



New South Wales

Mining and Petroleum Legislation Amendment (Land Access Arbitration) Bill 2015

Explanatory note

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

This Bill is cognate with the *Mining and Petroleum Legislation Amendment (Grant of Coal and Petroleum Prospecting Titles) Bill 2015*.

Overview of Bill

The object of this Bill is to amend the *Mining Act 1992* (the ***Mining Act***) and the *Petroleum (Onshore) Act 1991* (the ***Petroleum Act***) to give effect to the recommendations of a review undertaken by Mr Bret Walker SC in June 2014 entitled *Examination of the Land Access Arbitration Framework — Mining Act 1992 and Petroleum (Onshore) Act 1991*.

The Bill also makes other miscellaneous amendments to those Acts to make further provision with respect to that land access arbitration framework.

The Bill deals with the following matters:

- (a) the composition of the Arbitration Panel under the Mining Act (which performs the functions of the Arbitration Panel under the Petroleum Act),
- (b) negotiating access arrangements under the Acts,
- (c) enabling an access code to be prescribed for the purposes of the Acts (which may include mandatory provisions that are taken to form part of access arrangements),
- (d) mediation and arbitration of access arrangements,
- (e) enabling the Secretary of the Department of Industry, Skills and Regional Development (the ***Secretary***) to approve arbitration procedures for the purposes of mediations and arbitrations under the Acts,
- (f) costs for negotiating, mediating and arbitrating access arrangements,
- (g) the establishment of public registers of access arrangements under the Acts,

- (h) allowing the Land and Environment Court to determine access arrangements if the court is already considering an application relating to operations near dwelling-houses, gardens or significant improvements on the land concerned,
- (i) clarifying the extent of the general immunity of landholders from liability for other persons' acts or omissions on the landholder's land,
- (j) excluding seismic surveys on certain roads from prohibitions of certain operations within a certain distance of dwelling-houses, gardens or significant improvements,
- (k) clarifying the operation of certain provisions relating to operations in proximity to significant improvements and enabling regulations to specify works and structures that are and are not such improvements,
- (l) renewal of exploration licences and assessment leases under the Petroleum Act over areas of land smaller than that comprised in the application for renewal,
- (m) clarifying the rights of holders of production leases,
- (n) extending the access arrangement regime that applies in relation to exploration licences under the Petroleum Act to production leases under that Act,
- (o) assessment of compensable loss suffered or likely to be suffered as a result of the exercise of rights under petroleum titles,
- (p) savings, transitional and other miscellaneous matters.

The Bill also provides for the cancellation of certain petroleum exploration licences that are comprised of land within national parks.

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 appointed by proclamation.

Schedule 1 Amendment of Mining Act 1992 No 29

Seismic surveys on roads

Schedule 1 [1] and [2] amend sections 31 and 49 of the Mining Act to provide that those provisions (which prohibit the exercise of rights conferred by exploration licences and assessment leases on land on which is situated, or within a specified proximity of, dwelling-houses, gardens or significant improvements) do not apply to seismic surveys on roads, if the licence or lease holder has given written notice of at least 21 days (or such other period as is prescribed by the regulations) of the carrying out of the seismic survey to the owner of the dwelling-house, garden or significant improvement concerned (and, in the case of a dwelling-house, the occupant).

Amendments relating to activities on land on or near dwelling-houses, gardens and significant improvements on land

Schedule 1 [1] and [2] also amend sections 31 and 49 of the Mining Act and **Schedule 1 [3]** amends section 62 of that Act to provide that the holder of the exploration licence, assessment lease or applicant for the mining lease is to pay the costs of the owner of the dwelling-house, garden or improvement (or occupant of the dwelling-house) in those proceedings in the Land and Environment Court relating to resolve disputes as to land is or is not covered by those sections.

Schedule 1 [27] substitutes the definition of *significant improvement* in the Dictionary to the Mining Act. The proposed definition provides that a *significant improvement* on land, in relation to an authorisation or an access arrangement, is a work or structure that:

- (a) is a substantial and valuable improvement to the land, and
- (b) is reasonably necessary for the operation of the landholder's lawful business or use of the land, and

- (c) is fit for its purpose (immediately or with minimal repair), and
- (d) cannot reasonably co-exist with the exercise of rights under the authorisation or the access arrangement without hindrance to the full and unencumbered operation or functionality of the work or structure, and
- (e) cannot reasonably be relocated or substituted without material detriment to the landholder, and includes any work or structure prescribed by the regulations for the purposes of the definition, but does not include any work or structure excluded from the definition by the regulations.

Composition of Arbitration Panel

Schedule 1 [4] substitutes section 139 of the Mining Act relating to the establishment of the Arbitration Panel. The proposed new section 139 establishes the Arbitration Panel and deals with the following matters:

- (a) providing that, when appointing persons as members of the Arbitration Panel, the Minister for Industry, Resources and Energy (the *Minister*) must comply with any processes or procedures for such appointments set out in the regulations,
- (b) setting out that a person is not eligible for appointment as a member of the Arbitration Panel unless the person meets the eligibility criteria (if any) set out in the regulations,
- (c) the term of office and conditions of members of the Arbitration Panel.

The proposed section also requires the Secretary to keep and maintain a register of the following:

- (a) the name, business address and contact information of each member of the Arbitration Panel,
- (b) the qualifications and experience of each member (as at the time of the member's most recent appointment),
- (c) details of any actual and potential conflicts of interest disclosed to the Secretary in compliance with a condition of the member's appointment (if such a condition has been imposed),
- (d) any other matter relating to members of the Arbitration Panel as the regulations may prescribe.

The register must be made available for inspection on the website of the Department of Industry, Skills and Regional Development (the *Department*).

Access arrangements—general

Schedule 1 [7] inserts proposed sections 141A and 141B into the Mining Act.

Proposed section 141A provides that the regulations may prescribe a code (an *access code*) 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. The regulations may designate any or all of the provisions of an access code as mandatory provisions. An access code may contain non-binding guidelines relating to negotiating and agreeing access arrangements.

Proposed section 141B provides that all access arrangements are taken to include provisions in the same terms as the mandatory provisions of the access code. A provision of an access arrangement has no effect to the extent that it contains obligations on the holder of the prospecting title that are less stringent than those in a mandatory provision.

Negotiating access arrangements

Schedule 1 [8] amends section 142 of the Mining Act to provide that the holder of a prospecting title and the landholder of the land concerned must negotiate on an access arrangement in good faith.

The amendments to section 142 of the Mining Act also provide that:

- (a) the holder of the prospecting title must pay the reasonable costs of the landholder of the land concerned in participating in negotiating the access arrangement, and

- (b) the maximum amount of those costs is the amount set out by the Minister by order published in the Gazette (and deals with the making of those orders).

Schedule 1 [5] makes a consequential omission.

Mediation and arbitration of access arrangements

Schedule 1 [6] amends section 141 of the Mining Act to provide that both a landholder of land subject to an access arrangement and the holder of the relevant prospecting title may request the appointment of an arbitrator following a contravention of the access arrangement by the title holder.

Schedule 1 [9] substitutes section 144 (2) of the Mining Act to provide that the holder of the prospecting title concerned must pay an application fee for the appointment of an arbitrator under the section.

Schedule 1 [10] substitutes section 145 of, and inserts proposed sections 145A and 145B into, the Mining Act.

Proposed new section 145 provides that, as soon as practicable after having been appointed, an arbitrator must arrange and conduct a mediation of the question of access to the land concerned.

Proposed section 145A contains provisions dealing with the mediation, including the termination of the mediation. The provision requires the parties to a mediation to participate in the mediation in good faith.

Proposed section 145B provides that if the mediation is unsuccessful, the arbitrator must, as soon as practicable after its conclusion arrange and conduct a hearing of the question of access to the land concerned.

Schedule 1 [12] makes a consequential omission.

Schedule 1 [11] substitutes section 146 of the Mining Act to provide that, at any mediation of, or hearing into, the question of access to any land by the holder of a prospecting title, the holder and each landholder:

- (a) are entitled to appear and be heard, and
(b) may be represented by an agent or by an Australian legal practitioner.

Schedule 1 [13] amends section 148 of the Mining Act to provide that the parties to an arbitration must participate in the arbitration in good faith and that an arbitration may be terminated at any time at the request of the parties.

Schedule 1 [14] inserts proposed sections 148A and 148B into the Mining Act.

Proposed section 148A provides that the Secretary may, by order published in the Gazette, approve arbitration procedures for the conduct of mediations and arbitrations under Division 2 (Access arrangements for prospecting titles) of Part 8 (Authorities generally) of the Mining Act (*approved arbitration procedures*). The approved arbitration procedures may include guidance materials for the benefit of the parties and arbitrators. Unless the parties and the arbitrator agree otherwise, mediation and arbitration under Division 2 is to be conducted in accordance with the provisions of the approved arbitration procedures. In the event of an inconsistency between a provision of the approved arbitration procedures and a provision of the Mining Act or of the regulations, the provision of the Mining Act or of the regulations prevails. If a matter is not provided for in the Mining Act, the regulations or the approved arbitration procedures, the procedure at a mediation or a hearing is to be as determined by the arbitrator. The proposed section contains other provisions dealing with the contents and making of approved arbitration procedures.

Proposed section 148B provides that an arbitrator conducting a mediation or a hearing may enter the land concerned and inspect it at a reasonable time after giving reasonable notice to the landholder.

Schedule 1 [17] makes a consequential amendment.

Costs of arbitrating of access arrangements

Schedule 1 [14] also inserts proposed section 148C into the Mining Act.

Proposed section 148C provides that the holder of the prospecting title must pay the reasonable costs of the landholder of the land concerned in participating in the mediation and arbitration. The maximum amount of reasonable costs is the amount set out by the Minister by order published in the Gazette.

Nothing in the proposed section prevents a holder of a prospecting title, at the holder's discretion, paying other amounts to a landholder.

Schedule 1 [15] inserts proposed section 151A into the Mining Act to provide that the arbitrator (as part of the determination of the arbitration or on the termination of the arbitration at the request of the parties) must determine:

- (a) if the parties have disputed a payment to cover the landholder's costs in negotiating the access arrangement (as referred to in section 142 (as amended by **Schedule 1 [8]**)), the amount of that payment, and
- (b) the reasonable costs of the landholder in participating in the mediation and arbitration (as referred to in proposed section 148C).

When determining a payment to cover the reasonable costs of the landholder in participating in the mediation and arbitration, the arbitrator must:

- (a) consider whether or not the landholder has acted unreasonably in the negotiation, mediation or arbitration, and
- (b) deduct an amount that in the opinion of the arbitrator represents the amount by which the unreasonable conduct increased the costs of the negotiation, mediation or arbitration.

Schedule 1 [16] makes a consequential omission.

Schedule 1 [18] makes a consequential amendment.

Schedule 1 [19] inserts proposed section 155 (8) and (9) into the Mining Act to provide that the holder of the prospecting title must pay the reasonable costs of the landholder of the land concerned in a review of a determination of an arbitrator in the Land and Environment Court.

Register of arbitrated access arrangements

Schedule 1 [20] inserts proposed section 156A into the Mining Act to provide that the Secretary is to keep and maintain a register of all final access arrangements provided to him or her. The register is to be made available for public inspection on the Department's website.

As soon as is practicable after an access arrangement is determined by an arbitrator, the holder of the relevant prospecting title must provide the Secretary with a copy of the final access arrangement. Failure to comply with this provision is an offence which carries a maximum penalty of 100 penalty units (in the case of a corporation) or 50 penalty units (in the case of an individual).

Variation of access arrangements

Schedule 1 [21] substitutes section 157 of the Mining Act to deal with variation of access arrangements.

Miscellaneous arbitration amendments

Schedule 1 [22] inserts proposed sections 158A and 158B into the Mining Act.

Proposed section 158A provides that if:

- (a) a party applied to the Land and Environment Court for a determination of a matter under section 31 (5) or 49 (5) (relating to the exercise of rights conferred by exploration licences and assessment leases on land on which is situated, or within a specified proximity to, dwelling-houses, gardens or significant improvements), and

(b) no access arrangement relates to the land concerned,
either party to those Court proceedings may apply to the Court to have the Court determine an access arrangement under Division 2 of Part 8 of the Mining Act in relation to the land.

The proposed section contains provisions dealing with such applications to the Court.

Proposed section 158B provides that the Secretary may remove an arbitrator in certain circumstances and deals with the consequences of such a removal.

Amendments relating to general immunity of landholders

Schedule 1 [23] amends section 383C of the Mining Act to make it clear that the landholder of land within which any person (other than the landholder) is authorised to exercise any power or right by or under any other Act in connection with any activity under an authority, mineral claim, opal prospecting licence or permit under the Mining Act is not subject to any action, liability, claim or demand arising as a consequence of that person's acts or omissions in the exercise, or purported exercise, of any such power or right.

Schedule 1 [24] amends section 383C of the Mining Act to make it clear that the section does not apply to the extent that the action, liability, claim or demand arises from anything done by the landholder with the intention to cause harm or recklessly.

Savings and transitional amendments

Schedule 1 [25] and [26] contain amendments of a savings and transitional nature.

Schedule 2 Amendment of Petroleum (Onshore) Act 1991 No 84

Renewal of titles over smaller area of land

Schedule 2 [2] inserts proposed section 19 (6) and (7) into the Petroleum Act to make it clear that an exploration licence or assessment lease may be renewed over a smaller area of land from the area of land over which the renewal of the licence or lease is sought, but not so as to include any land that was not subject to the licence or lease immediately before the renewal. If an exploration licence or assessment lease is renewed as to part only of the land to which the application for renewal relates, the licence or lease ceases to have effect in relation to the remainder of the land on the date on which the renewal takes effect.

Rights of holders of production leases

Schedule 2 [3] substitutes section 41 of the Petroleum Act to more thoroughly set out the rights of holders of production leases. The holder of a production lease may, in accordance with the conditions of the lease:

- (a) prospect in and on the land comprised in the lease for petroleum, and
- (b) conduct petroleum mining operations in and on the land comprised in the lease, and
- (c) construct and maintain on the land such works, buildings, plant, waterways, roads, pipelines, dams, reservoirs, tanks, pumping stations, tramways, railways, telephone lines, electric powerlines and other structures and equipment as are necessary for the full enjoyment of the lease or to fulfil the lessee's obligations under it.

While a production lease is in force, the holder of the lease and any person acting as agent or employee of the holder, or delivering goods or providing services to the holder, for the purpose of a requirement of or an activity authorised by the lease may:

- (a) for that purpose enter and be on the land included in the lease, and
- (b) do anything so authorised or required.

However, the proposed new section provides that despite this, a holder of a production lease may carry out activities on the land comprised in the lease only in accordance with an access arrangement applying to that land.

Access arrangements—general

Schedule 2 [4] and [5] amend section 69D (1) and (2) of the Petroleum Act to provide that an access arrangement must specify the compensation that is payable to each landholder of the land concerned as a consequence of the holder of the prospecting title carrying out prospecting operations on the land (rather than this being a matter that an access arrangement may or may not make provision).

Schedule 2 [7] amends section 69D (4) of the Petroleum Act to provide that both a landholder of land subject to an access arrangement and the holder of the relevant prospecting title may request the appointment of an arbitrator following a contravention of the access arrangement by the title holder.

Schedule 2 [8] inserts proposed sections 69DA and 69DB into the Petroleum Act.

Proposed section 69DA provides that the regulations may prescribe a code (an *access code*) 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. The regulations may designate any or all of the provisions of an access code as mandatory provisions. An access code may contain non-binding guidelines relating to negotiating and agreeing access arrangements.

Proposed section 69DB provides that all access arrangements are taken to include provisions in the same terms as the mandatory provisions of the access code. A provision of an access arrangement has no effect to the extent that it contains obligations on the holder of the prospecting title that are less stringent than those in a mandatory provision.

Negotiating access arrangements

Schedule 2 [9] amends section 69E of the Petroleum Act to provide that the holder of a prospecting title and the landholder of the land concerned must negotiate on an access arrangement in good faith.

The amendments to section 69E of the Petroleum Act also provide that:

- (a) the holder of the prospecting title must pay the reasonable costs of the landholder of the land concerned in participating in negotiating the access arrangement, and
- (b) the maximum amount of those costs is the amount set out by the Minister by order published in the Gazette (and deals with the making of those orders).

Schedule 2 [6] makes a consequential omission.

Mediation and arbitration of access arrangements

Schedule 2 [10] substitutes section 69G (2) of the Petroleum Act to provide that the holder of the prospecting title concerned must pay an application fee for the appointment of an arbitrator under the section.

Schedule 2 [11] substitutes section 69H of, and inserts proposed sections 69HA and 69HB into, the Petroleum Act.

Proposed new section 69H provides that, as soon as practicable after having been appointed, an arbitrator must arrange and conduct a mediation of the question of access to the land concerned.

Proposed section 69HA contains provisions dealing with the mediation, including the termination of the mediation. The provision requires the parties to a mediation to participate in the mediation in good faith.

Proposed section 69HB provides that if the mediation is unsuccessful, the arbitrator must, as soon as practicable after its conclusion arrange and conduct a hearing of the question of access to the land concerned.

Schedule 2 [13] makes a consequential omission and **Schedule 2 [19]** makes a consequential amendment.

Schedule 2 [12] substitutes section 69I of the Petroleum Act to provide that, at any mediation of, or hearing into, the question of access to any land by the holder of a prospecting title, the holder and each landholder:

- (a) are entitled to appear and be heard, and
- (b) may be represented by an agent or by an Australian legal practitioner.

Schedule 2 [14] amends section 69K of the Petroleum Act to provide that the parties to an arbitration must participate in the arbitration in good faith.

Schedule 2 [15] inserts proposed sections 69KA and 69KB into the Petroleum Act.

Proposed section 69KA provides that the Secretary may, by order published in the Gazette, approve arbitration procedures for the conduct of mediations and arbitrations under Part 4A (Access arrangements for prospecting titles) of the Petroleum Act (*approved arbitration procedures*). The approved arbitration procedures may include guidance materials for the benefit of the parties and arbitrators. Unless the parties and the arbitrator agree otherwise, mediation and arbitration under Part 4A is to be conducted in accordance with the provisions of the approved arbitration procedures. In the event of an inconsistency between a provision of the approved arbitration procedures and a provision of the Petroleum Act or of the regulations, the provision of the Petroleum Act or of the regulations prevails. If a matter is not provided for in the Petroleum Act, the regulations or the approved arbitration procedures, the procedure at a mediation or a hearing is to be as determined by the arbitrator. The proposed section contains other provisions dealing with the contents and making of approved arbitration procedures.

Proposed section 69KB provides that an arbitrator conducting a mediation or a hearing may enter the land concerned and inspect it at a reasonable time after giving reasonable notice to the landholder.

Schedule 2 [18] makes a consequential amendment.

Costs of arbitrating access arrangements

Schedule 2 [15] also inserts proposed section 69KC into the Petroleum Act.

Proposed section 69KC provides that the holder of the prospecting title must pay the reasonable costs of the landholder of the land concerned in participating in the mediation and arbitration. The maximum amount of reasonable costs is the amount set out by the Minister by order published in the Gazette.

Nothing in the proposed section prevents a holder of a prospecting title, at the holder's discretion, paying other amounts to a landholder.

Schedule 2 [16] inserts proposed section 69NA into the Petroleum Act to provide that the arbitrator (as part of the determination of the arbitration or on the termination of the arbitration at the request of the parties) must determine:

- (a) if the parties have disputed a payment to cover the landholder's costs in negotiating the access arrangement (as referred to in section 69E (as amended by **Schedule 2 [9]**)), the amount of that payment, and
- (b) the reasonable costs of the landholder in participating in the mediation and arbitration (as referred to in proposed section 69KC).

When determining a payment to cover the reasonable costs of the landholder in participating in the mediation and arbitration, the arbitrator must:

- (a) consider whether or not the landholder has acted unreasonably in the negotiation, mediation or arbitration, and
- (b) deduct an amount that in the opinion of the arbitrator represents the amount by which the unreasonable conduct increased the costs of the negotiation, mediation or arbitration.

Schedule 2 [17] makes a consequential omission.

Schedule 2 [20] inserts proposed section 69R (8) and (9) into the Petroleum Act to provide that the holder of the prospecting title must pay the reasonable costs of the landholder of the land concerned in a review of a determination of an arbitrator in the Land and Environment Court.

Register of arbitrated access arrangements

Schedule 2 [21] inserts proposed section 69SA into the Petroleum Act to provide that the Secretary is to keep and maintain a register of all final access arrangements provided to him or her. The register is to be made available for public inspection on the Department's website.

As soon as is practicable after an access arrangement is determined by an arbitrator, the holder of the relevant prospecting title must provide the Secretary with a copy of the final access arrangement. Failure to comply with this provision is an offence which carries a maximum penalty of 100 penalty units (in the case of a corporation) or 50 penalty units (in the case of an individual).

Variation of access arrangements

Schedule 2 [22] substitutes section 69T of the Petroleum Act to deal with variation of access arrangements.

Miscellaneous arbitration amendments

Schedule 2 [23] inserts proposed sections 69V and 69W into the Petroleum Act.

Proposed section 69V provides that if:

- (a) a party applied to the Land and Environment Court for a determination of a matter under section 72 (4) (relating to the exercise of rights conferred by exploration licences and assessment leases on land on which is situated, or in specified proximity to, dwelling-houses, gardens, vineyards, orchards or significant improvement), and
- (b) no access arrangement relates to the land concerned,

either party to those Court proceedings may apply to the Court to have the Court determine an access arrangement in relation to the land.

The proposed section contains provisions dealing with such applications to the Court.

Proposed section 69W provides that the Secretary may remove an arbitrator in certain circumstances and deals with the consequences of such a removal.

Access arrangements for production leases

Schedule 2 [24] inserts Part 4B (section 69X) into the Petroleum Act. The new Part provides that Part 4A (which relates to access arrangements for prospecting titles) is, with certain exceptions, to extend to access arrangements for the purpose of conducting petroleum mining operations under a production lease as if references in that Part to:

- (a) a prospecting title were references to a production lease, and
- (b) prospecting operations were references to petroleum mining operations.

The extension of Part 4A by this proposed section is to be subject to any necessary changes and any other modification prescribed by the regulations.

Schedule 2 [1] makes a consequential amendment.

Amendments relating to activities on or near land with dwelling-houses, gardens, vineyards, orchards or significant improvements

Schedule 2 [25]–[27] amend section 72 of the Petroleum Act to provide for a definition of *significant improvement* for the purposes of that section (which prohibits the exercise of rights conferred by a petroleum title on land on which is situated, or within a specified proximity to, dwelling-houses, gardens, vineyards, orchards or certain improvements). The proposed definition provides that a *significant improvement* on land, in relation to a petroleum title or an access arrangement, is a work or structure that:

- (a) is a substantial and valuable improvement to the land, and

- (b) is reasonably necessary for the operation of the landholder's lawful business or use of the land, and
- (c) is fit for its purpose (immediately or with minimal repair), and
- (d) cannot reasonably co-exist with the exercise of rights under the petroleum title or the access arrangement without hindrance to the full and unencumbered operation or functionality of the work or structure, and
- (e) cannot reasonably be relocated or substituted without material detriment to the landholder, and includes any work or structure prescribed by the regulations for the purposes of the definition, but does not include any work or structure excluded from the definition by the regulations.

Schedule 2 [27] also amends section 72 of that Act to provide that the holder of the petroleum title is to pay the costs of the owner of the dwelling-house, garden, vineyard, orchard or significant improvement (or occupant of the dwelling-house) in proceedings in the Land and Environment Court relating to resolve disputes as to whether land is or is not covered by the section.

Seismic surveys on roads

Schedule 2 [27] also provides that section 72 (which prohibits the exercise of rights conferred by a petroleum title on land on which is situated, or within a specified proximity to, dwelling-houses, gardens, vineyards, orchards or significant improvements) is not to apply to seismic surveys on roads, if the title holder has given written notice of at least 21 days (or such other period as is prescribed by the regulations) of the carrying out of the seismic survey to the owner of the dwelling-house, garden, vineyard, orchard or significant improvement concerned (and, in the case of a dwelling-house, the occupant).

Compensation for loss

Schedule 2 [28] inserts proposed section 107A into the Petroleum Act to provide for a definition of *compensable loss* for the purposes of Part 11 (Compensation) of that Act. The definition is substantially the same as the definition in section 262 of the Mining Act.

Schedule 2 [29] amends section 107 of the Petroleum Act to make it clear that on the granting of a petroleum title, each person having any estate or interest in any land becomes entitled to compensation for any such compensable loss suffered, or likely to be suffered, by the person as a result of the exercise of the rights conferred by the title or by an access arrangement in respect of the title.

Schedule 2 [30] inserts proposed section 108 (3) into the Petroleum Act to make it clear that section 108 (2) (which enables the Land and Environment Court to assess the amount of compensation in certain circumstances) does not apply to compensation that is to be determined under an access arrangement that is required to be agreed or determined in accordance with Part 4A or 4B of the Petroleum Act.

Schedule 2 [31]–[34] and [36] make consequential and law revision amendments.

Schedule 2 [35] inserts proposed section 109 (4) into the Petroleum Act to make it clear that any court, person or body making an assessment of compensation under that section is to have regard to the matters (if any) prescribed by the regulations.

Amendments relating to general immunity of landholders

Schedule 2 [37] inserts proposed section 141 (1) (a1) into the Petroleum Act to make it clear that the landholder of land within which any person (other than the landholder) is authorised to exercise any power or right by or under any other Act in connection with any activity under a petroleum title under the Petroleum Act is not subject to any action, liability, claim or demand arising as a consequence of that person's acts or omissions in the exercise, or purported exercise, of any such power or right.

Schedule 2 [38] inserts proposed section 141 (1A) into the Petroleum Act to make it clear that the section does not apply to the extent that the action, liability, claim or demand arises from anything done by the landholder with the intention to cause harm or recklessly.

Savings and transitional amendments

Schedule 2 [39] and [40] contain amendments of a savings and transitional nature.

Cancellation of titles relating to national parks

Schedule 2 [41] inserts a Schedule into the Petroleum Act to cancel any exploration licence, or part of an exploration licence, that is comprised of land within a national park (either wholly or in part, as the case requires). The proposed Schedule contains other provisions dealing with the consequences of such cancellations.