section 246R specifies circumstances affecting proceedings for a contravention for which an enforceable undertaking has been given.

246Q Withdrawal or variation of enforceable undertaking

- (1) A person who has made an enforceable undertaking may at any time, with the written agreement of the CEO—
- (a) withdraw the undertaking; or
 - (b) vary the undertaking.
- (2) However, the provisions of the undertaking can not be varied to provide for a different alleged contravention of the Act.
- (3) The CEO must publish, on a Queensland Government website, notice of the withdrawal or variation of an enforceable undertaking.

246R Proceeding for alleged contravention

- (1) Subject to this section, no proceedings for a contravention or alleged contravention of this Act may be taken against a person if an enforceable undertaking is in effect in relation to that contravention.
- (2) No proceedings may be taken for a contravention or alleged contravention of this Act against a person who has made an enforceable undertaking in relation to that contravention and has completely discharged the enforceable undertaking.

-
- (3) The CEO may accept an enforceable undertaking in relation to a contravention or alleged contravention, other than a contravention or alleged contravention mentioned in section 246L(2)(a) or (b), before proceedings in relation to that contravention have been finalised.
 - (4) If the CEO accepts an enforceable undertaking before the proceedings are finalised—
 - (a) the CEO must immediately notify the WHS prosecutor; and
 - (b) the WHS prosecutor must take all reasonable steps to have the proceedings discontinued as soon as possible.

209 Insertion of new pt 15, div 1, hdg

Before section 247—

insert—

Division 1 General

210 Insertion of new pt 15, div 2

After section 249—

insert—

Division 2 Sentencing for offences

249A Application of division

This division applies if a court convicts a person or finds a person guilty (the *offender*) of an offence against this Act.

249B Orders generally

- (1) One or more orders may be made under this

[s 210]

division against the offender.

- (2) Orders may be made under this division in addition to any penalty that may be imposed or any other action that may be taken in relation to the offence.

249C Adverse publicity orders

- (1) The court may make an order (an *adverse publicity order*), in relation to the offender, requiring the offender—
 - (a) to take either or both of the following actions within the period stated in the order—
 - (i) to publicise, in the way stated in the order, the offence, its consequences, the penalty imposed and any other related matter;
 - (ii) to notify a stated person or stated class of persons, in the way stated in the order, of the offence, its consequences, the penalty imposed and any other related matter; and
 - (b) to give the CEO, within 7 days after the end of the period stated in the order, evidence that the action or actions were taken by the offender in accordance with the order.
- (2) The court may make an adverse publicity order on the court's own initiative or on the application of the person prosecuting the offence.
- (3) If the offender fails to give evidence to the CEO as provided under subsection (1)(b), the CEO, or a person authorised in writing by the CEO, may take the action or actions stated in the order.
- (4) However, if—

-
- (a) the offender gives evidence to the CEO as provided under subsection (1)(b); and
 - (b) despite that evidence, the CEO is not satisfied that the offender has taken the action or actions stated in the order in accordance with the order;

the CEO may apply to the court for an order authorising the CEO, or a person authorised in writing by the CEO, to take the action or actions.

- (5) If the CEO or a person authorised in writing by the CEO takes an action or actions under subsection (3) or under an order under subsection (4), the CEO is entitled to recover from the offender, by action in a court of competent jurisdiction, an amount in relation to the reasonable expenses of taking the action or actions as a debt due to the CEO.

249D Orders for restoration

- (1) The court may order the offender to take steps stated in the order, within the period so stated, to remedy any matter caused by the commission of the offence that appears to the court to be within the offender's power to remedy.
- (2) The period in which an order under this section must be complied with may be extended, or further extended, by order of the court but only if an application for the extension is made before the end of that period.

249E Safety and health project orders

- (1) The court may make an order requiring the offender to undertake a stated project for the general improvement of safety and health of persons at mines and persons who may be affected by mining operations within the period

[s 210]

stated in the order.

- (2) The order may state conditions that must be complied with in undertaking the project.

249F Release on giving of court-ordered undertaking

- (1) The court may (with or without recording a conviction) adjourn the proceeding for a period of up to 2 years and make an order for the release of the offender on the offender giving an undertaking with stated conditions (a *court-ordered undertaking*).
- (2) A court-ordered undertaking must state the following conditions—
 - (a) that the offender appears before the court if called on to do so during the period of the adjournment and, if the court so states, at the time to which the further hearing is adjourned;
 - (b) that the offender does not commit, during the period of the adjournment, any offence against this Act;
 - (c) that the offender observes any special conditions imposed by the court.
- (3) In addition to the order mentioned in subsection (1), the court may make any other order the court considers appropriate in the circumstances, including orders directing the offender to pay to the State—
 - (a) the costs of the proceeding; and
 - (b) the reasonable costs of the CEO in monitoring compliance with the court-ordered undertaking in the future.
- (4) An offender who has given a court-ordered undertaking under this section may be called on to

appear before the court by order of the court.

- (5) An order under subsection (4) must be served on the offender not less than 4 days before the time stated in the order for the appearance.
- (6) If the court is satisfied at the time to which a further hearing of a proceeding is adjourned that the offender has observed the conditions of the court-ordered undertaking, the court must discharge the offender without any further hearing of the proceeding.

249G Injunctions

The court may issue an injunction requiring the offender to cease contravening this Act.

Note—

See also part 14A.

249H Training orders

The court may make an order requiring the offender to undertake or arrange for 1 or more workers to undertake a stated course of training.

249I Offence to fail to comply with order

- (1) A person must not, without reasonable excuse, fail to comply with an order under this division.
Maximum penalty—500 penalty units.
- (2) Subsection (1) places an evidential burden on the defendant to show a reasonable excuse.
- (3) This section does not apply to an order or injunction under section 249F or 249G.

[s 211]

211 Amendment of s 253 (Where worker exposed to immediate personal danger)

Section 253(1)(a) and (3), ‘himself or herself’—

omit, insert—

themselves

212 Amendment of s 254A (Protection from reprisal)

Section 254A(7)—

insert—

detriment includes—

- (a) personal injury or prejudice to safety; and
- (b) property damage or loss; and
- (c) intimidation or harassment; and
- (d) adverse discrimination, disadvantage or adverse treatment about career, profession, employment, trade or business; and
- (e) financial loss; and
- (f) damage to reputation, including, for example, personal, professional or business reputation.

213 Amendment of s 254C (Public statements)

- (1) Section 254C, heading—

omit, insert—

254C Publication of information

- (2) Section 254C(1), from ‘make’ to ‘following—’

omit, insert—

publish information about any of the following matters—

- (3) Section 254C(2)—

omit, insert—

- (2) Also, the Minister, CEO or chief inspector may publish any of the following information about serious accidents or high potential incidents—
 - (a) the total number of accidents or incidents that happened in a particular period;
 - (b) a description of an accident or incident, including, for example, where and when an accident or incident happened;
 - (c) the name of a mine at which an accident or incident happened;
 - (d) the operator of a mine at which an accident or incident happened;
 - (e) the injuries or deaths that occurred in an accident or incident.
 - (f) any other information about the incident the Minister, CEO or chief inspector considers appropriate.
- (4) Section 254C(3), ‘issue a public statement’—

omit, insert—

publish information
- (5) Section 254C(4) and (5)—

omit, insert—

 - (4) No liability is incurred by the State or any other person for the publication of, or for anything done for the purpose of publishing, information under this section in good faith.
 - (5) Subsection (5) applies despite section 256.
- (6) Section 254C(2A) to (6)—

renumber as section 254C(3) to (7).

[s 214]

214 Amendment of s 255 (Disclosure of information)

(1) Section 255(1)(e)—

omit, insert—

(e) in information published under section 254C.

(2) Section 255(2), ‘in mining’—

omit.

215 Amendment of s 260 (CEO to keep records)

(1) Section 260(1)(a)—

omit, insert—

(a) a database of information about serious accidents and high potential incidents; and

(2) Section 260(2) to (5)—

omit, insert—

(2) The CEO may give a person access to the records.

216 Amendment of s 261 (Approved forms)

Section 261, after ‘inspector’—

insert—

and CEO

217 Amendment of s 262 (Regulation-making power)

(1) Section 262(2)—

insert—

(ia) matters relating to board qualifications;

(2) Section 262(2)(ia) to (m)—

renumber as section 262(j) to (o).

218 Insertion of new pt 20, div 8

Part 20—

insert—

**Division 8 Transitional provisions for
Resources Safety and
Health Legislation
Amendment Act 2023**

295 Definition for division

In this division—

former, for a provision of this Act, means the provision as in force from time to time before the commencement.

296 Deferral of requirements relating to critical controls

- (1) Sections 27, 44A and 55(5), as amended by the *Resources Safety and Health Legislation Amendment Act 2023*, do not apply until the day that is 1 year after the commencement.
- (2) Former sections 30, 47A and 62(5) continue to apply until that day that is 1 year after the commencement.

297 Deferral of requirements relating to ROC workers

- (1) Section 39(1)(h), as amended by the *Resources Safety and Health Legislation Amendment Act 2023*, does not apply until the day that is 6 months after the commencement.
- (2) Former section 39(1)(h) continues to apply until that day that is 6 months after the commencement.

298 Deferral of particular requirements to hold practising certificate

- (1) This section applies to the following requirements to hold a practising certificate—
 - (a) the requirement under section 49(4)(b) for a site senior executive to hold a practising certificate;
 - (b) the requirement under section 53(3)(a)(ii) or (b)(ii) for an underground mine manager to hold a practising certificate;
 - (c) the requirement under section 108(4) for a district workers' representative to hold a practising certificate;
 - (d) the requirement under section 123(2) for an inspector to hold a practising certificate.
- (2) The requirement does not apply until 10 June 2025.
- (3) If, on 10 June 2025, the person mentioned in subsection (1) does not hold the required practising certificate, the appointment of the person to the position mentioned in subsection (1) is terminated.
- (4) Former sections 49(4), 53(3), 108(4) and 123 continue to apply until 10 June 2025.

298 Administrative region established by chief executive before commencement

- (1) This section applies if—
 - (a) before the commencement, the chief executive established an administrative region for the administration of this Act under former schedule 2, definition *region*; and

- (b) immediately before the commencement, the administrative region was still in effect.
- (2) The administrative region is taken to have been established by the CEO under schedule 2, definition *region*.

219 Amendment of sch 2 (Dictionary)

- (1) Schedule 2, definitions *hard rock*, *holder*, *obstruct*, *service provider* and *worker*—
omit.
- (2) Schedule 2—
insert—

board of inquiry means a board of inquiry established under section 199.

board qualification means—

- (a) a certificate of competency; or
- (b) a site senior executive notice; or
- (c) a practising certificate.

contractor includes —

- (a) a person contracted to carry out work at a mine; and
- (b) a person contracted to provide a service to a mine; and
- (b) a person contracted to provide workers to a mine, including, for example, a labour hire agency.

critical control means a risk control measure—

- (a) that is critical to—
 - (i) preventing an event that, directly or indirectly, has the potential to cause injury or illness to a person; or

[s 219]

- (ii) mitigating the consequences of an event that, directly or indirectly, has the potential to cause injury or illness to a person; and
- (b) whose absence or failure would significantly increase risk despite the existence of other risk control measures.

enforceable undertaking see section 246L(1).

hard rock means—

- (a) rock that must be broken, including, for example, by drilling and blasting, ripping, or crushing by machinery, to enable it to be extracted; or
- (b) gravel that is extracted and crushed to produce a product; or
- (c) river sand that is extracted and crushed to produce a product.

holder, for a mine, means the holder under the *Mineral Resources Act 1989* of a prospecting permit, exploration permit, mineral development licence, mining lease or mining claim for the mine.

mutual recognition Act means—

- (a) the *Mutual Recognition Act 1992* (Cwlth); or
- (b) the *Trans-Tasman Mutual Recognition Act 1997* (Cwlth).

non-compliance notice see section 171A(2).

practising certificate means a practising certificate issued, or renewed, by the board of examiners under this Act.

Queensland Government website means a website with a URL that contains ‘qld.gov.au’, other than the website of a local government.

remote operating centre, for a mine, means a facility located away from the mine that receives ongoing information about operations at the mine that is used for making decisions about and giving instructions for operations at the mine.

ROC worker, for a mine, means a person giving instructions to workers at the mine from a remote operating centre for the mine.

worker means an individual who carries out work at a mine and includes the following individuals who carry out work at a mine—

- (a) an employee of the operator; and
- (b) a contractor; and
- (c) an employee of a contractor.

- (3) Schedule 2, definition *region*, ‘chief executive’—
omit, insert—

CEO

- (4) Schedule 2, definition *treatment*, after ‘takes place’—
omit, insert—

at a quarry

- (5) Schedule 2, definition *supplier*, ‘, contractor or service provider’—

omit, insert—

or contractor

[s 220]

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

220 **Act amended**

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

221 **Amendment of s 670 (What is an *operating plant*)**

Section 670(5)(d), before ‘delivery’—

insert—

production,

222 **Amendment of s 705D (Reporting of particular accidents and prescribed high potential incidents)**

(1) Section 705D, from ‘particular’—

omit, insert—

designated accident or incident

(2) Section 705D(2)—

omit, insert—

(2) The operator must, as soon as possible after becoming aware that a designated accident or incident has happened, notify the site senior executive under the Coal Mining Safety and Health Act for the coal mine the subject of the coal or oil shale mining lease about the accident or incident, either orally or by notice.

(3) Section 705D(4)—

omit.

(4) Section 705D(5), definition *designated accident or incident*, paragraph (b)—

omit, insert—

- (b) an incident the operator of the plant is required to report to the chief inspector under section 706, to the extent the incident affects, or is likely to affect, the safety and health of coal mine workers.

- (5) Section 705D(5)—

renumber as section 705D(4).

223 Replacement of s 706 (Requirement to report prescribed incident)

Section 706—

omit, insert—

706 Requirement to report prescribed incident

- (1) A regulation may prescribe the types of incidents happening at an operating plant or relating to a gas related device (a *prescribed incident*) that must be reported to the chief inspector.
- (2) If a prescribed incident happens at an operating plant, the operator of the plant must notify the chief inspector.
Maximum penalty—100 penalty units.
- (3) If a prescribed incident happens at a business other than at an operating plant and the prescribed incident relates to a gas related device, the person carrying on the business must notify the chief inspector.
Maximum penalty—100 penalty units.
- (4) The notification under subsection (2) or (3) must be made—
 - (a) by telephone as soon as possible after becoming aware of the prescribed incident, using the telephone number notified on a

[s 223]

Queensland Government website for the purpose; and

- (b) in the approved form within 2 business days after the prescribed incident.
- (5) The approved form mentioned in subsection (4)(b) must make provision for particular information (the *required information*) to be provided about the prescribed incident,
- (6) If the operator under subsection (2) or the person under subsection (3) does not know the required information at the time they are required to notify the chief inspector, the operator or the person must—
- (a) take all reasonable steps to find out the required information as soon as possible; and
 - (b) as soon as possible after the required information becomes known to the operator or the person, give the required information to the chief inspector.

Maximum penalty—100 penalty units.

- (7) It is not a defence in a proceeding under subsection (2), (3) or (6) that the giving of the required information might tend to incriminate the operator or the person.
- (8) The required information is not admissible in evidence against the operator or the person in any criminal proceeding.
- (9) Subsection (8) does not prevent the required information being admitted in evidence in a criminal proceeding about the falsity or misleading nature of the required information.
- (10) The operator or the person is taken to have complied with subsection (2) or (3) if the Coal Mining Safety and Health Act, section 198(1),

applies to the person and the person has complied with that subsection.

224 Amendment of s 708C (Protection from reprisal)

(1) Section 708C(1), penalty—

omit, insert—

Maximum penalty—1,000 penalty units.

(2) Section 708C(7)—

insert—

detriment includes—

- (a) personal injury or prejudice to safety; and
- (b) property damage or loss; and
- (c) intimidation or harassment; and
- (d) adverse discrimination, disadvantage or adverse treatment about career, profession, employment, trade or business; and
- (e) financial loss; and
- (f) damage to reputation, including, for example, personal, professional or business reputation.

225 Amendment of s 722 (Contempt of board)

Section 722(a)—

omit, insert—

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

226 Amendment of s 724 (Types of gas device)

(1) Section 724(3)—

insert—

[s 227]

(d) a limited capacity biogas system.

(2) Section 724(5)—

insert—

limited capacity biogas system means a system of devices that produces, stores and uses not more than the amount of biogas prescribed by regulation.

227 Amendment of s 731AA (Approval of gas devices for supply, installation and use)

(1) Section 731AA(2), after ‘gas device’—

insert—

(type B)

(2) Section 731AA—

insert—

(3) An approval under subsection (1) in relation to a gas device that has been given by a person who holds a gas device approval authority for the gas device, ceases to have force only if the approval is cancelled or suspended by the person with the written consent of the chief inspector.

228 Amendment of s 731AB (Who may apply)

Section 731AB, ‘gas device approval authority for a gas device.’—

omit, insert—

type of gas device approval authority prescribed by regulation.

229 Amendment of s 734AC (Access to register)

(1) Section 734AC(1)(a)—

omit.

- (2) Section 734AC(1)(b) and (c)—

renumber as section 734AC(1)(a) and (b).

- (3) Section 734AC—

insert—

(1A) The chief inspector may publish the register in the way the chief inspector considers appropriate.

- (4) Section 734AC(2), ‘residential address’—

omit, insert—

contact details

- (5) Section 734AC(1A) and (2)—

renumber as section 734AC(2) and (3).

230 Amendment of s 739 (Production or display of identity card)

Section 739(1)(a), ‘his or her’—

omit, insert—

the inspector’s or authorised officer’s

231 Amendment of s 744 (Inspector’s additional entry power for emergency or incident)

Section 744(2)(a), ‘himself or herself’—

omit, insert—

themselves

232 Amendment of s 752 (Warrants—procedure before entry)

Section 752(2)(a), ‘himself or herself’—

omit, insert—

themselves

[s 233]

233 Replacement of s 757 (Power to require name and address)

Section 757—

omit, insert—

757 Power to require personal details

- (1) This section applies if an inspector or authorised officer—
 - (a) finds a person committing an offence against this Act; or
 - (b) finds a person in circumstances that lead the inspector or authorised officer to reasonably suspect the person has just committed an offence against this Act; or
 - (c) has information that leads the inspector or authorised officer to reasonably suspect a person has just committed an offence against this Act.
- (2) The inspector or authorised officer may require the person to state the person's name and residential address.
- (3) The inspector or authorised officer may also require the person to give evidence of the correctness of the stated name or address if, in the circumstances, it would be reasonable to expect the person to—
 - (a) be in possession of evidence of the correctness of the stated name or address; or
 - (b) otherwise be able to give the evidence.
- (4) When making a requirement under this section, the inspector or authorised officer must give the person an offence warning for the requirement.
- (5) In this section—

offence warning, for a requirement by an inspector or authorised officer, means a warning

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

757A Offence to contravene personal details requirement

- (1) A person of whom a requirement is made under section 757 must comply with the requirement unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

- (2) A person may not be convicted of an offence against subsection (1) unless the person is found guilty of the offence in relation to which the requirement under section 757 was made.

234 Amendment of s 799I (Definitions for part)

Section 799I(1), definitions *employer* and *worker*—
omit, insert—

employer, for an operating plant or gas work, means—

- (a) a person who employs or otherwise engages a person to perform work in relation to the operating plant or gas work; or
- (b) a person who arranges for a person to perform work in relation to the operating plant or gas work, including, for example, a labour hire agency; or
- (c) for an operating plant—the operator of the operating plant; or
- (d) for gas work—the holder of a gas work licence, gas work authorisation or gas device approval authority relating to the gas work.

[s 235]

worker means—

- (a) in relation to an operating plant—an individual who is employed, otherwise engaged, or arranged, to carry out work at the operating plant; or
- (b) in relation to gas work—an individual who is employed, otherwise engaged, or arranged, to carry out work at the place where the gas work is carried out.

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

Section 817(2)(b) and (c)—

omit, insert—

- (b) if the original decision to which the application relates was made by an inspector or an authorised officer (safety and health)—the chief inspector; or
- (c) if the original decision to which the application relates was made by the CEO or the chief inspector—the CEO; or

236 Insertion of new ch 13, pt 2, div 1, hdg

Before section 837—

insert—

Division 1 General

237 Amendment of s 837 (Proceedings for offences)

(1) Section 837(1)—

omit, insert—

- (1) A charge of an offence against this Act, other than an offence against chapter 11, part 1AA, must be heard and decided summarily.

(1A) A Magistrates Court must abstain from dealing summarily with a charge of an offence against this Act—

(a) if satisfied, on an application made by the prosecution or the defence, that because of exceptional circumstances the charge should not be heard and decided summarily; or

Examples of exceptional circumstances—

- There is sufficient connection between the offence the subject of the charge, and other offences allegedly committed by the defendant and to be tried on indictment, to allow all the offences to be tried together.
- There is an important issue of law involved.
- An issue of general community importance or public interest is involved, or the holding of a trial by jury is justified in order to establish contemporary community standards.

(b) if satisfied, at any stage and after hearing any submissions by the prosecution and defence, that because of the nature or seriousness of the offence or any other relevant consideration the defendant, if convicted, may not be adequately punished on summary conviction.

(1B) If the Magistrates Court abstains from jurisdiction—

(a) the court must stop treating the proceeding as a proceeding to hear and decide the charge summarily; and

(b) the proceeding for the charge must be conducted as a committal proceeding; and

(c) a plea of the defendant at the start of the hearing must be disregarded; and

(d) the evidence already heard by the court is taken to be evidence in the committal proceeding; and

[s 238]

- (e) the *Justices Act 1886*, section 104 must be complied with for the committal proceeding.
- (2) Section 837(3), ‘subsection (2)(b)’—
omit, insert—
subsection (4)(b)
- (3) Section 837(4) and (5), ‘subsection (3)’—
omit, insert—
subsection (5)
- (4) Section 837(6)—
insert—
 - (c) if an enforceable undertaking has been given in relation to the offence, within 6 months after—
 - (i) the enforceable undertaking is contravened; or
 - (ii) it comes to the notice of the CEO that the enforceable undertaking has been contravened; or
 - (iii) the CEO has agreed under section 841J to the withdrawal of the enforceable undertaking.
- (5) Section 837(6A), ‘Subsection (6)’—
omit, insert—
Subsection (8)
- (6) Section 837(1A) to (8)—
renumber as section 837(2) to (12).

238 Amendment of s 837C (Procedure if prosecution not brought)

Section 837C(1)(a), ‘section 837(8)’—

omit, insert—

section 837(12)

239 Insertion of new s 839A

After section 839—

insert—

839A Court may order suspension or cancellation of authority

- (1) This section applies if a person convicted of an offence against this Act is the holder of any of the following authorities—
 - (a) a gas work licence;
 - (b) a gas work authorisation;
 - (c) a gas device approval authority.
- (2) A magistrate, on application by the complainant during the proceedings for the offence, may suspend or cancel the authority held by the person convicted.
- (3) A person dissatisfied with the magistrate's decision to suspend or cancel the person's authority who wants to appeal against the decision, must appeal to the District Court.
- (4) The magistrate must give notice of the decision to suspend or cancel the person's authority to the chief inspector.

240 Amendment of s 840A (Costs of investigation)

Section 840A(1), 'the department's reasonable costs'—

omit, insert—

to the department or RSHQ the reasonable costs incurred by the department or RSHQ

[s 241]

241 Insertion of new s 841AA and ch 13, pt 2, div 2

After section 841—

insert—

841AA Recovery of fees

- (1) A fee payable under this Act and not paid may be recovered by the CEO—
 - (a) in summary proceedings under the *Justices Act 1886*; or
 - (b) by action for a debt in a court of competent jurisdiction.
- (2) A fee may also be recovered in a proceeding for an offence against this Act.
- (3) An order made under subsection (2) is enforceable under the *Justices Act 1886* as an order for payment of money made by a magistrate under that Act.
- (4) If an order is made under subsection (2)—
 - (a) the order may be filed in the registry of a Magistrates Court; and
 - (b) on being filed, is taken to be an order made by a Magistrates Court and may be enforced accordingly.

Division 2 Sentencing for offences

841AB Application of this division

This division applies if a court convicts a person or finds a person guilty (the *offender*) of an offence against this Act.

841AC Orders generally

- (1) One or more orders may be made under this division against the offender.
- (2) Orders may be made under this division in addition to any penalty that may be imposed or any other action that may be taken in relation to the offence.

841AD Adverse publicity orders

- (1) The court may make an order (an *adverse publicity order*), in relation to the offender, requiring the offender—
 - (a) to take either or both of the following actions within the period stated in the order—
 - (i) to publicise, in the way stated in the order, the offence, its consequences, the penalty imposed and any other related matter;
 - (ii) to notify a stated person or stated class of persons, in the way stated in the order, of the offence, its consequences, the penalty imposed and any other related matter; and
 - (b) to give the CEO, within 7 days after the end of the period stated in the order, evidence that the action or actions were taken by the offender in accordance with the order.
- (2) The court may make an adverse publicity order on its own initiative or on the application of the person prosecuting the offence.
- (3) If the offender fails to give evidence to the CEO as provided under subsection (1)(b), the CEO, or a person authorised in writing by the CEO, may take the action or actions stated in the order.

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- (4) However, if—
- (a) the offender gives evidence to the CEO as provided under subsection (1)(b); and
 - (b) despite that evidence, the CEO is not satisfied that the offender has taken the action or actions stated in the order in accordance with the order;

the CEO may apply to the court for an order authorising the CEO, or a person authorised in writing by the CEO, to take the action or actions.

- (5) If the CEO or a person authorised in writing by the CEO takes an action or actions under subsection (3) or under an order under subsection (4), the CEO is entitled to recover from the offender, by action in a court of competent jurisdiction, an amount in relation to the reasonable expenses of taking the action or actions as a debt due to the CEO.

841AE Orders for restoration

- (1) The court may order the offender to take steps stated in the order, within the period so stated, to remedy any matter caused by the commission of the offence that appears to the court to be within the offender's power to remedy.
- (2) The period in which an order under this section must be complied with may be extended, or further extended, by order of the court but only if an application for the extension is made before the end of that period.

841AF Safety and health project orders

- (1) The court may make an order requiring the offender to undertake a stated project for the general improvement of safety and health of

persons who may be affected by activities involving petroleum or fuel gas within the period stated in the order.

- (2) The order may state conditions that must be complied with in undertaking the project.

841AG Release on giving of court-ordered undertaking

- (1) The court may (with or without recording a conviction) adjourn the proceeding for a period of up to 2 years and make an order for the release of the offender on the offender giving an undertaking with stated conditions (a *court-ordered undertaking*).
- (2) A court-ordered undertaking must state the following conditions—
- (a) that the offender appears before the court if called on to do so during the period of the adjournment and, if the court so states, at the time to which the further hearing is adjourned;
 - (b) that the offender does not commit, during the period of the adjournment, any offence against this Act;
 - (c) that the offender observes any special conditions imposed by the court.
- (3) In addition to the order mentioned in subsection (1), the court may make any other order that the court considers appropriate in the circumstances, including orders directing the offender to pay to the State—
- (a) the costs of the proceeding; and
 - (b) the reasonable costs of the CEO in monitoring compliance with the court-ordered undertaking in the future.

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- (4) An offender who has given a court-ordered undertaking under this section may be called on to appear before the court by order of the court.
- (5) An order under subsection (4) must be served on the offender not less than 4 days before the time stated in the order for the appearance.
- (6) If the court is satisfied at the time to which a further hearing of a proceeding is adjourned that the offender has observed the conditions of the court-ordered undertaking, it must discharge the offender without any further hearing of the proceeding.

841AH Injunctions

The court may issue an injunction requiring the offender to cease contravening this Act.

Note—

See also chapter 13, part 3.

841AI Training orders

The court may make an order requiring the offender to undertake or arrange for 1 or more persons undertaking activities involving petroleum or fuel gas to undertake a stated course of training.

841AJ Offence to fail to comply with order

- (1) A person must not, without reasonable excuse, fail to comply with an order under this division.
Maximum penalty—500 penalty units.
- (2) Subsection (1) places an evidential burden on the defendant to show a reasonable excuse.
- (3) This section does not apply to an order or injunction under section 841AG or 841AH.

242 Insertion of new ch 13, pt 4

After section 841D—

insert—

Part 4 Enforceable undertakings

841E CEO may accept enforceable undertakings

- (1) The CEO may accept a written undertaking (a *enforceable undertaking*) given by a person in connection with a matter relating to a contravention or alleged contravention by the person of this Act.
- (2) A enforceable undertaking can not be accepted for a contravention or alleged contravention that is—
 - (a) an offence against section 799K or 799L; or
 - (b) an offence involving a breach of an obligation causing death.
- (3) The giving of a enforceable undertaking does not constitute an admission of guilt by the person giving it in relation to the contravention or alleged contravention to which the undertaking relates.
- (4) The CEO must issue, and publish on a Queensland Government website, general guidelines in relation to the acceptance of enforceable undertakings under this Act.

841F Notice of decision and reasons for decision

- (1) The CEO must give the person seeking to make a enforceable undertaking written notice of the CEO's decision to accept or reject the enforceable undertaking and of the reasons for the decision.
- (2) The CEO must publish, on a Queensland Government website, notice of a decision to accept a enforceable undertaking and the reasons

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for that decision.

841G When a enforceable undertaking is enforceable

A enforceable undertaking takes effect and becomes enforceable when the CEO's decision to accept the undertaking is given to the person who made the undertaking or at any later date stated by the CEO.

841H Compliance with enforceable undertaking

A person must not contravene a enforceable undertaking made by that person that is in effect.

Maximum penalty—500 penalty units.

841I Contravention of enforceable undertaking

- (1) The CEO may apply to a Magistrates Court for an order if a person contravenes a enforceable undertaking.
- (2) If the court is satisfied that the person who made the enforceable undertaking has contravened the undertaking, the court, in addition to the imposition of any penalty, may make 1 or both of the following orders—
 - (a) an order directing the person to comply with the undertaking;
 - (b) an order discharging the undertaking.
- (3) In addition to the orders mentioned in subsection (2), the court may make any other order that the court considers appropriate in the circumstances, including orders directing the person to pay to the State—
 - (a) the costs of the proceedings; and

-
- (b) the reasonable costs of the CEO in monitoring compliance with the enforceable undertaking in the future.
 - (4) Nothing in this section prevents proceedings being taken for the contravention or alleged contravention of this Act to which the enforceable undertaking relates.

Note—

Section 841K specifies circumstances affecting proceedings for a contravention for which an enforceable undertaking has been given.

841J Withdrawal or variation of enforceable undertaking

- (1) A person who has made an enforceable undertaking may at any time, with the written agreement of the CEO—
 - (a) withdraw the undertaking; or
 - (b) vary the undertaking.
- (2) However, the provisions of the undertaking cannot be varied to provide for a different alleged contravention of the Act.
- (3) The CEO must publish, on a Queensland Government website, notice of the withdrawal or variation of an enforceable undertaking.

841K Proceeding for alleged contravention

- (1) Subject to this section, no proceedings for a contravention or alleged contravention of this Act may be taken against a person if an enforceable undertaking is in effect in relation to that contravention.
- (2) No proceedings may be taken for a contravention or alleged contravention of this Act against a person who has made an enforceable undertaking

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in relation to that contravention and has completely discharged the enforceable undertaking.

- (3) The CEO may accept a enforceable undertaking in relation to a contravention or alleged contravention, other than a contravention or alleged contravention mentioned in section 841E(2)(a) or (b), before proceedings in relation to that contravention have been finalised.
- (4) If the CEO accepts a enforceable undertaking before the proceedings are finalised—
 - (a) the CEO must immediately notify the WHS prosecutor; and
 - (b) the WHS prosecutor must take all reasonable steps to have the proceedings discontinued as soon as possible.

243 Amendment of s 842 (Requirements for making an application)

Section 842(5), definition *relevant person*, paragraph (a)(i)—
omit, insert—

- (i) section 622, 728 or 731AC; or

244 Amendment of s 843 (Request to applicant about application)

- (1) Section 843(1)(b) and (c), ‘or another stated officer of the department’—

omit, insert—

, a stated officer of the department or a stated staff member of the employing office

- (2) Section 843(7), definition *relevant person*, paragraph (a)(i)—
omit, insert—

- (i) section 622, 728 or 731AC; or
- (3) Section 843(7)—
insert—

employing office see the *Resources Safety and Health Queensland Act 2020*, schedule 1.

245 Amendment of s 844 (Amending applications)

Section 844(5), definition *relevant person*, paragraph (a)(i)—
omit, insert—

- (i) section 622, 728 or 731AC; or

246 Amendment of s 848 (Power to correct or amend)

- (1) Section 848(3) and (4)—
omit, insert—

(3) Also, an official may, at any time, amend a condition of an authority if the authority holder agrees in writing to the amendment.

(3A) The chief executive must record in the register the details of an amendment made under subsection (1) or (3), other than an amendment made to a gas work licence, gas work authorisation or gas device approval authority.

(3B) The chief inspector must record in the register kept under section 734AB an amendment made under subsection (1) or (3) to a gas work licence, gas work authorisation or gas device approval authority.

- (2) Section 848(5), ‘subsections (1) and (4)’—
omit, insert—

subsections (1) and (2)

- (3) Section 848(3A) to (6)—

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renumber as section 848(4) to (7).

247 Replacement of s 851A (Public statements)

(1) Section 851A—

omit, insert—

851A Public statements by chief executive

- (1) The chief executive may make or issue a public statement identifying, and giving information about, the following matters—
 - (a) the commission of offences against this Act and the persons who commit the offences;
 - (b) investigations conducted under this Act;
 - (c) action taken by authorised officers to enforce this Act.
- (2) The statement may identify particular offences and persons.
- (3) The chief executive must not issue a public statement under this section unless the chief executive is satisfied it is in the public interest to do so.
- (4) No liability is incurred by the State for anything done in good faith for the purpose of issuing a public statement under this section.
- (5) No liability is incurred by a person for publishing, in good faith, information that has been included in a public statement under this section.
- (6) In this section—

liability includes liability in defamation.

851B Publication of information by Minister, CEO or chief inspector

- (1) The Minister, CEO or chief inspector may publish

information about the following matters—

- (a) the commission of offences against this Act and the persons who commit the offences;
 - (b) investigations conducted under this Act;
 - (c) action taken by inspectors or authorised officers to enforce this Act.
- (2) Also, the Minister, CEO or chief inspector may publish the following information relating to relevant incidents—
- (a) the total number of relevant incidents that happened in a particular period;
 - (b) a description of a relevant incident, including, for example, where and when a relevant incident happened;
 - (c) the details of the holder of a resource authority issued under this Act in relation to which a relevant incident happened;
 - (d) the injuries or deaths that occurred in a relevant incident;
 - (e) any other information about a relevant incident the Minister, CEO or chief inspector considers appropriate.
- (3) The Minister, CEO or chief inspector must not publish information under this section unless satisfied that it is in the public interest to do so.
- (4) No liability is incurred by the State or any other person for the publication of, or for anything done for the purpose of publishing, information under this section in good faith.
- (5) Subsection (4) applies despite section 856.
- (6) In this section—
- liability* includes liability in defamation.
- relevant incident* means—

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- (a) a designated accident or incident under section 705D(8); or
- (b) a prescribed incident under section 706(1).

248 Amendment of s 856 (Protection from liability for particular persons)

Section 856(1)(c), after ‘department’—

insert—

or RSHQ

249 Amendment of s 858 (Approved forms)

(1) Section 858—

insert—

(1A) The CEO may approve forms—

- (a) for use under chapter 9; and
- (b) in relation to the payment of safety and health fees.

(2) Section 858(2)—

omit, insert—

(2) The chief inspector may approve forms for use under chapters 7 to 10 and section 818.

(3) Section 858—

insert—

(5) In this section—

safety and health fee means a safety and health fee under the regulation.

(4) Section 858(1A) to (5)—

renumber as section 858(2) to (6).

250 Amendment of sch 2 (Dictionary)

(1) Schedule 2, definition, *gas system*—

omit.

(2) Schedule 2—

insert—

contractor, for an operating plant or gas work, for chapter 11, part 1AA, see section 799I(1).

enforceable undertaking see section 841E(1).

gas system means a system that—

- (a) consists of the following things in any combination—
 - (i) gas devices;
 - (ii) containers;
 - (iii) fittings;
 - (iv) flues;
 - (v) pipes;
 - (vi) devices that produce fuel gas; and
- (b) either—
 - (i) is used with, or designed or intended to be used with, fuel gas; or
 - (ii) is used, or designed or intended to be used, to produce fuel gas for use in gas devices.

Examples of gas systems—

- 1 an existing system of interconnected domestic gas devices installed in a dwelling house
- 2 a gas device, and associated pipe work, added to an existing system
- 3 a gas-fired industrial boiler installation
- 4 pipes and fittings installed without a gas device in a dwelling house

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5 an electrolyser, and associated pipe work, used to produce fuel gas for use in a gas device

Queensland Government website means a website with a URL that contains ‘qld.gov.au’, other than the website of a local government.

(3) Schedule 1, definition *gas related device*—

insert—

(f) a device used to produce fuel gas.

Part 6

Amendment of Resources Safety and Health Queensland Act 2020

251 Act amended

This part amends the *Resources Safety and Health Queensland Act 2020*.

252 Amendment of s 67 (CEO may disclose information to particular entities)

(1) Section 67(3), definition *prescribed entity*—

insert—

(aa) the chief executive of a department or another entity responsible for administering a law of the Commonwealth or a State about safety and health; or

(2) Section 67(3), definition *prescribed entity*, paragraphs (aa) to (c)—

renumber as paragraphs (b) to (d).