



New South Wales

Petroleum (Onshore) Amendment Bill 2013

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to amend the *Petroleum (Onshore) Act 1991* (the ***Petroleum Act***), the *Mining Act 1992* (the ***Mining Act***) and other Acts as follows:

- (a) to increase penalties for offences relating to mining for petroleum without authority and certain other offences and to revise other offences so that corresponding offences relating to petroleum mining and other mining are in similar terms,
- (b) to enable directions relating to compliance with conditions of petroleum titles and addressing adverse environmental impacts of mining for petroleum to be given and to provide for enforcement of such conditions and appeals against directions,
- (c) to provide for audits of prospecting or mining for petroleum,
- (d) to extend the legal costs that the holders of mining authorities or petroleum titles must pay for landholders relating to arrangements for access to land and to make other provision with respect to access to land by holders of petroleum titles and to make other provision with respect to arrangements for access to land,

- (e) to make it an offence for the holder of a petroleum title to fail to pay royalty,
- (f) to enable the publication of certain environmental information,
- (g) to provide for the appointment of, and to confer inspection and other investigation powers equivalent to those conferred under the Mining Act on, inspectors under the Petroleum Act and to provide for permits for entry onto land the subject of a petroleum title in other circumstances,
- (h) to insert various offences relating to enforcement of the Petroleum Act and the enforcement of rights under, and conditions of, petroleum titles,
- (i) to make existing and new offences relating to the provision of false or misleading information under the Petroleum Act and the Mining Act offences of strict liability,
- (j) to insert other provisions relating to offences under the Petroleum Act, consistent with the Mining Act, including provisions about continuing offences, proceedings for offences, enabling orders to be made requiring offenders to make monetary payments and also enabling restraining orders to be made against the property of offenders against whom payment orders are sought,
- (k) to provide for the ongoing effect of notices given under the Petroleum Act and the Mining Act and of conditions of petroleum titles, authorisations and permits,
- (l) to make other amendments to the Mining Act, consistent with amendments to the Petroleum Act, including the removal of the power to suspend a mining authorisation for contravention of an access arrangement,
- (m) to validate certain appointments,
- (n) to make other minor and consequential amendments and enact savings and transitional provisions consequent on the enactment of the proposed Act.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day or days to be proclaimed.

Schedule 1 Amendment of Petroleum (Onshore) Act 1991 No 84

Penalty increases and changes

Schedule 1 [2] imposes a daily penalty of \$110,000 (for a corporation) and \$22,000 (for a natural person) for the offence of mining petroleum other than in accordance with a petroleum title.

Suspension of petroleum titles

Schedule 1 [3] enables the Minister to suspend operations under a petroleum title if there is a contravention of a direction, a condition of the title or an agreement or assessment relating to the payment of compensation and replaces existing provisions relating to suspension.

Schedule 1 [4] enables the Minister to extend the 6-month maximum period for the suspension of conditions of petroleum titles in particular cases.

Access arrangements

Schedule 1 [5] makes a consequential amendment.

Schedule 1 [6] requires an access arrangement to require the holder of a prospecting title to pay a specified amount for the reasonable legal costs of the landholder for negotiating and making the arrangement and until the arrangement is executed (other than any arbitration costs). The Director-General of the Department of Trade and Investment, Regional Infrastructure and Services (the *Director-General*) may specify the maximum amount of legal costs payable by order published in the Gazette with the concurrence of the NSW Farmers Association and the Australian Petroleum Production and Exploration Association Limited. A greater amount for legal costs may be included in the access arrangement. Currently, only legal costs of initial advice about an arrangement may be recovered and provision for legal costs is not required to be included in the access arrangement unless the landowner requests it.

The amendment also enables regulations to be made prescribing an access code relating to access to land by the holder of a prospecting title and the carrying out of activities on that land by the holder. If the code designates provisions as mandatory provisions, those provisions prevail over any inconsistent provisions of an access arrangement, except where the arrangement imposes more stringent obligations on the holder. An access arrangement may expressly exclude or vary the mandatory provisions.

Schedule 1 [7] enables holders of petroleum titles to carry out seismic surveys on public roads without having to obtain the consent of adjoining land owners.

Environmental and other directions to holders or former holders of petroleum titles

Schedule 1 [8] inserts proposed Division 3 of Part 6. The proposed Division contains provisions based on Division 3 of Part 11 of the Mining Act. The provisions of the proposed Division do the following:

- (a) confer power on the Director-General or an inspector to direct a holder or former holder of a petroleum title to carry out conditions of the title or to take various actions relating to addressing the environmental impact of activities under the title, including land or water rehabilitation. A direction may be revoked or varied and an administrative fee is payable by a person given a direction,

- (b) make it an offence to fail to comply with a direction and provide that a direction does not affect any other liability,
- (c) empower the Minister to give effect to a direction that is not complied with and to recover the costs of giving effect to that direction from the person subject to the direction,
- (d) provide that prior notice is not required to be given to any affected person before a direction is given,
- (e) provide for an appeal against a direction to the Land and Environment Court.

Audits of petroleum prospecting or mining

Schedule 1 [9] inserts proposed Division 5 of Part 6. The proposed Division contains provisions based on Division 6 of Part 11 of the Mining Act. The provisions of the proposed Division do the following:

- (a) describe the nature of an audit and provide for regulations to be made with respect to the accreditation of auditors and the carrying out of audits,
- (b) enable the Director-General to impose mandatory audit conditions on petroleum titles,
- (c) provide for certification of an audit report,
- (d) make it an offence (of strict liability) to provide false or misleading information to an auditor or in an audit report and also make it an offence for an auditor not to include in an audit information that is materially relevant,
- (e) require information to be supplied for audit purposes even if it may incriminate the person concerned and authorise the use of information contained in an audit for the purposes of planning and environment protection legislation,
- (f) provide for voluntary audits, including the protection of documents prepared for the purposes of a voluntary audit.

Payment of royalty

Schedule 1 [10] makes it an offence to fail to pay royalty as required under the Petroleum Act and enables the Minister to charge interest on the amount of any unpaid royalty.

Powers of inspectors

Schedule 1 [11] replaces the provisions relating to inspectors with a new Part based on Part 12 of the Mining Act. The proposed Part sets out powers that may be used by inspectors for compliance and general administrative purposes, including the following:

- (a) powers to issue notices to require information or records relating to the administration of the Petroleum Act,

- (b) powers to enter premises where prospecting or mining for petroleum is being carried out,
- (c) powers that may be exercised at premises entered by inspectors,
- (d) powers to use other persons for assistance and to require assistance to be given,
- (e) powers to require answers to questions and attendance for that purpose and a power to require persons to provide their name and address,
- (f) powers to inspect and test articles.

The proposed Part also provides for the issue of permits by the Minister to other persons to enter land for other purposes, including to carry out rehabilitation works and environmental works, remove petroleum plant, do surveys, take samples and examine possible encroachments on roads or railways.

The proposed Part also makes it an offence to neglect or fail to comply with a requirement of an inspector, to wilfully delay or obstruct an inspector or to impersonate an inspector.

Schedule 1 [13] enables the Director-General to appoint inspectors for the purposes of the Petroleum Act and provides for the issue and use of identification cards by inspectors.

Environmental information

Schedule 1 [14] inserts proposed Division 1 of Part 13. The proposed Division enables the Director-General to publish environmental information about the impact of petroleum prospecting and mining activities obtained by the Director-General, except where the Director-General is notified by the person who provides the information that publication is likely to cause the person a substantial commercial disadvantage. Despite this, the Director-General may publish information the subject of a notification if satisfied that it is in the public interest to do so.

Schedule 1 [15] makes a consequential amendment.

Offences and enforcement

Schedule 1 [16] inserts proposed Part 13A. The proposed Part contains provisions based on Part 17A of the Mining Act. The provisions of the proposed Part do the following:

- (a) make it an offence, without reasonable excuse, to obstruct, hinder or resist inspectors and other specified persons in the exercise of a function under the Petroleum Act or to obstruct the holder of a petroleum title in doing an act authorised under the Petroleum Act,
- (b) make it an offence (of strict liability) to provide false or misleading information in connection with an application or when furnishing information in response to other requirements under the Petroleum Act,
- (c) make each holder of a petroleum title guilty of an offence if a condition of the title is contravened and provide for defences, including a defence for a holder

- who was not associated with the person who contravened the condition and took all reasonable steps to prevent the contravention,
- (d) provide for the circumstances where the directors of a corporation will be liable for an offence when a corporation that is a holder of a petroleum title contravenes a direction by the Director-General or a condition of a petroleum title held by a corporation is contravened,
 - (e) provide for the operation of continuing offences,
 - (f) provide for proceedings for offences to be instituted in the Local Court or the Land and Environment Court (for certain specified offences) and limit the penalty that may be imposed for an offence if proceedings are taken in the Local Court,
 - (g) provide for a 3 year period within which proceedings for an offence may be taken,
 - (h) enable penalty notices to be issued for offences prescribed by the regulations,
 - (i) enable a restraining order to be made that prevents the property of a person from being disposed of if, as a result of proceedings for an offence commenced against the person, the person may be liable to pay an amount for costs for expenses or compensation. If an order is made, a charge will be created over property subject to the order and the costs of registering a charge or lodging a caveat are recoverable from the affected person. It will be an offence to knowingly contravene a restraining order,
 - (j) enable a court to make additional orders where an offence against the Petroleum Act or regulations under that Act is found to be proved, including orders requiring payment of costs and expenses of the Crown or a public authority in connection with remedying or preventing environmental harm caused by the commission of the offence,
 - (k) provide for prima facie evidence of certain matters under the Petroleum Act to be provided in court proceedings by certificate of the Director-General.

Miscellaneous

Schedule 1 [1] inserts definitions.

Schedule 1 [12] inserts a note about the obligation to pay compensation under the Petroleum Act.

Schedule 1 [17] updates the offence prohibiting persons who hold office in an official capacity for the purposes of the Petroleum Act from holding directly or indirectly a beneficial interest in a petroleum title. The provision does not prevent the Director-General from being the holder of an exploration licence on behalf of the Crown.

Schedule 1 [18] makes a consequential amendment. The amendment also provides for notices given and conditions imposed on petroleum titles under the Petroleum Act to have continuing effect during any period in which they are not complied with and

have not been revoked (whether or not any specified period for compliance has expired).

Schedule 1 [19] inserts savings and transitional provisions consequent on the enactment of the proposed Act.

Schedule 2 Amendment of other Acts

Schedule 2.1 Coal Mine Health and Safety Act 2002 No 129

Schedule 2.1 validates the appointment of certain persons.

Schedule 2.2 Fines Act 1996 No 99

Schedule 2.2 updates a reference to the penalty notice provision of the Petroleum Act.

Schedule 2.3 Mining Act 1992 No 29

Schedule 2.3 [1] enables holders of exploration licences to carry out seismic surveys on public roads without having to obtain the consent of adjoining land owners.

Schedule 2.3 [2] enables holders of assessment leases to carry out seismic surveys on public roads without having to obtain the consent of adjoining land owners.

Schedule 2.3 [4] requires an access arrangement to require the holder of a prospecting title to pay a specified amount for the reasonable legal costs of the landholder for negotiating and making the arrangement and until the arrangement is executed (other than any arbitration costs). The Director-General may specify the maximum amount of legal costs payable by order published in the Gazette with the concurrence of the NSW Farmers Association and the NSW Minerals Council. A greater amount for legal costs may be included in the access arrangement. Currently, only legal costs of initial advice about an agreement may be recovered and provision for legal costs is not required to be included in the access arrangement unless the landowner requests it. **Schedule 2.3 [3]** makes a consequential amendment.

Schedule 2.3 [5] removes the power of the Director-General to suspend operations under an authorisation on the ground that there has been a contravention of an access arrangement.

Schedule 2.3 [6] corrects an incorrect reference.

Schedule 2.3 [7] provides for an appeal to the Land and Environment Court against an environmental or rehabilitation direction given by the Director-General or an inspector to the holder of an authorisation.

Schedule 2.3 [8] makes it clear that prior notice is not required to be given of an environmental or rehabilitation direction given to the holder of an authorisation.

Schedule 2.3 [9] updates references to provisions of the *Environmental Planning and Assessment Act 1979* that relate to the effect of approvals under the Petroleum Act.

Schedule 2.3 [10]–[12] make the offence relating to the provision of false or misleading information to an auditor in connection with a mandatory audit, and the offence by an auditor of providing false or misleading information in an audit report, strict liability offences. The defence of honest and reasonable mistake will apply to the offences.

Schedule 2.3 [13]–[15] extend powers of inspectors to require answers, to record questions and answers and to request a person to supply the person's name and address to all the situations in which other powers of inspectors under the Mining Act may be used. The provision inserting the uncommenced provision that limits the use of such powers is to be repealed by **Schedule 2.4**.

Schedule 2.3 [16] omits a provision conferring broad powers of entry on inspectors.

Schedule 2.3 [17] requires the classes of persons who may be appointed as inspectors and conditions and restrictions on the powers of inspectors to be published in the Gazette.

Schedule 2.3 [18] updates the offence prohibiting persons who hold office in an official capacity for the purposes of the Mining Act from holding directly or indirectly a beneficial interest in an authority, a mineral claim or an opal prospecting licence.

Schedule 2.3 [19] restricts the offence of obstructing a person in the exercise of a function under the Mining Act to obstruction of inspectors, authorised officers, auditors undertaking mandatory audits and other persons prescribed by the regulations.

Schedule 2.3 [20] makes it an offence for a person, without reasonable excuse, to obstruct or hinder another person authorised by the holder of an authorisation from doing an act authorised under the Mining Act.

Schedule 2.3 [21]–[23] amend the existing offence of furnishing false or misleading information in connection with an application or a requirement under the Mining Act so that it will be a strict liability offence. A further strict liability offence of furnishing false or misleading information in compliance with a requirement by an inspector to provide information or records is also inserted. The defence of honest and reasonable mistake of fact will apply to the offences.

Schedule 2.3 [24] extends to all offences under the Act a period for commencement of proceedings of 3 years, commencing on the later of the date of the alleged offence or when evidence of the alleged offence first came to the attention of an inspector or the Director-General. **Schedule 2.3 [25], [26] and [30]** make consequential amendments.

Schedule 2.3 [27] inserts proposed Division 1 of Part 18. The proposed Division enables the Director-General to publish environmental information about the impact of prospecting and mining activities obtained by the Director-General, except where the Director-General is notified by the person who provides the information that publication is likely to cause the person a substantial commercial disadvantage. Despite this, the Director-General may publish information the subject of a notification if satisfied that it is in the public interest to do so. The amendment also

provides for notices given and conditions imposed on authorisations under the Mining Act to have continuing effect during any period in which they are not complied with and have not been revoked (whether or not any specified period for compliance has expired).

Schedule 2.3 [28] validates delegations made by the Minister of functions under the *Environmental Planning and Assessment Act 1979* if the delegations could have been made under the Mining Act after the amendment of its delegation provisions by the *Mining Amendment Act 2008*.

Schedule 2.3 [29] inserts savings and transitional provisions consequent on the enactment of the proposed Act.

Schedule 2.4 Mining Amendment Act 2008 No 19

Schedule 2.4 [1] and [2] omit uncommenced amendments to the Mining Act.

Schedule 2.5 Land and Environment Court Act 1979 No 204

Schedule 2.5 confers jurisdiction, in Class 1 of its jurisdiction, on the Land and Environment Court for appeals against environmental and rehabilitation directions given under the Petroleum Act and the Mining Act.

Schedule 2.6 Law Enforcement (Powers and Responsibilities) Act 2002 No 103

Schedule 2.6 applies provisions of the *Law Enforcement (Powers and Responsibilities) Act 2002* relating to the issue of search warrants to search warrants issued under the new section relating to search warrants inserted in the Petroleum Act by the proposed Act.

First print



New South Wales

Petroleum (Onshore) Amendment Bill 2013

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New South Wales

Petroleum (Onshore) Amendment Bill 2013

No. , 2013

A Bill for

An Act to amend the *Petroleum (Onshore) Act 1991* and the *Mining Act 1992* with respect to enforcement of those Acts, petroleum titles and authorisations, access to land and payment of royalties for petroleum; and for other purposes.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Petroleum (Onshore) Amendment Act 2013</i> .	3
2 Commencement	4
This Act commences on a day or days to be appointed by proclamation.	5

Schedule 1	Amendment of Petroleum (Onshore) Act 1991 No 84	1
		2
[1] Section 3 Definitions		3
Insert in alphabetical order in section 3 (1):		4
<i>exercise</i> a function includes perform a duty.		5
<i>function</i> includes a power, authority or duty.		6
<i>inspector</i> means a person appointed, or taken to be appointed, as an inspector under section 113.		7
<i>public authority</i> means a public authority constituted by or under an Act and includes the following:		8
(a) a Government Department,		9
(b) a statutory body representing the Crown, a State owned corporation within the meaning of the <i>State Owned Corporations Act 1989</i> and a subsidiary (within the meaning of that Act),		10
(c) a council,		11
(d) a member of staff or other person who exercises functions on behalf of a public authority.		12
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		18
[2] Section 7 Offence of prospecting or mining without authority		19
Omit the maximum penalty relating to mining from section 7 (1).		20
Insert instead:		21
Maximum penalty for mining in contravention of this section:		22
(a) in the case of a corporation—10,000 penalty units, and, in the case of a continuing offence, a further penalty of 1,000 penalty units for each day that the offence continues, or		23
(b) in the case of a natural person—2,000 penalty units or imprisonment for 5 years, or both, and, in the case of a continuing offence, a further penalty of 200 penalty units for each day that the offence continues.		24
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		30
[3] Section 22 Cancellation and suspension of title		31
Omit section 22 (3A) and (3B). Insert instead:		32
(3A) The Minister may, by written notice (a <i>suspension notice</i>), direct the holder of a petroleum title to suspend (by such time as is specified in the notice and until further notice) all or any specified operations under a petroleum title if the Minister considers that there has been a contravention of:		33
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		36
		37

(a)	a requirement under this Act to pay royalty, or	1
(b)	a direction under section 78 that relates to the title, or	2
(c)	a condition of the title, or	3
(d)	an agreement or assessment under Part 11 relating to the payment of compensation in connection with the title.	4 5
(3B)	The suspension of a petroleum title does not affect any liability incurred by the holder of the petroleum title before the suspension took effect.	6 7 8
[4]	Section 24 Suspension of conditions of petroleum title	9
	Insert “or such longer period as the Minister may in any case allow” after “6 months” in section 24 (2).	10 11
[5]	Section 69D Matters for which access arrangement to provide	12
	Omit section 69D (2A).	13
[6]	Sections 69DA–69DC	14
	Insert after section 69D:	15
69DA	Legal costs	16
(1)	An access arrangement must specify an amount that the holder of the prospecting title is required to pay for the reasonable legal costs of the landholder in connection with the arrangement.	17 18 19
(2)	The amount so specified is to be for costs of legal services in connection with negotiating and making an access arrangement during the period commencing when notice under section 69E is served on the landholder and ending on the date the arrangement is executed. The amount is not to cover costs for any legal services in connection with arbitration relating to the access arrangement.	20 21 22 23 24 25 26
(3)	The Director-General may, by order published in the Gazette and with the concurrence of the NSW Farmers Association and Australian Petroleum Production and Exploration Association Limited, set a maximum amount for such legal costs.	27 28 29 30
(4)	Despite subsection (3), an access arrangement may specify an amount for such legal costs that exceeds the maximum amount set by the Director-General.	31 32 33

69DB	Access code	1
(1)	The regulations may prescribe a code (an <i>access code</i>) containing provisions relating to access to land by the holder of a prospecting title and the carrying out of activities on that land by the holder.	2 3 4 5
(2)	The regulations may designate any or all of the provisions of an access code as mandatory provisions.	6 7
69DC	Application of mandatory provisions of access codes	8
(1)	An access arrangement is taken to include provisions in the same terms as the mandatory provisions of the access code unless the arrangement expressly excludes or varies the terms of the mandatory provisions.	9 10 11 12
(2)	An access arrangement has no effect to the extent that it is inconsistent with a mandatory provision included in the arrangement by this section.	13 14 15
(3)	Despite any other provision of this section, an access arrangement may impose additional or more stringent obligations on the holder of a prospecting title as to matters the subject of a mandatory provision.	16 17 18 19
[7]	Section 72 Restrictions on rights of holders of titles over other land	20
	Insert after section 72 (4):	21
(5)	This section does not apply to the holder of a petroleum title who carries out a seismic survey on a public road.	22 23
[8]	Part 6 Protection of the environment	24
	Omit Division 3. Insert instead:	25
Division 3	Environmental, rehabilitation and other directions	26 27
77	Definitions	28
	In this Division:	29
	<i>authorised person</i> means:	30
(a)	a person engaged in connection with the taking of steps under section 79E, or	31 32
(b)	the Director-General, or	33
(c)	a person authorised in writing by the Director-General for the purposes of this Division, or	34 35

(d)	an inspector.	1
	responsible person means:	2
(a)	in relation to a petroleum title that is in force, the holder of the title, or	3 4
(b)	in relation to a petroleum title that has ceased to be in force, the person who was the holder of the title immediately before it ceased to be in force.	5 6 7
78	Directions	8
(1)	The Director-General or an inspector may, by written notice, direct a responsible person in relation to a petroleum title to do any one or more of the following:	9 10 11
(a)	to give effect to a condition of the title (except a condition requiring payment of royalty or provision or maintenance of a security deposit),	12 13 14
(b)	to address any adverse impact that activities carried out under, or purportedly carried out under, a title have had on any aspect of the environment,	15 16 17
(c)	to address a risk of there being such an impact,	18
(d)	to conserve the environment, protect it from harm as a result of activities under the title or to prevent, control or mitigate any such harm,	19 20 21
(e)	to rehabilitate land or water that is or may be affected by activities under the title.	22 23
(2)	A direction may require a responsible person to carry out or stop carrying out particular activities, carry out activities in a particular manner or achieve specified outcomes within such period (if any) as is specified in the direction.	24 25 26 27
79	Revocation or variation	28
(1)	A direction under this Division may be revoked or varied by a subsequent direction issued in accordance with this Division.	29 30
(2)	A direction may be varied by modification of, or addition to, its terms and specifications.	31 32
(3)	Without limiting the above, a direction may be varied by extending the time for complying with the direction.	33 34

79A	Breach of direction	1
	If a person fails, without reasonable excuse, to comply with a direction under this Division the person to whom the direction was issued is guilty of an offence.	2 3 4
	Maximum penalty:	5
	(a) in the case of a corporation—10,000 penalty units, and, in the case of a continuing offence, a further penalty of 1,000 penalty units for each day that the offence continues, or	6 7 8 9
	(b) in the case of a natural person—2,000 penalty units, and, in the case of a continuing offence, a further penalty of 200 penalty units for each day that the offence continues.	10 11 12
	Note. An offence against this section committed by a corporation is an executive liability offence attracting executive liability for a director or other person involved in the management of the corporation—see section 125F.	13 14 15 16
79B	Effect of direction	17
	The issuing of a direction under this Division does not affect:	18
	(a) the liability of any person to any penalty for an offence in relation to a petroleum title, or	19 20
	(b) the amount of security deposit that is or may be required under a petroleum title, or	21 22
	(c) the operation of any other provision of this Act or the regulations that requires or enables other action to be taken in relation to any contravention or other circumstances to which the direction relates.	23 24 25 26
	Note. For example, the issuing of a direction does not affect the power to cancel a petroleum title under section 22.	27 28
79C	Fee	29
	(1) The purpose of this section is to enable the recovery of the administrative costs of preparing and issuing a direction under this Division (not including a direction that varies an earlier direction under this Division).	30 31 32 33
	(2) A person to whom a direction is issued must within 30 days pay the fee prescribed by the regulations to the Director-General.	34 35

79D Appeals against directions	1
(1) Any person who is aggrieved by a decision of the Director-General or an inspector to give the person a direction under this Division may appeal to the Land and Environment Court against the decision.	2 3 4 5
(2) An appeal must be made within 14 days of the direction being given or within such further period as the Land and Environment Court may in any case allow.	6 7 8
(3) The lodging of an appeal does not operate to stay the direction, unless the Land and Environment Court so orders.	9 10
79E Rehabilitation by Minister at holder's expense	11
(1) If a person on whom a direction is served under this Division does not comply with the direction, the Minister may take any action necessary to give effect to the direction.	12 13 14
(2) Any costs or expenses incurred by the Crown under this section are a debt due to the Crown by the person on whom the direction was served and are recoverable in a court of competent jurisdiction.	15 16 17 18
(3) An authorised person may enter any land and do anything that in the person's opinion is necessary for or in connection with the taking of that action (including gaining access from that land to other land).	19 20 21 22
(4) However, an authorised person must not enter land unless the person:	23 24
(a) has given the occupier of the land reasonable notice of the person's intention to do so, and	25 26
(b) enters the land at a reasonable time (except in the case of an emergency), and	27 28
(c) uses no more force than is reasonably necessary to effect entry, and	29 30
(d) before entering any premises on the land that are used only for residential purposes, has obtained the permission of the occupier of those premises.	31 32 33
(5) A person who suffers damage caused by the taking of any action under this section is entitled to be paid reasonable compensation by the person who failed to comply with the direction (as referred to in subsection (1)).	34 35 36 37

(6)	Part 11 and section 115 apply (with such modifications as may be prescribed by the regulations) to that compensation as if it were compensation payable under Part 11.	1 2 3
79F	Recovery of costs of rehabilitation	4
(1)	In any proceedings for the recovery of a debt due to the Crown under this Division, a certificate that is signed by the Minister and that states that a specified amount is the amount of the debt so due is admissible in evidence in all courts and is evidence of that fact.	5 6 7 8
(2)	A debt due to the Crown under this Division is recoverable whether or not the person by whom it is due is prosecuted or convicted of an offence under this Division.	9 10 11
79G	Prior notice of direction not required	12
	A person who gives a direction under this Division is not required to notify any person who may be affected by the direction before giving the direction.	13 14 15
[9]	Part 6, Division 5	16
	Insert after Division 4:	17
	Division 5 Audits	18
83A	Relationship of this Division to other provisions	19
	This Division does not affect any other provision of this Act that:	20
(a)	enables a petroleum title to be subject to a condition requiring monitoring or reporting, or	21 22
(b)	relates to functions exercisable by persons for the purpose of auditing compliance with this Act, the regulations or conditions of petroleum titles.	23 24 25
83B	Nature of audit	26
	An audit under this Division is a periodic or particular documented evaluation of prospecting or mining for petroleum (including management practices, systems and plant) for any one or more of the following purposes:	27 28 29 30
(a)	to provide information on compliance or otherwise with obligations under the petroleum title or other related legal requirements under this or any other law (including in relation to the protection of the environment from the impacts of, or the rehabilitation of land affected by, activities under the title),	31 32 33 34 35 36

(b)	to provide information on compliance or otherwise with codes of practice or policies relevant to the petroleum title,	1 2
(c)	to enable a determination of whether the way activities are being carried out under the petroleum title can be improved in order to protect the environment.	3 4 5
83C	Accreditation and regulation of auditors	6
	The regulations may make provision for or with respect to either or both of the following:	7 8
(a)	the accreditation of auditors for the purposes of this Division,	9 10
(b)	the carrying out of audits by auditors.	11
83D	Conditions for mandatory audits	12
(1)	A condition that requires one or more mandatory audits to be undertaken, to the satisfaction of the Director-General, for any one or more of the purposes referred to in section 83B (a <i>mandatory audit condition</i>) may be imposed on a petroleum title under section 23.	13 14 15 16 17
(2)	A mandatory audit condition must specify the purpose or purposes of the audit.	18 19
(3)	A mandatory audit condition may require any one or more of the following:	20 21
(a)	appointment of an auditor to undertake the audit,	22
(b)	approval by the Director-General of the auditor before being appointed,	23 24
(c)	preparation of particular written documentation during the course of the audit,	25 26
(d)	preparation of an audit report,	27
(e)	production to the Director-General of the audit report.	28
(4)	A mandatory audit condition may also:	29
(a)	specify the format and level of detail required for the audit, or	30 31
(b)	require the auditor to submit the proposed format and level of detail to the Director-General for approval.	32 33
(5)	A mandatory audit condition may be varied or revoked by written notice served on the holder of the petroleum title.	34 35

(6)	A condition imposed under this section takes effect on the date on which written notice of the condition is served on the holder of the petroleum title or on any later date specified in the notice.	1 2 3
(7)	This section does not affect the operation of the following provisions of the <i>Environmental Planning and Assessment Act 1979</i> :	4 5 6
(a)	section 89K (Approvals etc legislation that must be applied consistently),	7 8
(b)	section 93 (Granting and modification of approval by approval body),	9 10
(c)	section 115ZH (Approvals etc legislation that must be applied consistently),	11 12
(d)	section 75V (Approvals etc legislation that must be applied consistently) as continued in force by Schedule 6A to that Act.	13 14 15
83E	Certification of audit report	16
	The audit report for a mandatory audit is taken not to have been duly produced to the Director-General unless it is accompanied by:	17 18 19
(a)	a declaration signed by the holder of the petroleum title certifying that the holder has not knowingly provided any false or misleading information to the auditor and has provided all relevant information to the auditor, and	20 21 22 23
(b)	a declaration signed by the auditor:	24
(i)	setting out the auditor's qualifications, and	25
(ii)	certifying that the report is accurate, and that the auditor has not knowingly included any false or misleading information in it or failed to include any relevant information in it.	26 27 28 29
83F	Offences relating to audit information	30
(1)	A person must not provide information that is false or misleading in a material particular to an auditor in connection with a mandatory audit.	31 32 33
(2)	The holder of a petroleum title who fails to provide information to an auditor in connection with a mandatory audit being carried out in relation to the petroleum title, knowing the information to be materially relevant to the audit, is guilty of an offence.	34 35 36 37

(3)	An auditor must not include information in an audit report produced to the Director-General that is false or misleading in a material respect.	1 2 3
(4)	An auditor who fails to provide information in an audit report produced to the Director-General in connection with a mandatory audit, knowing the information to be materially relevant to the audit, is guilty of an offence.	4 5 6 7
(5)	The holder of a petroleum title who:	8
	(a) fails to retain any written documentation required to be prepared by the holder in connection with a mandatory audit for a period of at least 5 years after the audit report concerned was produced to the Director-General (or such other period as is prescribed by the regulations), or	9 10 11 12 13
	(b) fails to produce during that period any such documentation to the Director-General on request,	14 15
	is guilty of an offence.	16
(6)	The offences under subsections (1) and (3) are offences of strict liability and the defence of honest and reasonable mistake of fact applies.	17 18 19
	Maximum penalty:	20
	(a) in the case of a corporation—1,000 penalty units, or	21
	(b) in the case of a natural person—500 penalty units.	22
83G	Self-incriminatory information not exempt	23
	Information must be supplied by a person in connection with a mandatory audit, and this Division applies to any such information that is supplied, whether or not the information might incriminate the person.	24 25 26 27
83H	Use of information	28
(1)	Any information in an audit report or other documentation supplied to the Director-General in connection with a mandatory audit may be supplied by the Director-General to, and taken into consideration by, any person who has functions under this Act, the <i>Environmental Planning and Assessment Act 1979</i> or the environment protection legislation and may be used by that person for the purposes of those laws.	29 30 31 32 33 34 35
(2)	Without limiting subsection (1):	36
	(a) the Director-General is authorised, despite any other Act or law, to provide a relevant agency with any such information, and	37 38 39

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| (b) | any such information is admissible in evidence in any prosecution of the holder of a petroleum title for any offence (whether under this Act or otherwise). | 1
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| (3) | In this section, <i>relevant agency</i> means the Department, or a public authority engaged in administering or executing the environment protection legislation, the <i>Environmental Planning and Assessment Act 1979</i> or such other legislation, if any, as may be prescribed by the regulations. | 4
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| 83I | Nature of voluntary audit | 9 |
| (1) | For the purposes of this Division, a <i>voluntary audit</i> is an audit commissioned or carried out voluntarily, whether or not in relation to activities carried out under a petroleum title. | 10
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| (2) | An audit is not voluntary if there is a contemporaneous requirement for a mandatory audit in relation to the same or substantially the same activity or other matter and the audits are to be carried out by the same person. | 13
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| 83J | Protected documents | 17 |
| (1) | Documents prepared for the sole purpose of a voluntary audit are protected documents for the purposes of this Act. | 18
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| (2) | The protected documents include the final report of the audit and any documents prepared during the course of the audit for the sole purpose of the audit. | 20
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| (3) | Without affecting the generality of subsection (1) or (2), documents are not protected if they are prepared wholly or partly in connection with monitoring or reporting that is required by any conditions of a petroleum title or by a direction under section 78. | 23
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| 83K | Nature of protection | 27 |
| (1) | A protected document: | 28 |
| (a) | is not admissible in evidence against any person in any proceedings connected with the administration or enforcement of this Act, the environment protection legislation or such other legislation, if any, as may be prescribed by the regulations, and | 29
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| (b) | must not be inspected, copied, seized or otherwise obtained by the Department, any authority prescribed by the regulations or by any other person for any purpose connected with such administration or enforcement. | 34
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(2)	Neither the Department, a prescribed authority nor any other person may, for the purpose referred to in subsection (1) (b), require a person to answer any question or provide any information about the existence of the document or about what it contains.	1 2 3 4 5
(3)	The onus of establishing that a document is a protected document lies on the person asserting that it is protected.	6 7
(4)	A court may inspect any document that is claimed to be a protected document for the purpose of determining whether it is or is not a protected document.	8 9 10
(5)	The regulations may prescribe procedures for making and determining claims that a document is a protected document.	11 12
83L	Lifting of protection	13
(1)	Documents prepared in relation to a voluntary audit cease to be protected if the person asserting or relying on the protection uses or relies on (or attempts to use or rely on) the whole or any part of one or more of the documents, whether directly or indirectly, in any proceedings connected with the administration or enforcement of this Act, the environment protection legislation or such other legislation, if any, as may be prescribed.	14 15 16 17 18 19 20
(2)	This section does not apply where the person is using or relying on (or attempting to use or rely on) a document for the purpose of establishing that the document is protected.	21 22 23
[10]	Section 92	24
	Omit the section. Insert instead:	25
92	Failure to pay royalty as required	26
(1)	A person who is liable to pay royalty and who fails to pay royalty as required by section 91 is guilty of an offence.	27 28
	Maximum penalty:	29
(a)	in the case of a corporation—10,000 penalty units, and, in the case of a continuing offence, a further penalty of 1,000 penalty units for each day that the offence continues, or	30 31 32 33
(b)	in the case of a natural person—2,000 penalty units or imprisonment for 12 months, or both, and, in the case of a continuing offence, a further penalty of 200 penalty units for each day that the offence continues.	34 35 36 37

(2)	If an amount of royalty payable to the Minister is not paid by the time that it becomes payable in accordance with section 91, interest is, if the Minister so directs, to be added to the amount due at such rate as the Minister determines.	1 2 3 4
[11] Part 9		5
	Omit the Part. Insert instead:	6
	Part 9 Powers of entry and inspection	7
	Division 1 Preliminary	8
	98 Purposes for which powers under Part may be exercised	9
	Powers may be exercised under this Part for the following purposes:	10 11
(a)	for determining whether there has been compliance with or a contravention of this Act or the regulations or any petroleum title, direction, notice or requirement issued or made under this Act,	12 13 14 15
(b)	for obtaining information or records for purposes connected with the administration of this Act,	16 17
(c)	generally for administering this Act.	18
	99 Effect on other functions	19
	Nothing in this Part:	20
(a)	affects any function under any other Part of this Act or under any other Act, or	21 22
(b)	limits the conditions that may be attached to a petroleum title.	23 24
	Division 2 Powers to require information and records	25
	100 Application of Division	26
	This Division applies whether or not a power of entry under Division 3 is being or has been exercised.	27 28
	101 Requirement to provide information and records	29
(1)	An inspector may, by written notice given to a person, require the person to furnish to the inspector such information or records (or both) as the inspector requires by the notice in connection with any matter relating to the administration of this Act.	30 31 32 33

- (2) The notice must specify the manner in which the information or records are required to be furnished and a reasonable time by which the information or records are required to be furnished. 1
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- (3) If a record required to be furnished under the notice is in electronic, mechanical or other form, the notice requires the record to be furnished in written form, unless the notice otherwise provides. 4
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- (4) The notice may only require a person to furnish existing records that are in the person's possession or that are within the person's power to obtain lawfully. 8
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- (5) The inspector to whom a record is furnished under the notice may take copies of the record. 11
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Division 3 Powers of entry and search 13

102 Powers to enter premises 14

- (1) An inspector may enter: 15
 - (a) any premises at which the inspector reasonably suspects that any prospecting or mining for petroleum is being or is about to be carried out—at any time, and 16
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 - (b) any premises that the inspector reasonably suspects have been, are being or are likely to be affected by prospecting or mining for petroleum—at any time, and 19
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 - (c) any premises where the inspector reasonably believes that documents that relate to any activity referred to in paragraph (a) or (b) are kept—at any time. 22
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- (2) The power to enter premises authorises entry by foot or by means of a motor vehicle or other vehicle, or by an aircraft, or in any other manner. 25
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- (3) Entry may be effected with the aid of such police officers or other inspectors as the inspector considers necessary and with the use of reasonable force. 28
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- (4) Entry may be effected to any premises with the authority of a search warrant under section 104A. 31
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103 Entry into residential premises only with permission or warrant 33

This Division does not entitle an inspector to enter any part of premises used only for residential purposes without the permission of the occupier or the authority of a search warrant under section 104A. 34
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104 Powers of inspectors to do things at premises	1
(1) An inspector may, at any premises lawfully entered, do anything that in the opinion of the inspector is necessary to be done for the purposes of this Part, including (but not limited to) the things specified in subsection (2).	2 3 4 5
(2) An inspector may do any or all of the following:	6
(a) examine and inspect any works, plant, vehicle, aircraft or other article,	7 8
(b) take and remove samples,	9
(c) make such examinations, inquiries and tests as the inspector considers necessary,	10 11
(d) take such photographs, films, audio, video and other recordings as the inspector considers necessary,	12 13
(e) require records to be produced for inspection,	14
(f) examine and inspect any records,	15
(g) take extracts from, or a copy of, any records,	16
(h) seize anything that the inspector has reasonable grounds for believing is connected with an offence against this Act or the regulations,	17 18 19
(i) for the purposes of paragraph (h), direct the occupier of the premises where the thing is seized to retain it at those premises or at another place under the control of the occupier,	20 21 22 23
(j) do any other thing the inspector is empowered to do under this Part.	24 25
(3) The power to seize anything connected with an offence includes a power to seize:	26 27
(a) a thing with respect to which the offence has been committed, and	28 29
(b) a thing that will afford evidence of the commission of the offence, and	30 31
(c) a thing that was used for the purpose of committing the offence.	32 33
A reference to any such offence includes a reference to an offence that there are reasonable grounds for believing has been committed.	34 35 36

104A	Search warrants	1
(1)	An inspector may apply to an authorised officer within the meaning of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> for the issue of a search warrant if the inspector believes on reasonable grounds that:	2
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	(a) a provision of this Act or the regulations is being or has been contravened at any premises, or	6
		7
	(b) there is in or on any premises matter or a thing that is connected with an offence under this Act or the regulations.	8
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(2)	An authorised officer within the meaning of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> to whom an application is made may, if satisfied that there are reasonable grounds for doing so, issue a search warrant authorising an inspector named in the warrant:	11
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	(a) to enter the premises, and	16
	(b) to exercise any function of an inspector under this Part.	17
(3)	Division 4 of Part 5 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> applies to a search warrant issued under this section.	18
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		20
(4)	In this section:	21
	<i>matter or a thing</i> connected with an offence means:	22
	(a) matter or a thing with respect to which the offence has been committed, or	23
		24
	(b) matter or a thing that will afford evidence of the commission of an offence, or	25
		26
	(c) matter or a thing that was used, or is intended to be used, for the purpose of committing the offence.	27
		28
	<i>offence</i> includes an offence that there are reasonable grounds for believing has been, or is to be, committed.	29
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104B	Inspectors may request assistance	31
	A person may accompany an inspector and take all reasonable steps to assist the inspector in the exercise of his or her functions under this Part if the inspector is of the opinion that the person is capable of providing assistance to the inspector in the exercise of those functions.	32
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104C	Assistance to be given to inspectors	1
(1)	This section applies for the purpose of enabling an inspector to exercise any of the powers of an inspector under this Part in connection with any premises.	2 3 4
(2)	The Director-General may, by written notice given to the owner or occupier of the premises, require the owner or occupier to provide such reasonable assistance and facilities as are specified in the notice within a specified time and in a specified manner.	5 6 7 8
(3)	Assistance and facilities can be required under this section, whether they are of the same kind as, or a different kind from, any prescribed by the regulations.	9 10 11
104D	Care to be taken	12
	In the exercise of a power of entering or searching premises under this Part, the inspector must do as little damage as possible.	13 14
104E	Compensation	15
	The Crown is to compensate all interested parties for any damage caused by an inspector in exercising a power under this Part to enter premises (but not any damage caused by the exercise of any other power), unless the occupier obstructed or hindered the inspector in the exercise of the power of entry.	16 17 18 19 20
Division 4	Additional powers relating to certain offences	21 22
104F	Power of inspectors to require answers	23
(1)	An inspector may require a person whom the inspector suspects on reasonable grounds to have knowledge of matters in respect of which information is reasonably required for a purpose to which this Part applies to answer questions in relation to those matters.	24 25 26 27
(2)	The Director-General may, by written notice, require a corporation to nominate, in writing within the time specified in the notice, a director or officer of the corporation to be the corporation's representative for the purpose of answering questions under this section.	28 29 30 31 32
(3)	Answers given by a person nominated under subsection (2) bind the corporation.	33 34
(4)	An inspector may, by written notice, require a person to attend at a specified place and time to answer questions under this section	35 36

	if attendance at that place is reasonably required in order that the questions can be properly put and answered.	1 2
(5)	The place and time at which a person may be required to attend is to be:	3 4
	(a) a place or time nominated by the person, or	5
	(b) if the place and time nominated is not reasonable in the circumstances or a place and time is not nominated by the person, a place and time nominated by the inspector that is reasonable in the circumstances.	6 7 8 9
104G	Recording of evidence	10
(1)	An inspector may cause any questions and answers to questions given under this Part to be recorded if the inspector has informed the person who is to be questioned that the record is to be made.	11 12 13
(2)	A record may be made using sound recording apparatus or audio visual apparatus, or any other method determined by the inspector.	14 15 16
(3)	A copy of any such record must be provided by the inspector to the person who is questioned as soon as practicable after it is made.	17 18 19
(4)	A record may be made under this section despite the provisions of any other law.	20 21
104H	Power of inspectors to demand name and address	22
(1)	An inspector may require a person whom the inspector suspects on reasonable grounds to have offended or to be offending against a provision of this Act or the regulations to state his or her full name and residential address.	23 24 25 26
(2)	An inspector may request a person who is required under this section to state his or her full name and residential address to provide proof of the name and address. It is not an offence under section 104L to fail to comply with any such request.	27 28 29 30
(3)	The maximum penalty for an offence under section 104L in connection with a requirement under this section is 100 penalty units, despite anything to the contrary in that section.	31 32 33
Division 5	Powers with respect to articles	34
104I	Definition	35
	In this Division, <i>article</i> includes any plant, motor or other vehicle, aircraft, vessel or other thing of any description.	36 37

104J	Application of Division	1
	Nothing in this Division limits the functions that may be exercised under any other Division of this Part.	2 3
104K	Power to inspect and test	4
(1)	An inspector may, for the purposes of this Part, inspect and test any article.	5 6
(2)	The inspector may, for the purposes of any such inspection or testing:	7 8
	(a) enter the article, and	9
	(b) enter in accordance with this Act the premises where the article is located, and	10 11
	(c) operate the article, and	12
	(d) take photographs or video films of the article, and	13
	(e) inspect or test any substance being carried by the article or in any container on the article, and	14 15
	(f) take a sample of any such substance for testing.	16
	Division 6	17
	General	
104L	Offences	18
(1)	A person who, without lawful excuse, neglects or fails to comply with a requirement made of the person under this Part is guilty of an offence.	19 20 21
(2)	A person who wilfully delays or obstructs an inspector in the exercise of the inspector's powers under this Part is guilty of an offence.	22 23 24
(3)	A person who impersonates an inspector is guilty of an offence.	25
	Maximum penalty:	26
	(a) in the case of a corporation—10,000 penalty units, and, in the case of a continuing offence, a further penalty of 1,000 penalty units for each day that the offence continues, or	27 28 29 30
	(b) in the case of a natural person—2,000 penalty units, and, in the case of a continuing offence, a further penalty of 200 penalty units for each day that the offence continues.	31 32 33

104M	Provisions relating to requirements to furnish records, information or answer questions	1 2
(1)	A person is not guilty of an offence of failing to comply with a requirement under this Part to furnish records or information or to answer a question unless the person was warned on that occasion that a failure to comply is an offence.	3 4 5 6
(2)	A person is not excused from a requirement under this Part to furnish records or information or to answer a question on the ground that the record, information or answer might incriminate the person or make the person liable to a penalty.	7 8 9 10
(3)	However, any information furnished or answer given by a natural person in compliance with a requirement under this Part is not admissible in evidence against the person in criminal proceedings (except proceedings for an offence under this Part) if:	11 12 13 14
	(a) the person objected at the time to doing so on the ground that it might incriminate the person, or	15 16
	(b) the person was not warned on that occasion that the person may object to furnishing the information or giving the answer on the ground that it might incriminate the person.	17 18 19
(4)	Any record furnished by a person in compliance with a requirement under this Part is not inadmissible in evidence against the person in criminal proceedings on the ground that the record might incriminate the person.	20 21 22 23
(5)	Further information obtained as a result of a record or information furnished or of an answer given in compliance with a requirement under this Part is not inadmissible on the ground:	24 25 26
	(a) that the record or information had to be furnished or the answer had to be given, or	27 28
	(b) that the record or information furnished or answer given might incriminate the person.	29 30
(6)	This section extends to a requirement under this Part to state a person's name and address.	31 32
104N	Revocation or variation	33
(1)	A notice given under this Part may be revoked or varied by a subsequent notice or notices.	34 35
(2)	A notice may be varied by modification of, or addition to, its terms and specifications.	36 37
(3)	Without limiting subsection (2), a notice may be varied by extending the time for complying with the notice.	38 39

(4)	A notice may only be revoked or varied by an inspector (whether or not the inspector gave the notice).	1 2
104O	Extraterritorial application	3
	A notice may be given under this Part to a person in respect of a matter even though the person is outside the State or the matter occurs or is located outside the State, so long as the matter relates to the administration of this Act (including, but not limited to investigation of, or enforcement action relating to, offences against this Act).	4 5 6 7 8 9
Division 7	Entry in other circumstances—permits	10
104P	Entry on land for rehabilitation purposes etc	11
(1)	The Minister may grant a permit to any person to enter any land so as to enable the person:	12 13
(a)	to carry out any rehabilitation work in accordance with a direction in force under section 78, or	14 15
(b)	to remove any petroleum plant from any land in accordance with a direction under section 82 or as a result of a sale conducted under section 83.	16 17 18
(2)	The holder of a permit under this section, and any employee or agent of the holder, may, in accordance with the permit:	19 20
(a)	enter the land to which the permit relates, and	21
(b)	do on that land all such things as are reasonably necessary to achieve the purpose for which the permit is granted.	22 23
104Q	Surveys and sampling	24
(1)	The Minister may grant a permit to any registered surveyor, or any officer of the Department, to enter any land for any of the following purposes:	25 26 27
(a)	the carrying out of any geological, geophysical, geochemical or other survey of the land,	28 29
(b)	the removal of petroleum, water or strata from the land.	30
(2)	The holder of a permit under this section, and any employee, agent or assistant of the holder, may, in accordance with the permit:	31 32 33
(a)	enter the land to which the permit relates, and	34
(b)	do on that land all such things as are reasonably necessary to achieve the purpose for which the permit was granted.	35 36

104R	Environmental assessment	1
(1)	The Minister may, on the application of a person who proposes to undertake an assessment (for the purposes of this Act or the <i>Environmental Planning and Assessment Act 1979</i>) of the likely effect on the environment of the activities to be carried out under a petroleum title, grant a permit to the applicant to enter any land so as to enable the person to undertake the assessment.	2 3 4 5 6 7
(2)	The holder of a permit under this section, and any employee or agent of the holder, may, in accordance with the permit:	8 9
	(a) enter the land to which the permit relates, and	10
	(b) do on that land all such things as are reasonably necessary to carry out the assessment to which the permit relates.	11 12
(3)	A permit under this section may not be granted in respect of land within a national park, state conservation area, regional park, historic site, nature reserve, karst conservation reserve, Aboriginal area, wildlife refuge or Aboriginal place within the meaning of the <i>National Parks and Wildlife Act 1974</i> except with the concurrence of the Minister administering that Act.	13 14 15 16 17 18
(4)	A permit under this section may not be granted in respect of land within a marine park within the meaning of the <i>Marine Parks Act 1997</i> except with the concurrence of the relevant Ministers within the meaning of that Act.	19 20 21 22
104S	Encroachments by petroleum works	23
(1)	The Minister may, on the application of a person having the care and management of a public road or railway, grant a permit to a registered surveyor or other person to enter and inspect any land comprised in a petroleum title so as to enable the person to ascertain whether any work carried out on that land:	24 25 26 27 28
	(a) is encroaching on that road or railway, or	29
	(b) is likely to cause injury or damage to that road or railway or to any building or structure adjacent to that road or railway.	30 31 32
(2)	The Minister may, on the application of a landholder of land adjoining land comprised in a petroleum title, grant a permit to a registered surveyor or other person to enter and inspect that land so as to enable the person to ascertain whether any work carried out on that land is encroaching on the adjoining land.	33 34 35 36 37
(3)	The holder of a permit under this section, and any employee or agent of the holder, may, in accordance with the permit:	38 39
	(a) enter and inspect the land to which the permit relates, and	40

	(b) survey that land or any part of that land, and	1
	(c) make plans and sections of that land or any part of that land and of any buildings, structures or works situated on that land.	2 3 4
104T	Restriction of power of entry—permit holders	5
	(1) A power conferred by this Act to enter any land, or to do anything on any land, pursuant to a permit may not be exercised by any person or persons unless he or she (or, if more than one, one of them):	6 7 8 9
	(a) is in possession of the permit, and	10
	(b) gives reasonable notice to the landholder of his or her intention to exercise the power, and	11 12
	(c) exercises the power at a reasonable time, and	13
	(d) produces the permit if required to do so by the landholder.	14
	(2) If damage is caused by the holder of a permit exercising a power of entry under the permit, the landholder is entitled to payment from the holder of the permit of a reasonable amount of compensation unless the landholder obstructed, hindered or restricted the holder of the permit in the exercise of the power.	15 16 17 18 19
	(3) In this section, <i>landholder</i> includes a secondary landholder.	20
104U	Entry into residential premises only with permission	21
	Nothing in this Division entitles any person to enter any part of premises used only for residential purposes without the permission of the occupier.	22 23 24
104V	Obstruction	25
	A person must not, without reasonable excuse, obstruct, hinder or restrict any other person who is entering land, or carrying out any other activity, pursuant to a permit under this Division.	26 27 28
	Maximum penalty: 100 penalty units.	29
104W	Conditions of permit	30
	(1) A permit is subject to such conditions as are imposed by the Minister or Director-General when granting the permit, or at any other time under a power conferred by this Act.	31 32 33
	(2) A holder of a permit who contravenes any condition of the permit is guilty of an offence.	34 35
	Maximum penalty: 5 penalty units.	36

104X	Term of permit	1
	Unless sooner cancelled, a permit remains in force for the period specified in the permit, being a period not exceeding 12 months from the date it is granted.	2 3 4
104Y	Form of permit	5
	A permit must be in the form prescribed by the regulations, must be signed by the person by whom it is granted and must include the following particulars:	6 7 8
	(a) a statement to the effect that it has been granted under this Act,	9 10
	(b) the name of the person to whom it has been granted,	11
	(c) the nature of the powers it confers,	12
	(d) a description of the land over which it is granted,	13
	(e) the conditions to which it is subject,	14
	(f) the period for which it is to have effect.	15
104Z	Cancellation of permit	16
	(1) The Minister may, for such reason as the Minister thinks fit, cancel a permit that has been granted by the Minister.	17 18
	(2) The Director-General may, for such reason as he or she thinks fit, cancel a permit.	19 20
	(3) The cancellation of a permit under this section cannot be challenged in any legal proceedings commenced later than 3 months after the cancellation.	21 22 23
	(4) This section has effect despite the provisions of any other Act, but does not apply so as to affect any appeal against the cancellation commenced not later than 3 months after the cancellation.	24 25 26 27
[12]	Section 107 Compensation	28
	Insert at the end of section 107 (1):	29
	Note. The right to compensation applies in respect of all petroleum titles when granted, including exploration licences, assessment leases, production leases and special prospecting authorities.	30 31 32

[13] Sections 113 and 114	1
Omit section 113. Insert instead:	2
113 Inspectors	3
(1) The Director-General may appoint any person (including a member of a class of persons) as an inspector for the purposes of this Act.	4 5 6
(2) An appointment may (but does not have to) be subject to conditions, limitations or restrictions or only for limited purposes.	7 8 9
(3) The following persons are taken to be appointed as inspectors for the purposes of this Act:	10 11
(a) inspectors appointed under the <i>Mining Act 1992</i> ,	12
(b) government officials within the meaning of the <i>Mine Health and Safety Act 2004</i> ,	13 14
(c) government officials within the meaning of the <i>Coal Mine Health and Safety Act 2002</i> .	15 16
(4) The appointment of a person taken to be appointed under subsection (3) for the purposes of this Act is subject to any conditions, limitations or restrictions or limitation on purposes applicable to the person under the Act under which the person was appointed as referred to in that subsection and may be made subject to such other conditions, limitations or restrictions or be for such limited purposes as the Director-General thinks fit.	17 18 19 20 21 22 23
(5) If an appointment is subject to conditions, limitations or restrictions or only for limited purposes, nothing in this Act authorises or requires the inspector to act in contravention of the conditions, limitations or restrictions or for other purposes.	24 25 26 27
(6) The Director-General must publish the following matters in the Gazette:	28 29
(a) the classes of persons appointed as inspectors under subsection (1),	30 31
(b) any conditions, limitations or restrictions, or limitation on purposes, imposed by the Director-General on the appointment of persons under this section.	32 33 34
114 Identification of inspectors	35
(1) Every inspector is to be provided with a card identifying him or her as an inspector.	36 37

(2)	In the course of exercising the functions of an inspector under this Act, the inspector must, if requested to do so by any person affected by the exercise of any such function, produce his or her identification card to the person.	1 2 3 4
(3)	It is sufficient for the purposes of this section if a person taken to be appointed under section 113 (3) has, and produces, a card identifying the person as a person of a kind specified in section 113 (3) (a), (b) or (c).	5 6 7 8
[14]	Part 13, Division 1 and Division 2, heading	9
	Insert before section 117:	10
	Division 1 Environmental information	11
	116 Application of Division	12
(1)	This Division applies to environmental information obtained by the Director-General in connection with or for the purposes of monitoring, recording or assessing the environmental impacts of prospecting or mining for petroleum, or proposed prospecting or mining for petroleum, or related activities.	13 14 15 16 17
(2)	In this Division, <i>environmental information</i> means environmental information obtained by the Director-General as a result of any of the following:	18 19 20
	(a) an application for a petroleum title,	21
	(b) an audit under this Act,	22
	(c) compliance with a condition of a petroleum title,	23
	(d) compliance with a direction under this Act,	24
	(e) monitoring, an inspection or a survey carried out under this Act.	25 26
(3)	This Division does not apply to information relating to the value of petroleum recovered or other financial information or to any protected document referred to in section 83J.	27 28 29
(4)	The restrictions on disclosure of information in Division 2 do not apply to information to which this Division applies.	30 31
(5)	The regulations may prescribe information as environmental information for the purposes of this Division and may exclude information as environmental information for those purposes.	32 33 34

116A	Release of environmental information	1
(1)	The Director-General may publish on the website of the Department, or in any other manner the Director-General thinks fit, environmental information to which this Division applies.	2 3 4
(2)	The Director-General must not publish environmental information if the Director-General is notified in writing by the person who provided the information that disclosure of the information is likely to cause the person a substantial commercial disadvantage.	5 6 7 8 9
(3)	Despite subsection (2), the Director-General may publish environmental information that is subject to a notification under that subsection if the Director-General is satisfied that, in all the circumstances of the case, it is in the interests of the public to disclose the information.	10 11 12 13 14
	Division 2	
	Petroleum information	15
[15]	Sections 117 (1) and (2) and 125	16
	Omit “Part” wherever occurring. Insert instead “Division”.	17
[16]	Part 13A	18
	Insert after Part 13:	19
	Part 13A Offences and enforcement	20
	Division 1	
	Offences	21
125A	Obstruction	22
	A person must not, without reasonable excuse, obstruct, hinder or resist any of the following persons in the exercise of a function under this Act:	23 24 25
	(a) an inspector,	26
	(b) an authorised person within the meaning of Division 3 of Part 6,	27 28
	(c) an auditor undertaking a mandatory audit under Division 5 of Part 6,	29 30
	(d) any other person prescribed by the regulations.	31
	Maximum penalty:	32
	(a) in the case of a corporation—10,000 penalty units, or	33
	(b) in the case of a natural person—2,000 penalty units.	34

125B	Obstruction of holder of petroleum title	1
	A person must not, without reasonable excuse, obstruct or hinder the holder of a petroleum title, or a person acting on behalf of the holder of a petroleum title, from doing any act that the holder or person is authorised by this Act to do.	2 3 4 5
	Maximum penalty: 100 penalty units.	6
125C	False or misleading information	7
(1)	A person must not:	8
	(a) in or in connection with an application under this Act, or	9
	(b) in purported compliance with any requirement under this Act (including a condition of a petroleum title), other than a requirement referred to in subsection (2),	10 11 12
	furnish information that is false or misleading in a material particular.	13 14
	Maximum penalty: 500 penalty units.	15
(2)	A person must not furnish information, a record or a return that is false or misleading in purported compliance with:	16 17
	(a) a requirement under this Act by an inspector to provide information or records, or	18 19
	(b) a requirement under section 133.	20
	Maximum penalty: 500 penalty units.	21
(3)	The offences under subsections (1) and (2) are offences of strict liability and the defence of honest and reasonable mistake of fact applies.	22 23 24
125D	Contravention of condition of petroleum title—offence by holder	25
(1)	If a condition of a petroleum title is contravened by any person, each holder of the petroleum title is guilty of an offence.	26 27
	Maximum penalty if the condition is of a kind referred to in section 75 or 76:	28 29
	(a) in the case of a corporation—10,000 penalty units, and, in the case of a continuing offence, a further penalty of 1,000 penalty units for each day that the offence continues, or	30 31 32 33
	(b) in the case of a natural person—2,000 penalty units, and, in the case of a continuing offence, a further penalty of 200 penalty units for each day that the offence continues.	34 35 36
	Maximum penalty if the condition is not of a kind referred to in section 75 or 76:	37 38

(a)	in the case of a corporation—2,000 penalty units, and, in the case of a continuing offence, a further penalty of 200 penalty units for each day that the offence continues, or	1 2 3 4
(b)	in the case of a natural person—200 penalty units, and, in the case of a continuing offence, a further penalty of 50 penalty units for each day that the offence continues.	5 6 7
	Note. An offence against subsection (1) committed by a corporation is an executive liability offence attracting executive liability for a director or other person involved in the management of the corporation—see section 125F.	8 9 10 11
(2)	In imposing a penalty under this section for a contravention of a condition of a kind referred to in section 75 or 76, the court is to take into consideration the following (so far as they are relevant):	12 13 14
(a)	the extent of the harm caused or likely to be caused to the environment by the commission of the offence,	15 16
(b)	the practical measures that may be taken to prevent, control, abate or mitigate that harm,	17 18
(c)	the extent to which the person who committed the offence could reasonably have foreseen the harm caused or likely to be caused to the environment by the commission of the offence,	19 20 21 22
(d)	the extent to which the person who committed the offence had control over the causes that gave rise to the offence,	23 24
(e)	any other matters the court considers relevant.	25
125E	Defences	26
(1)	It is a defence to a prosecution of the holder of a petroleum title for an offence against section 125D if the holder establishes that:	27 28
(a)	the contravention of the condition was by, or caused by, another person, and	29 30
(b)	the other person was not associated with the holder at the time the condition was contravened, and	31 32
(c)	the holder took all reasonable steps to prevent the contravention of the condition.	33 34
(2)	A person is associated with the holder for the purposes of subsection (1) (b) (but without limiting any other circumstances of association) if the person is an employee, agent, licensee, contractor or subcontractor of the holder.	35 36 37 38

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- (3) It is a defence to a prosecution for an offence against section 125D if the holder of the petroleum title satisfies the court that the act or omission constituting the contravention was reasonably necessary in order for the defendant to comply with:
- (a) an order or direction (of which the Director-General was given notice before the acts or omissions occurred) issued under the mine safety legislation, the *Environmental Planning and Assessment Act 1979* or the *Protection of the Environment Operations Act 1997*, or
 - (b) a condition of a petroleum title, or
 - (c) a direction under this Act.
- (4) In this section:
- mine safety legislation*** means the *Coal Mine Health and Safety Act 2002*, *Mine Health and Safety Act 2004*, *Work Health and Safety Act 2011* and any other legislation that is prescribed by the regulations.
- 125F Liability of directors etc for offences by corporation—offences attracting executive liability**
- (1) For the purposes of this section, an ***executive liability offence*** is an offence against any of the following provisions of this Act that is committed by a corporation:
- (a) section 79A,
 - (b) section 125D (1).
- (2) A person commits an offence against this section if:
- (a) a corporation commits an executive liability offence, and
 - (b) the person is:
 - (i) a director of the corporation, or
 - (ii) a natural person who is involved in the management of the corporation and who is in a position to influence the conduct of the corporation in relation to the commission of the executive liability offence, and
 - (c) the person:
 - (i) knows or ought reasonably to know that the executive liability offence (or an offence of the same type) would be or is being committed, and

(ii) fails to take all reasonable steps to prevent or stop the commission of that offence.	1 2
Maximum penalty: The maximum penalty for the executive liability offence if committed by an individual.	3 4
(3) The prosecution bears the legal burden of proving the elements of the offence against this section.	5 6
(4) The offence against this section can only be prosecuted by a person who can bring a prosecution for the executive liability offence.	7 8 9
(5) This section does not affect the liability of the corporation for the executive liability offence, and applies whether or not the corporation is prosecuted for, or convicted of, the executive liability offence.	10 11 12 13
(6) This section does not affect the application of any other law relating to the criminal liability of any persons (whether or not directors or other managers of the corporation) who are accessories to the commission of the executive liability offence or are otherwise concerned in, or party to, the commission of the executive liability offence.	14 15 16 17 18 19
(7) In this section:	20
<i>director</i> has the same meaning it has in the <i>Corporations Act 2001</i> of the Commonwealth.	21 22
<i>reasonable steps</i> , in relation to the commission of an executive liability offence, includes, but is not limited to, such action (if any) of the following kinds as is reasonable in all the circumstances:	23 24 25 26
(a) action towards:	27
(i) assessing the corporation's compliance with the provision creating the executive liability offence, and	28 29 30
(ii) ensuring that the corporation arranged regular professional assessments of its compliance with the provision,	31 32 33
(b) action towards ensuring that the corporation's employees, agents and contractors are provided with information, training, instruction and supervision appropriate to them to enable them to comply with the provision creating the executive liability offence so far as the provision is relevant to them,	34 35 36 37 38 39

(c)	action towards ensuring that:	1
(i)	the plant, equipment and other resources, and	2
(ii)	the structures, work systems and other processes,	3
	relevant to compliance with the provision creating the	4
	executive liability offence are appropriate in all the	5
	circumstances,	6
(d)	action towards creating and maintaining a corporate	7
	culture that does not direct, encourage, tolerate or lead to	8
	non-compliance with the provision creating the executive	9
	liability offence.	10
125G	Liability of directors etc for offences by corporation—accessory to	11
	the commission of the offences	12
(1)	For the purposes of this section, a <i>corporate offence</i> is an offence	13
	against this Act or the regulations that is capable of being	14
	committed by a corporation, whether or not it is an executive	15
	liability offence referred to in section 125F.	16
(2)	A person commits an offence against this section if:	17
(a)	a corporation commits a corporate offence, and	18
(b)	the person is:	19
(i)	a director of the corporation, or	20
(ii)	a natural person who is involved in the management	21
	of the corporation and who is in a position to	22
	influence the conduct of the corporation in relation	23
	to the commission of the corporate offence, and	24
(c)	the person:	25
(i)	aids, abets, counsels or procures the commission of	26
	the corporate offence, or	27
(ii)	induces, whether by threats or promises or	28
	otherwise, the commission of the corporate offence,	29
	or	30
(iii)	conspires with others to effect the commission of	31
	the corporate offence, or	32
(iv)	is in any other way, whether by act or omission,	33
	knowingly concerned in, or party to, the	34
	commission of the corporate offence.	35
	Maximum penalty: The maximum penalty for the corporate	36
	offence if committed by a natural person.	37
(3)	The prosecution bears the legal burden of proving the elements of	38
	the offence against this section.	39

(4)	The offence against this section can only be prosecuted by a person who can bring a prosecution for the corporate offence.	1 2
(5)	This section does not affect the liability of the corporation for the corporate offence, and applies whether or not the corporation is prosecuted for, or convicted of, the corporate offence.	3 4 5
(6)	This section does not affect the application of any other law relating to the criminal liability of any persons (whether or not directors or other managers of the corporation) who are concerned in, or party to, the commission of the corporate offence.	6 7 8 9 10
125H	Continuing offences	11
(1)	A person who is guilty of an offence because the person contravenes a requirement in or under this Act or the regulations (whether the requirement is imposed by a direction, notice or otherwise) to do or cease to do something (whether or not within a specified period or before a particular time):	12 13 14 15 16
(a)	continues, until the requirement is complied with and despite the fact that any specified period has expired or time has passed, to be liable to comply with the requirement, and	17 18 19 20
(b)	is guilty of a continuing offence for each day the contravention continues.	21 22
(2)	However, this section does not apply to an offence if the relevant provision of this Act or the regulations does not provide for a penalty for a continuing offence.	23 24 25
(3)	This section does not apply to the extent that a requirement of a notice is revoked.	26 27
Division 2	Proceedings for offences	28
125I	Proceedings for offences	29
(1)	Proceedings for an offence against this Act or the regulations are, except as provided by this section, to be dealt with summarily before:	30 31 32
(a)	the Land and Environment Court, in the case of an offence under section 7 or section 92 (committed by a corporation), section 79A, 83F, 104L or 125D (in the case of a contravention of a condition imposed under section 75, 76 or section 106B) or 125ZF, or	33 34 35 36 37
(b)	the Local Court, in the case of any offence.	38

(2)	If proceedings for an offence under this Act or the regulations are brought in the Local Court:	1 2
(a)	the maximum period of imprisonment that the Court may impose for the offence is 12 months, and	3 4
(b)	the maximum monetary penalty that the Court may impose is 2,000 penalty units.	5 6
(3)	Proceedings for an offence by a natural person under section 7 or section 92 are to be dealt with on indictment.	7 8
	Note. Chapter 5 of the <i>Criminal Procedure Act 1986</i> provides an alternative procedure for dealing with an offence under section 7 summarily following an election by the prosecutor or defendant.	9 10 11
125J	Time within which summary proceedings may be commenced	12
(1)	Proceedings for an offence under this Act or the regulations may be commenced within but not later than 3 years after the latest of the following dates:	13 14 15
(a)	the date on which the offence is alleged to have been committed,	16 17
(b)	the date on which evidence of the alleged offence first came to the attention of either an inspector or the Director-General.	18 19 20
(2)	If subsection (1) (b) is relied on for the purpose of commencing proceedings for an offence, the court attendance notice or application must contain particulars of the date on which evidence of the offence first came to the attention of an inspector or the Director-General and need not contain particulars of the date on which the offence was committed.	21 22 23 24 25 26
(3)	The date on which evidence first came to the attention of an inspector or the Director-General is the date specified in the court attendance notice or application, unless the contrary is established.	27 28 29 30
(4)	This section applies only to proceedings that are to be dealt with summarily.	31 32
(5)	This section applies despite anything in the <i>Criminal Procedure Act 1986</i> or any other Act.	33 34
(6)	In this section: <i>evidence</i> of an offence means evidence of any act or omission constituting the offence.	35 36 37

125K	Penalty notices for offences	1
(1)	A penalty notice officer may serve a penalty notice on a person if it appears to the officer that the person has committed an offence under this Act or the regulations, being an offence prescribed by the regulations.	2 3 4 5
(2)	A penalty notice is a notice to the effect that, if the person served does not wish to have the matter determined by a court, the person may pay, within the time and to the person specified in the notice, the penalty prescribed by the regulations for the offence if dealt with under this section.	6 7 8 9 10
(3)	A penalty notice may be served personally or by post.	11
(4)	The regulations may authorise a penalty notice also to be served by leaving the notice at premises in respect of which the offence was committed.	12 13 14
(5)	If the amount of the penalty prescribed for an alleged offence is paid under this section, no person is liable to any further proceedings for the alleged offence.	15 16 17
(6)	Payment under this section is not an admission of liability for the purposes of, and does not affect or prejudice, any civil claim, action or proceeding arising out of the same occurrence.	18 19 20
(7)	The regulations may:	21
	(a) prescribe an offence for the purposes of this section by specifying the offence or by referring to the provision creating the offence, and	22 23 24
	(b) prescribe the amount of penalty payable for the offence if dealt with under this section, and	25 26
	(c) prescribe different amounts of penalties for different offences or classes of offences, and	27 28
	(d) prescribe different amounts of penalties for the same offence, including, in the case of a continuing offence, different amounts of penalties for different periods during which the offence continues.	29 30 31 32
(8)	This section does not limit the operation of any provision of, or made under, this or any other Act relating to proceedings that may be taken in respect of offences.	33 34 35
(9)	In this section, <i>penalty notice officer</i> means a person who is declared by the regulations to be a penalty notice officer for the purpose of this section or belongs to a class of persons so declared.	36 37 38 39

Division 3	Restraining orders	1
125L	Application of Division	2
(1)	This Division applies where:	3
(a)	proceedings have been commenced against a person for an offence against this Act or the regulations and, as a result of those proceedings, the person may be required to pay an amount referred to in section 125ZA, or	4 5 6 7
(b)	proceedings have been commenced against a person under section 125ZA.	8 9
(2)	In this Division:	10
	<i>the defendant</i> means the person referred to in subsection (1) (a) or (b).	11 12
125M	Nature of restraining order	13
	A restraining order is an order of a court directing that any property of the defendant is not to be disposed of, or otherwise dealt with, by the defendant or by any other person, except in such manner and in such circumstances (if any) as are specified in the order.	14 15 16 17 18
125N	Application for restraining order	19
(1)	A person bringing proceedings (as referred to in section 125L) may apply for a restraining order in relation to property of the defendant.	20 21 22
(2)	An application under this section may be made to the Land and Environment Court.	23 24
(3)	On an application under this section:	25
(a)	the court may, if it thinks fit, require the person making the application to give notice of the application to a person who the court has reason to believe has an interest in the property or part of the property, and	26 27 28 29
(b)	a person to whom the court requires notice be given under paragraph (a) is entitled to appear and to adduce evidence at the hearing of the application.	30 31 32
125O	Making of restraining order	33
	On an application under section 125N, the court may make a restraining order in relation to the defendant's property, if it is satisfied (on the information contained in or accompanying the application) that:	34 35 36 37

- (a) the defendant has committed the relevant offence, and 1
- (b) amounts are or are likely to be payable under 2
section 125ZA or 125ZB, and 3
- (c) it is appropriate to make an order under this section in the 4
circumstances of the case. 5

125P Undertakings 6

The court may refuse to make a restraining order if the person 7
making the application refuses or fails to give to the court such 8
undertakings as the court considers appropriate with respect to 9
the payment of damages or costs, or both, in relation to the 10
making or operation of the order. 11

125Q Ancillary orders 12

- (1) A court that makes a restraining order may make any ancillary 13
orders that the court considers appropriate. 14
- (2) Without limiting the generality of subsection (1), ancillary orders 15
may include any one or more of the following: 16
 - (a) an order for the examination on oath of: 17
 - (i) the defendant, or 18
 - (ii) another person, 19
 before the court, or an officer of the court prescribed by 20
rules of court, concerning the affairs of the defendant, 21
including the nature and location of any property of the 22
defendant, 23
 - (b) an order varying the restraining order in respect of the 24
property to which it relates, 25
 - (c) an order varying any conditions to which the restraining 26
order was subject. 27
- (3) An ancillary order may be made on application: 28
 - (a) by the applicant for the restraining order, or 29
 - (b) by the defendant, or 30
 - (c) with the leave of the court, by any other person. 31
- (4) Ancillary orders may be made when or at any time after the 32
restraining order is made. An ancillary order referred to in 33
subsection (2) (a) may be made in advance of the restraining 34
order. 35

125R	Charge on property subject to restraining orders	1
(1)	If:	2
	(a) a court has made a restraining order in respect of particular property or all of the property of the defendant, and	3 4
	(b) the court orders the payment of an amount referred to in section 125ZA or 125ZB,	5 6
	there is created by force of this section, on the making of the order referred to in paragraph (b), a charge on all the property to which the restraining order applies to secure the payment to a public authority or person (which extends, for the purposes of this Division, to the Crown) of the amount referred to in section 125ZA or 125ZB.	7 8 9 10 11 12
(2)	Such a charge ceases to have effect in respect of the property:	13
	(a) on payment by the defendant to the public authority or person of the amount concerned, or	14 15
	(b) on the sale or other disposition of the property with the consent of the court, or	16 17
	(c) on the sale of the property to a purchaser in good faith for value who, at the time of the sale, has no notice of the charge,	18 19 20
	whichever occurs first.	21
(3)	Such a charge is subject to every charge or encumbrance to which the property was subject immediately before the order referred to in subsection (1) (b) was made and, in the case of land under the provisions of the <i>Real Property Act 1900</i> , is subject to every mortgage, lease or other interest recorded in the Register kept under that Act.	22 23 24 25 26 27
(4)	Such a charge is not affected by any change of ownership of the property, except as provided by subsection (2).	28 29
(5)	If:	30
	(a) such a charge is created on property of a particular kind and the provisions of any law of the State provide for the registration of title to, or charges over, property of that kind, and	31 32 33 34
	(b) the charge is so registered,	35
	a person who purchases or otherwise acquires the property after the registration of the charge is, for the purposes of subsection (2), taken to have notice of the charge.	36 37 38

(6)	If such a charge relates to land under the provisions of the <i>Real Property Act 1900</i> , the charge has no effect until it is registered under that Act.	1 2 3
125S	Registration of restraining orders	4
(1)	If a restraining order applies to property of a particular kind and the provisions of any law of the State provide for the registration of title to, or charges over, property of that kind, the authority responsible for administering the provisions is required, on application by any person, to record the particulars of the order in the register kept under those provisions.	5 6 7 8 9 10
(2)	If the particulars of a restraining order are so recorded, a person who afterwards deals with the property is, for the purposes of section 125R (2), taken to have notice of the charge created by this Act on the making of the order.	11 12 13 14
(3)	If a restraining order applies to land under the provisions of the <i>Real Property Act 1900</i> , a caveat may be lodged under that Act in relation to the order.	15 16 17
125T	Recovery of costs of registering charge on land	18
(1)	A person or public authority who registers a charge on land to which a restraining order applies under section 125O may, by written notice, require the defendant to pay all or any of the reasonable costs and expenses incurred by the person or authority in respect of the lodgment and registration of the charge (including the costs of discharging the charge).	19 20 21 22 23 24
(2)	The person or public authority may recover from the defendant any unpaid amounts specified in the notice as a debt in a court of competent jurisdiction.	25 26 27
125U	Recovery of costs of lodging caveat	28
(1)	A person or public authority who lodges a caveat in respect of land to which a restraining order applies under section 125O may, by written notice, require the defendant to pay all or any of the reasonable costs and expenses incurred by the person or authority in respect of the lodgment and registration of the caveat (including the costs of withdrawal of the caveat).	29 30 31 32 33 34
(2)	The person or public authority may recover from the defendant any unpaid amounts specified in the notice as a debt in a court of competent jurisdiction.	35 36 37

125V	Contravention of restraining orders	1
(1)	A person who knowingly contravenes a restraining order by disposing of, or otherwise dealing with, property that is subject to the order is guilty of an offence.	2 3 4
	Maximum penalty: A fine equivalent to the value of the property (as determined by the court) or imprisonment for 12 months, or both.	5 6 7
(2)	If:	8
	(a) a restraining order is made against property, and	9
	(b) the property is disposed of, or otherwise dealt with, in contravention of the restraining order, and	10 11
	(c) the disposition or dealing was either not for sufficient consideration or not in favour of a person who acted in good faith,	12 13 14
	the person who applied for the restraining order may apply to the court that made the restraining order for an order that the disposition or dealing with the property be set aside.	15 16 17
(3)	If an application is made under subsection (2), the court may make an order:	18 19
	(a) setting aside the disposition or dealing as from the day on which the disposition or dealing took place or as from the day of the order under this subsection, and	20 21 22
	(b) (if appropriate) declaring the respective rights of any persons who acquired interests in the property on or after the day on which the disposition or dealing took place and before the day of the order.	23 24 25 26
125W	Court may revoke restraining order	27
(1)	The court that made a restraining order may revoke the order, on application made to it by the person in relation to whose property it was made.	28 29 30
(2)	The court may refuse to revoke the order if the person does not:	31
	(a) give security satisfactory to the court for the payment of any amount referred to in section 125ZA or 125ZB that may be imposed on or ordered to be paid by the person under this Act in respect of the person's conviction for the offence, or	32 33 34 35 36
	(b) give undertakings satisfactory to the court concerning the person's property.	37 38

(3)	Subsection (2) does not limit the discretion of the court to revoke or refuse to revoke a restraining order.	1 2
125X	Time when restraining order ceases to be in force	3
	If, after a restraining order was made in reliance on the charging of a person with an offence against this Act or the regulations:	4 5
(a)	the charge is withdrawn and the person is not charged with a related offence by the time of the withdrawal—the restraining order ceases to be in force when the charge is withdrawn, or	6 7 8 9
(b)	the person is acquitted of the charge and the person is not charged with a related offence by the time of the acquittal—the restraining order ceases to be in force when the acquittal occurs.	10 11 12 13
Division 4	Court orders in connection with offences	14
125Y	Operation of Division	15
(1)	This Division applies where a court finds an offence against this Act or the regulations proved.	16 17
(2)	Without limiting the generality of subsection (1), a court finds an offence proved if:	18 19
(a)	the court convicts the offender of the offence, or	20
(b)	the court makes an order under section 10 of the <i>Crimes (Sentencing Procedure) Act 1999</i> against the offender in relation to the offence (in which case the order is not a punishment for the purposes of that section).	21 22 23 24
(3)	In this Division:	25
	<i>the court</i> means the court that finds the offence proved.	26
	<i>the offender</i> means the person who is found to have committed the offence.	27 28
125Z	Orders generally	29
(1)	One or more orders may be made under this Division against the offender.	30 31
(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.	32 33 34

(3)	Orders may be made under this Division regardless of whether any penalty is imposed, or other action taken, in relation to the offence.	1 2 3
125ZA	Orders for costs, expenses and compensation at time offence proved	4 5
(1)	The court may, if it appears to the court that:	6
(a)	the Crown or a public authority has incurred costs and expenses in connection with:	7 8
(i)	the prevention, control, abatement or mitigation of any harm to the environment caused by the commission of the offence, or	9 10 11
(ii)	making good any resulting environmental damage, or	12 13
(b)	the Crown or another person or a public authority has, because of the commission of the offence, suffered loss of or damage to property or has incurred costs and expenses in preventing or mitigating, or in attempting to prevent or mitigate, any such loss or damage,	14 15 16 17 18
	order the offender to pay to the Crown, public authority or person the costs and expenses so incurred, or compensation for the loss or damage so suffered, as the case may be, in such amount as is fixed by the order.	19 20 21 22
(2)	However, a court is not to make an order for payment to a person under subsection (1) to the extent that the payment would represent the value of petroleum owned by that person that the offender had obtained by prospecting or mining for petroleum with the consent of that person and in or in connection with the offence.	23 24 25 26 27 28
(3)	An order made by the Local Court under subsection (1) is enforceable as if it were an order made by the court when exercising jurisdiction under the <i>Civil Procedure Act 2005</i> .	29 30 31
(4)	An order made by the Land and Environment Court under subsection (1) is enforceable as if it were an order made by the Court in Class 4 proceedings under the <i>Land and Environment Court Act 1979</i> .	32 33 34 35
(5)	The Local Court is not to make an order under subsection (1) for the payment of an amount that exceeds the amount for which an order may be made by the court when exercising jurisdiction under the <i>Civil Procedure Act 2005</i> .	36 37 38 39

125ZB	Recovery of costs, expenses and compensation after offence proved	1
		2
(1)	If, after the court finds the offence proved:	3
(a)	the Crown or a public authority has incurred costs and expenses in connection with:	4
		5
(i)	the prevention, control, abatement or mitigation of any harm to the environment caused by the commission of the offence, or	6
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		8
(ii)	making good any resulting environmental damage, or	9
		10
(b)	a person (including the Crown and a public authority) has, because of the commission of the offence, suffered loss of or damage to property or has incurred costs and expenses in preventing or mitigating, or in attempting to prevent or mitigate, any such loss or damage,	11
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	the Crown, public authority or person may recover from the offender the costs and expenses incurred or the amount of the loss or damage in the Land and Environment Court.	16
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		18
(2)	The amount of any such costs and expenses (but not the amount of any such loss or damage) may be recovered as a debt in a court of competent jurisdiction.	19
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		21
(3)	However, a person may not recover an amount that would represent the value of petroleum owned by that person that the offender had obtained by prospecting or mining for petroleum with the consent of that person and in or in connection with the offence.	22
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125ZC	Orders regarding costs and expenses of investigation	27
(1)	The court may, if it appears to the court that the Crown or a public authority has reasonably incurred costs and expenses during the investigation of the offence, order the offender to pay to the Crown or the authority the costs and expenses so incurred in such amount as is fixed by the order.	28
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(2)	An order made by the Land and Environment Court under subsection (1) is enforceable as if it were an order made by the Court in Class 4 proceedings under the <i>Land and Environment Court Act 1979</i> .	33
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(3)	An order made by the Local Court under subsection (1) is enforceable as if it were an order made by the court when exercising jurisdiction under the <i>Civil Procedure Act 2005</i> .	37
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(4)	In this section: <i>costs and expenses</i> , in relation to the investigation of an offence, means the costs and expenses:	1 2 3
(a)	in taking any sample or conducting any inspection, test, measurement or analysis, or	4 5
(b)	of transporting, storing or disposing of evidence, during the investigation of the offence.	6 7
125ZD	Orders regarding other monetary benefits	8
(1)	The court may order the offender to pay, as an additional penalty for committing the offence, an amount that the court is satisfied, on the balance of probabilities, represents the amount of any monetary benefits acquired by the offender, or accrued or accruing to the offender, as a result of the commission of the offence.	9 10 11 12 13 14
(2)	The amount of an additional penalty for an offence is not subject to any maximum amount of penalty provided elsewhere by or under this Act.	15 16 17
(3)	In this section: <i>monetary benefits</i> means monetary, financial or economic benefits. <i>the court</i> does not include the Local Court.	18 19 20 21
125ZE	Additional orders	22
(1)	The court may do any one or more of the following:	23
(a)	order the offender to take specified action to publicise the offence (including the circumstances of the offence) and its consequences and any other orders made against the person,	24 25 26 27
(b)	order the offender to take specified action to notify specified persons or classes of persons of the offence (including the circumstances of the offence) and its consequences and of any orders made against the person (including, for example, the publication in an annual report or any other notice to shareholders of a company or the notification of persons aggrieved or affected by the offender's conduct),	28 29 30 31 32 33 34 35
(c)	order the offender to carry out a specified project for the rehabilitation of a current or former area of a petroleum title,	36 37 38

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| (d) | order the offender to carry out an audit of activities carried on by the offender, | 1
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| (e) | order the offender to attend, or to cause an employee or employees or a contractor or contractors of the offender to attend, a training or other course specified by the court, | 3
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| (f) | order the offender to establish, for employees or contractors of the offender, a training course of a kind specified by the court, | 6
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| (g) | order the offender to pay any royalty that is due and payable by the offender under this Act, | 9
10 |
| (h) | if the Director-General is a party to proceedings, order the offender to provide to the Director-General and maintain a security deposit, in a form and amount, and on such terms (if any), specified by the court, if the court orders the offender to carry out a specified work or program for the restoration or enhancement of the environment. | 11
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| | However, the Local Court is not authorised to make an order referred to in paragraph (c), (d) or (h). | 17
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| (2) | The court may, in an order under this section, fix a period for compliance and impose any other requirements the court considers necessary or expedient for enforcement of the order. | 19
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| (3) | If the offender contravenes an order under subsection (1) (a) or (b), the prosecutor or a person authorised by the prosecutor may take action to carry out the order as far as may be practicable, including action to publicise or notify: | 22
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| (a) | the original contravention, its environmental and other consequences, and any other penalties imposed on the offender, and | 26
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| (b) | the contravention of the order. | 29 |
| (4) | The reasonable cost of taking action referred to in subsection (3) is recoverable by the prosecutor or person taking the action, in a court of competent jurisdiction, as a debt from the offender. | 30
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| (5) | Section 106I applies with respect to a security deposit provided under an order referred to in subsection (1) (h) as if it were provided under a security deposit condition within the meaning of Part 10A. | 33
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125ZF	Offence	1
	A person who fails to comply with an order under this Division (except an order under section 125ZA, 125ZB or 125ZC) is guilty of an offence.	2
	Maximum penalty:	3
	(a) in the case of a corporation—1,000 penalty units for each day the offence continues, or	4
	(b) in the case of a natural person—500 penalty units for each day the offence continues.	5
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Division 5	Evidentiary provisions	10
125ZG	Certificate evidence of certain matters	11
(1)	A document signed by the Director-General, or by an officer designated by the Director-General for the purposes of this section, and certifying any one or more of the matters specified in subsection (2) is admissible in any proceedings under this Act and is prima facie evidence of the matters so certified.	12
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(2)	The following matters are specified for the purposes of subsection (1):	17
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(a)	that an instrument, a copy of which is set out in or annexed to the document, being an instrument purporting:	19
	(i) to be issued, made or given for the purposes of this Act, and	20
	(ii) to have been signed by the person authorised to issue, make or give the instrument, or by another person acting as delegate for or on behalf of the person,	21
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	was issued, made or given on a specified day,	23
		24
(b)	that a person was or was not, at a specified time or during a specified period, the holder of a specified petroleum title or a petroleum title of a specified kind,	25
		26
(c)	that specified land was or was not, at a specified time or during a specified period, the subject of a specified petroleum title or a petroleum title of a specified kind,	27
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(d)	that specified land, at a specified time or during a specified period, comprised the whole or part of the land in a specified petroleum title,	31
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(e)	that a petroleum title was or was not, at a specified time or during a specified period, subject to specified conditions,	34
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| (f) | that a petroleum title was, at a specified time, cancelled or suspended for a specified period or was cancelled or suspended subject to specified conditions, | 1
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| (g) | that a condition on a petroleum title was, at a specified time, revoked or varied in a specified manner or that a new condition was, at a specified time, imposed on a petroleum title or on the suspension of a petroleum title, | 4
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| (h) | that a person was or was not, at a specified time or during a specified period, an inspector, | 8
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| (i) | that a person was or was not, at a specified time or during a specified period, a member of staff of the Department or a council, | 10
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| (j) | that information required to be furnished pursuant to this Act or the regulations was or was not received, | 13
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| (k) | that a document is a copy of part of, or an extract from, a register kept under this Act, | 15
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| (l) | that a specified amount is payable under this Act or the regulations by a specified person and has not been paid, | 17
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| (m) | that petroleum of a specified value was recovered by a specified person or from specified land, at a specified time or during a specified period, | 19
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| (n) | that a specified legal or equitable interest (being a legal or equitable interest of a kind referred to in section 97) was or was not registered under this Act, | 22
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| (o) | that the Crown or a public authority has incurred costs or expenses of a specified amount under section 79E, | 25
26 |
| (p) | that the Crown or a public authority has incurred costs or expenses of a specified amount in connection with the investigation of a specified offence under this Act, | 27
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| (q) | that a specified function under this Act was delegated to a specified person under section 126 or 126A during a specified period. | 30
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| (3) | For the purposes of the certification of a matter referred to in subsection (2) (h), the person who appointed the inspector concerned is taken to be an officer designated by the Director-General (as referred to in subsection (1)). | 33
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| (4) | In the absence of information that would enable the accurate determination of an amount payable, as referred to in subsection (2) (l), or the value of petroleum, as referred to in subsection (2) (m), the following provisions have effect: | 37
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(a)	the amount or value certified may be an estimate of that amount or value (based on the information available to the person making the certification),	1 2 3
(b)	the estimate is presumed to be accurate and cannot be challenged on the basis that insufficient information was available to enable the making of an accurate determination, but can be challenged by the provision of information that enables a more accurate estimate to be made,	4 5 6 7 8 9
(c)	if the estimate is successfully challenged and as a result a more accurate estimate is substituted, no proceedings are open to challenge merely because of the less accurate estimate and proceedings may continue to be heard and be determined on the basis of the substituted estimate.	10 11 12 13 14
[17]	Section 127	15
	Omit the section. Insert instead:	16
	127 Minister or other officer not to be interested in petroleum title	17
(1)	A person must not, while holding office in an official capacity for the purposes of this Act and while exercising functions in that capacity, hold either directly or indirectly a beneficial interest in a petroleum title. Maximum penalty: 2,000 penalty units.	18 19 20 21 22
(2)	The following are persons who hold office in an <i>official capacity</i> for the purposes of this Act:	23 24
(a)	the Minister,	25
(b)	an inspector,	26
(c)	a member of staff of the Department who exercises functions under this Act or the <i>Mining Act 1992</i> ,	27 28
(d)	any other person who exercises any judicial or official functions under this Act or the <i>Mining Act 1992</i> .	29 30
(3)	This section does not prevent the Director-General from being the holder, on behalf of the Crown, of an exploration licence.	31 32
[18]	Section 135	33
	Omit sections 135–137A. Insert instead:	34
	135 Continuing effect of notices and conditions	35
(1)	A notice given, or a condition of a petroleum title or permit imposed, under this Act or the regulations that specifies a time by	36 37

which, or period within which, the notice or condition must be complied with continues to have effect until the notice or condition is complied with even though the time has passed or the period has expired.	1 2 3 4
(2) A notice that does not specify a time by which, or period within which, the notice must be complied with continues to have effect until the notice is complied with.	5 6 7
(3) This section does not apply to the extent that any requirement under a notice or a condition of a petroleum title or permit is revoked.	8 9 10
(4) Nothing in this section affects the powers of a regulatory authority with respect to the enforcement of a notice or a condition of a petroleum title or permit.	11 12 13
[19] Schedule 1 Savings and transitional provisions	14
Insert at the end of the Schedule with appropriate Part and clause numbers:	15
 Part Provisions consequent on enactment of Petroleum (Onshore) Amendment Act 2013	 16 17
Definition	18
In this Part:	19
<i>2013 amending Act</i> means the <i>Petroleum (Onshore) Amendment Act 2013</i> .	20 21
Legal costs of access arrangements	22
Section 69DA, as inserted by the 2013 amending Act, does not apply in respect of legal costs relating to an access arrangement for which notice was served under section 69E before the commencement of that amendment. Section 69D (2A), as in force before that commencement, continues to apply to such an arrangement.	23 24 25 26 27 28
Breach of environmental conditions	29
(1) This clause applies to a contravention of a condition of a petroleum title imposed under section 75 or 76 that occurs before the substitution of those sections by the <i>State Revenue and Other Legislation Amendment (Budget Measures) Act 2012</i> and after the commencement of section 125D, as inserted by the 2013 amending Act.	30 31 32 33 34 35

(2) The maximum penalty specified for such a contravention is the penalty specified in section 125D for contraventions of conditions other than conditions imposed under section 75 or 76.	1 2 3
Existing inspectors	4
(1) This clause applies to a person who, immediately before the substitution of section 113 by the 2013 amending Act, held office as an inspector employed or engaged under section 113 (1A).	5 6 7
(2) A person to whom this clause applies is taken to have been appointed as an inspector under section 113 as substituted by the 2013 amending Act.	8 9 10
Environmental information	11
Division 1 of Part 13, as inserted by the 2013 amending Act, does not apply to environmental information obtained by the Director-General before the commencement of that Division.	12 13 14
Time for commencement of proceedings	15
Section 125J, as inserted by the 2013 amending Act, does not extend to offences committed before the commencement of that section for which proceedings had not been commenced when the section commenced.	16 17 18 19
Existing notices and conditions	20
Section 135, as substituted by the 2013 amending Act, extends to a notice given or condition imposed under this Act before the commencement of that section if the time by which, or period within which, the notice or condition must be complied with had not expired immediately before that commencement.	21 22 23 24 25

Schedule 2	Amendment of other Acts	1
2.1	Coal Mine Health and Safety Act 2002 No 129	2
	Schedule 3 Savings, transitional and other provisions	3
	Insert after clause 25:	4
25A	Validation of appointment of officers	5
	(1) A person purporting to have been appointed as the Chief Inspector, an inspector, a mine safety officer or an investigator by the 2006 instrument of appointment is taken to have been validly appointed as such an officer on and from the commencement of section 145.	6 7 8 9 10
	(2) Any act purported to be done or omitted to have been done by the person as such an officer on or after that commencement is taken to have been validly done or omitted to be done, if it could have been validly done or omitted to be done had subclause (1) been in force.	11 12 13 14 15
	(3) Nothing in this clause continues the appointment of a person who, before the commencement of this clause, ceased to hold an office to which the person was appointed as referred to in subclause (1).	16 17 18 19
	(4) In this clause: <i>2006 instrument of appointment</i> means the instrument of appointment under the <i>Coal Mine Health and Safety Act 2002</i> , dated 22 December 2006, published in Gazette No 5 of 12 January 2007 at page 102.	20 21 22 23 24
2.2	Fines Act 1996 No 99	25
	Schedule 1 Statutory provisions under which penalty notices issued	26
	Omit “ <i>Petroleum (Onshore) Act 1991</i> , section 137A”.	27
	Insert instead “ <i>Petroleum (Onshore) Act 1991</i> , section 125K”.	28
2.3	Mining Act 1992 No 29	29
[1]	Section 31 Dwelling-houses, gardens and significant improvements	30
	Insert after section 31 (5):	31
	(6) This section does not apply to the holder of an exploration licence who carries out a seismic survey on a public road.	32 33

[2] Section 49 Dwelling-houses, gardens and significant improvements	1
Insert after section 49 (5):	2
(6) This section does not apply to the holder of an assessment lease who carries out a seismic survey on a public road.	3 4
[3] Section 141 Matters for which access arrangement to provide	5
Omit section 141 (2A).	6
[4] Section 141A	7
Insert after section 141:	8
141A Legal costs	9
(1) An access arrangement must specify an amount that the holder of the prospecting title is required to pay for the reasonable legal costs of the landholder in connection with the arrangement.	10 11 12
(2) The amount so specified is to be for costs of legal services in connection with negotiating and making an access arrangement during the period commencing when notice under section 142 is served on the landholder and ending on the date the arrangement is executed. The amount is not to cover costs for any legal services in connection with arbitration relating to the access arrangement.	13 14 15 16 17 18 19
(3) The Director-General may, by order published in the Gazette and with the concurrence of the NSW Farmers Association and the NSW Minerals Council, set a maximum amount for such legal costs.	20 21 22 23
(4) Despite subsection (3), an access arrangement may specify an amount for such legal costs that exceeds the maximum amount set by the Director-General.	24 25 26
[5] Section 240A Direction to suspend operations	27
Omit section 240A (1) (c).	28
[6] Section 240A (4)	29
Omit “cancellation”. Insert instead “suspension”.	30

[7] Section 240EA	1
Insert after section 240E:	2
240EA Appeals against directions	3
(1) Any person who is aggrieved by a decision of the Director-General or an inspector to give the person a direction under section 240 may appeal to the Land and Environment Court against the decision.	4 5 6 7
(2) An appeal must be made within 14 days of the direction being given or within such further period as the Land and Environment Court may in any case allow.	8 9 10
(3) The lodging of an appeal does not operate to stay the direction, unless the Land and Environment Court so orders.	11 12
[8] Section 242AA	13
Insert after section 242:	14
242AA Prior notice of s 240 direction not required	15
A person who gives a direction under section 240 is not required to notify any person who may be affected by the direction before giving the direction.	16 17 18
[9] Section 246P Conditions for mandatory audits	19
Omit section 246P (7). Insert instead:	20
(7) This section does not affect the operation of the following provisions of the <i>Environmental Planning and Assessment Act 1979</i> :	21 22 23
(a) section 89K (Approvals etc legislation that must be applied consistently),	24 25
(b) section 93 (Granting and modification of approval by approval body),	26 27
(c) section 115ZH (Approvals etc legislation that must be applied consistently),	28 29
(d) section 75V (Approvals etc legislation that must be applied consistently) as continued in force by Schedule 6A to that Act.	30 31 32

[10] Section 246R Offences relating to audit information	1
Omit section 246R (1). Insert instead:	2
(1) A person must not provide information that is false or misleading in a material particular to an auditor in connection with a mandatory audit.	3 4 5
[11] Section 246R (3)	6
Omit the subsection. Insert instead:	7
(3) An auditor must not include information in an audit report produced to the Director-General that is false or misleading in a material particular.	8 9 10
[12] Section 246R (6)	11
Insert after section 246R (5):	12
(6) The offences under subsections (1) and (3) are offences of strict liability and the defence of honest and reasonable mistake of fact applies.	13 14 15
[13] Section 248L Power of inspectors to require answers	16
Omit “Division” from section 248L (1). Insert instead “Part”.	17
[14] Section 248M Recording of evidence	18
Omit “Division” from section 248M (1). Insert instead “Part”.	19
[15] Section 248N Power of inspectors to demand name and address	20
Omit “referred to in section 248K” from section 248N (1).	21
Insert instead “of this Act or the regulations”.	22
[16] Section 248O Additional powers of entry	23
Omit the section.	24
[17] Section 361 Appointment of inspectors	25
Insert after section 361 (3):	26
(4) The Director-General must publish the following matters in the Gazette:	27 28
(a) the classes of persons appointed as inspectors under subsection (1),	29 30

	(b) any conditions, limitations or restrictions, or limitation on purposes, imposed by the Director-General on the appointment of persons under this section.	1 2 3
[18]	Section 364 Minister or officer not to be interested in authority, mineral claim or opal prospecting licence	4 5
	Omit section 364 (1). Insert instead:	6
	(1) A person must not, while holding office in an official capacity for the purposes of this Act and while exercising functions in that capacity, hold either directly or indirectly a beneficial interest in an authority, a mineral claim or an opal prospecting licence. Maximum penalty: 2,000 penalty units.	7 8 9 10 11
	(1A) The following are persons who hold office in an <i>official capacity</i> for the purposes of this Act:	12 13
	(a) the Minister,	14
	(b) an inspector,	15
	(c) a member of staff of the Department who exercises functions under this Act or the <i>Petroleum (Onshore) Act 1991</i> ,	16 17 18
	(d) any other person who exercises any judicial or official functions under this Act or the <i>Petroleum (Onshore) Act 1991</i> .	19 20 21
[19]	Section 378A Obstruction	22
	Omit “any person in the exercise of a function under this Act.”. Insert instead:	23
	any of the following persons in the exercise of a function under this Act:	24 25
	(a) an inspector,	26
	(b) an authorised person within the meaning of Division 3 of Part 11,	27 28
	(c) an auditor undertaking a mandatory audit under Division 6 of Part 11,	29 30
	(d) any other person prescribed by the regulations.	31
[20]	Section 378B Obstruction of holder of authorisation	32
	Omit “the holder of an authorisation from doing any act that the holder”.	33
	Insert instead “the holder of an authorisation, or a person authorised by the holder, from doing any act that the holder or person”.	34 35

[21] Section 378C False or misleading information	1
Insert “, other than a requirement referred to in subsection (2)” after “authorisation)” in section 378C (b).	2 3
[22] Section 378C	4
Omit “that the person knows to be”. Insert instead “that is”.	5
[23] Section 378C (2) and (3)	6
Insert at the end of section 378C:	7
(2) A person must not furnish information, records or a return that is false or misleading in purported compliance with a requirement under this Act by an inspector to provide information, records or a return.	8 9 10 11
Maximum penalty: 500 penalty units.	12
(3) The offences under subsections (1) and (2) are offences of strict liability and the defence of honest and reasonable mistake of fact applies.	13 14 15
[24] Section 378I Time within which proceedings may be commenced	16
Omit section 378I (1) and (2). Insert instead:	17
(1) Proceedings for an offence under this Act or the regulations may be commenced within but not later than 3 years after the latest of the following dates:	18 19 20
(a) the date on which the offence is alleged to have been committed,	21 22
(b) the date on which evidence of the alleged offence first came to the attention of an inspector or the Director-General.	23 24 25
[25] Section 378I (3)	26
Omit “subsection (2)”. Insert instead “subsection (1) (b)”.	27
[26] Section 378I (3) and (4)	28
Insert “or the Director-General” after “an inspector” wherever occurring.	29

[27] Part 18, Divisions 1 and 2	1
Insert before section 379:	2
Division 1 Environmental information	3
378ZH Application of Division	4
(1) This Division applies to environmental information obtained by the Director-General in connection with or for the purposes of monitoring, recording or assessing the environmental impacts of prospecting or mining, or proposed prospecting or mining, or related activities.	5 6 7 8 9
(2) In this Division, <i>environmental information</i> means environmental information obtained by the Director-General as a result of any of the following:	10 11 12
(a) an application for an authorisation,	13
(b) an audit under this Act,	14
(c) compliance with a condition of an authorisation,	15
(d) compliance with a direction under this Act,	16
(e) monitoring, inspections or surveys carried out under this Act.	17 18
(3) This Division does not apply to information relating to the value of minerals recovered or other financial information or to any protected document referred to in section 246V.	19 20 21
(4) The regulations may prescribe information as environmental information for the purposes of this Division and may exclude information as environmental information for those purposes.	22 23 24
378ZI Release of environmental information	25
(1) The Director-General may publish on the website of the Department, or in any other manner the Director-General thinks fit, environmental information to which this Division applies.	26 27 28
(2) The Director-General must not publish environmental information if the Director-General is notified in writing by the person who provided the information that disclosure of the information is likely to cause the person a substantial commercial disadvantage.	29 30 31 32 33
(3) Despite subsection (2), the Director-General may publish environmental information that is subject to a notification under that subsection if the Director-General is satisfied that, in all the	34 35 36

	circumstances of the case, it is in the interests of the public to disclose the information.	1 2
Division 2	Other provisions	3
378ZJ	Continuing effect of notices and conditions	4
(1)	A notice given, or a condition of an authorisation or permit imposed, under this Act or the regulations that specifies a time by which, or period within which, the notice or condition must be complied with continues to have effect until the notice or condition is complied with even though the time has passed or the period has expired.	5 6 7 8 9 10
(2)	A notice that does not specify a time by which, or period within which, the notice must be complied with continues to have effect until the notice is complied with.	11 12 13
(3)	This section does not apply to the extent that any requirement under a notice or a condition of an authorisation or a permit is revoked.	14 15 16
(4)	Nothing in this section affects the powers of a regulatory authority with respect to the enforcement of a notice or a condition of an authorisation or a permit.	17 18 19
[28]	Schedule 6 Savings, transitional and other provisions	20
	Insert after clause 118:	21
118A	Delegations of functions under Environmental Planning and Assessment Act 1979	22 23
(1)	This clause applies to the exercise of a function purported to be delegated by the Minister under section 153A of the <i>Environmental Planning and Assessment Act 1979</i> before the substitution of section 363 (1) of this Act by the 2008 Act, whether the delegation was for purposes associated with functions under this Act or any other Act administered by the Minister.	24 25 26 27 28 29 30
(2)	The delegation of any such function is taken to have been validly done on and from the date of the delegation if the delegation could have been made had section 363 (1) as so substituted been in force when the delegation was made.	31 32 33 34

[29] Schedule 6	1
Insert at the end of the Schedule with appropriate Part and clause numbers:	2
Part Provisions consequent on enactment of Petroleum (Onshore) Amendment Act 2013	3 4
Legal costs of access arrangements	5
Section 141A, as inserted by the <i>Petroleum (Onshore) Amendment Act 2013</i> , does not apply in respect of legal costs relating to an access arrangement for which notice was given under section 142 before the commencement of that amendment.	6 7 8 9
Section 141 (2A), as in force before that commencement, continues to apply to such an arrangement.	10 11
Time for commencement of proceedings	12
Section 378I (1), as substituted by the <i>Petroleum (Onshore) Amendment Act 2013</i> , does not extend to offences committed before the commencement of that subsection for which proceedings had not been commenced when the subsection commenced.	13 14 15 16 17
Existing notices and conditions	18
Section 378ZJ, as inserted by the <i>Petroleum (Onshore) Amendment Act 2013</i> , extends to a notice given or condition imposed under this Act before the commencement of that section if the time by which, or period within which, the notice or condition must be complied with had not expired immediately before that commencement.	19 20 21 22 23 24
[30] Schedule 7 Offences	25
Omit Part 3.	26
2.4 Mining Amendment Act 2008 No 19	27
[1] Schedule 1 Amendment of Mining Act 1992	28
Omit Schedule 1 [215].	29
[2] Schedule 1 [258]	30
Omit the item.	31

2.5 Land and Environment Court Act 1979 No 204	1
[1] Section 17 Class 1—environmental planning and protection appeals	2
Insert after section 17 (h):	3
(ha) appeals under section 240EA of the <i>Mining Act 1992</i> ,	4
(hb) appeals under section 79D of the <i>Petroleum (Onshore) Act 1991</i> ,	5
	6
[2] Section 21C Class 8—mining matters	7
Insert at the end of section 21C (1):	8
Note. Some appeals are to be heard by the Court in Class 1 of its jurisdiction.	9
	10
2.6 Law Enforcement (Powers and Responsibilities) Act 2002 No 103	11
	12
Schedule 2 Search warrants under other Acts	13
Omit “ <i>Petroleum (Onshore) Act 1991</i> , section 104”.	14
Insert instead “ <i>Petroleum (Onshore) Act 1991</i> , section 104A”.	15