

Explanatory note

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

Overview of Bill

The objects of this Bill are:

(a) to enable the Minister to approve certain geological formations for the permanent storage of carbon dioxide and other greenhouse gases, and
(b) to establish a system of prospecting licences and assessment leases to enable the exploratory work necessary to discover such formations to be carried out, and

(c) to establish a system of injection leases to enable the work involved in injecting carbon dioxide and other greenhouse gases into such formations to be carried out, and

(d) to ensure that the holder of such a licence or lease can obtain access to land, in accordance with a formal access arrangement, for the purpose of exercising the rights conferred by that licence or lease, and

(e) to provide for the payment of fair compensation to persons whose interests are adversely affected by the exercise of the rights conferred by such a licence or lease, and

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(f) to ensure that public health, public safety and the environment are appropriately protected from any adverse effects arising from the exercise of the rights conferred by such a licence or lease, and

(g) to make such other provision as is consequential to the purposes listed above.

The Bill also makes consequential amendments to a number of Acts.

Outline of provisions

Part 1 Preliminary

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.

Clause 3 sets out the objects of the proposed Act (as referred to above).

Clause 4 defines the expression **greenhouse gas** for the purposes of the proposed Act.

Clause 5 defines the expression **approved reservoir** for the purposes of the proposed Act.

Clause 6 defines the expression **prospecting work** for the purposes of the proposed Act.

Clause 7 defines the expression **injection work** for the purposes of the proposed Act.

Clause 8 defines the expression **monitoring work** for the purposes of the proposed Act.

Clause 9 defines certain other words and expressions used in the proposed Act, including **assessment lease**, **competing interest**, **greenhouse gas authority**, **Greenhouse Gas Safety Fund**, **injection lease**, **injection site**, **monitoring site**, **prospecting licence**, **serious situation** and **supplementary authority**.

Part 2 Declaration of reservoirs

Clause 10 enables the Minister to declare a geological formation to be an approved reservoir for the purposes of the proposed Act. Such a declaration may not be made in respect of land that is reserved or dedicated under the *National Parks and Wildlife Act 1974* other than land that is reserved as a state conservation area within the meaning of that Act.

Clause 11 enables an application to be made to the Minister for declaration of a geological formation as an approved reservoir, and deals with the manner and form in which such an application must be made.

Clause 12 sets out the criteria that must be satisfied before a geological formation may be declared an approved reservoir, principally that it must be capable of being used for the permanent storage of greenhouse gases and that there would be no

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conflict between an injection lease granted over the land concerned and any competing interests. The clause enables the Minister to declare a geological formation to be a potential reservoir if some, but not all, of those criteria have been met.

Clause 13 requires the Minister to consult with the Minister administering the *Water Management Act 2000* before making a declaration under the proposed Part.

Clause 14 requires notice of a declaration under the proposed Part to be published in the Gazette.

Clause 15 provides that all approved reservoirs are the property of the Crown, and that the declaration of a geological formation as an approved reservoir does not entitle any landowner to compensation.

Clause 16 provides for the establishment of a Register of Greenhouse Gas Storage Reservoirs.

Part 3 Prospecting licences

Division 1 Prospecting licences generally

Clause 17 enables the Minister to invite applications for prospecting licences to authorise prospecting for geological formations that can be used for the permanent storage of greenhouse gases.

Clause 18 establishes who may apply for a prospecting licence, and deals with the manner and form in which such an application must be made.

Clause 19 sets out the criteria that must be satisfied before a prospecting licence may be granted, principally that the applicant must have the resources and expertise to carry out prospecting work.

Clause 20 provides that a prospecting licence lasts for 6 years, with a possibility of a single renewal.

Clause 21 describes the authority conferred by a prospecting licence, that is, to carry out prospecting work, to apply for a declaration under proposed Part 2 and to apply for an assessment lease or injection lease under proposed Part 4 or 5.

Division 2 Special conditions applicable to prospecting licences

Clause 22 makes it a condition of a prospecting licence that any prospecting work is carried out in accordance with the relevant program of work and that any rehabilitation work is carried out in accordance with the relevant program of site rehabilitation.

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Part 4 Assessment leases

Division 1 Assessment leases generally

Clause 23 enables the Minister to invite applications for assessment leases to secure an approved reservoir for future use for injecting greenhouse gases.

Clause 24 establishes who may apply for an assessment lease, and deals with the manner and form in which such an application must be made.

Clause 25 sets out the criteria that must be satisfied before an assessment lease may be granted, principally that the applicant must have the resources and expertise to carry out prospecting work.

Clause 26 provides that there are two classes of assessment lease, one (Class 1) for approved reservoirs and the other (Class 2) for potential reservoirs.

Clause 27 provides that a Class 1 assessment lease lasts for 5 years, with a possibility of up to two renewals, while a Class 2 assessment lease lasts until 5 years after the potential reservoir to which it relates is declared to be an approved reservoir.

Clause 28 describes the authority conferred by an assessment lease, that is, to carry out prospecting work, to apply for a declaration under proposed Part 2 (relevant only to the holder of a Class 2 assessment lease) and to apply for an injection lease under proposed Part 5.

Division 2 Special conditions applicable to assessment leases

Clause 29 makes it a condition of an assessment lease that any prospecting work is carried out in accordance with the relevant program of work and that any rehabilitation work is carried out in accordance with the relevant program of site rehabilitation.

Clause 30 makes it a condition of an assessment lease that the holder of the lease complies with the terms of any agreement that has been reached with the holder of a competing interest in the land over which the lease is granted.

Part 5 Injection leases

Division 1 Injection leases generally

Clause 31 enables the Minister to invite applications for injection leases to authorise the operations necessary for the injection of greenhouse gases into an approved reservoir.

Clause 32 establishes who may apply for an injection lease, and deals with the manner and form in which such an application must be made. In particular, an application must be accompanied by an operational plan, a map showing the locations of any proposed injection sites and monitoring sites and a proposed site plan and site closure plan for each injection site.

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Clause 33 sets out the criteria that must be satisfied before an injection lease may be granted, principally that the applicant must have the resources and expertise to carry out injection work and to decommission the proposed injection plant, that all relevant approvals and consents have been obtained and that arrangements are in place for the construction of appropriate injection plant and the supply of appropriate supplies of greenhouse gases for injection into the approved reservoir.

Clause 34 provides that an injection lease lasts until site closure certificates have been issued in relation to each injection site in the injection lease area.

Clause 35 describes the authority conferred by an injection lease, that is, to carry out injection work, monitoring work and prospecting work and, for that purpose, to construct appropriate injection plant and monitoring plant.

Clause 36 provides for the amendment of an injection lease in relation to the number, size and location of the injection sites and monitoring sites specified in the lease.

Clause 37 enables an injection lease to be cancelled, and replaced by an assessment lease, if injection work is not started in the injection lease area within 5 years after the injection lease takes effect.

Division 2 Special conditions applicable to injection leases

Clause 38 makes it a condition of an injection lease that the holder of the lease will make contributions to the Greenhouse Gas Safety Fund.

Clause 39 makes it a condition of an injection lease that the holder of the lease will keep proper records.

Clause 40 makes it a condition of an injection lease that the holder of the lease will comply with the terms of any agreement that has been reached with the holder of a competing interest in the land over which the lease is granted.

Clause 41 makes it a condition of an injection lease that the holder of the lease will monitor greenhouse gases stored in the leased reservoir in accordance with the relevant operational plan.

Clause 42 makes it a condition of an injection lease that, while carrying out injection work, the holder of the lease will comply with the requirements of the site plan for each injection site and the requirements of the relevant operational plan.

Clause 43 makes it a condition of an injection lease that, when closing an injection site, the holder of the lease will comply with the requirements of the site closure plan for that site.

Division 3 Operational matters

Clause 44 entitles the holder of an injection lease to a right of way between each injection site and monitoring site to the nearest accessible public road.

Clause 45 prohibits the establishment of an injection site in close proximity to a dwelling-house or other significant improvement.

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Clause 46 enables the Minister to issue directions to preserve the safety and effectiveness of separate reservoirs between which it is possible for greenhouse gases to pass.

Clause 47 requires the holder of an injection lease to notify the Minister if certain situations (such as an escape of greenhouse gases from the leased reservoir) occur. Such situations are referred to in the proposed Act as ***serious situations***.

Division 4 Site closure

Clause 48 enables the holder of an injection lease to apply for cancellation of the lease and deals with the manner and form in which such an application must be made. In particular, the application must identify the location of any monitoring plant that is intended to continue operating after the lease is cancelled. This plant is referred to in the proposed Act as ***permanent monitoring plant***.

Clause 49 enables the Minister to direct the applicant to close all injection sites in the injection lease area.

Clause 50 enables the applicant, once an injection site has been closed in accordance with such a direction, to apply for a site closure certificate.

Clause 51 specifies the requirements that need to be satisfied before a site closure certificate can be issued, and requires an injection lease to be cancelled when site closure certificates have been issued in relation to each injection site in the injection lease area.

Clause 52 states when cancellation of an injection lease takes effect, and the effect of cancellation.

Clause 53 provides that permanent monitoring plant vests in the Crown, and that the vesting does not entitle any person to compensation.

Clause 54 provides that, when an injection lease has been cancelled, long-term liability for the acts and omissions of the former holder of an injection lease is transferred to the Crown, subject to an indemnity from the holder of the lease for any act or omission that constitutes fraud or negligence.

Clause 55 excludes the cancellation of an injection lease under the proposed Division from the operation of the general cancellation provisions of Division 4 of Part 7.

Division 5 Audits

Clause 56 defines certain words and expressions used in the proposed Division.

Clause 57 enables the Minister to impose a mandatory audit condition on an injection lease, that is, a condition requiring the appointment of an auditor, the conduct of an audit, the preparation of an audit report and the production of the audit report to the Director-General.

Clause 58 requires any audit carried out for the purposes of a mandatory audit condition to be duly certified by the holder of the injection lease and by the auditor.
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Clause 59 specifies the purposes for which information furnished pursuant to a mandatory audit condition may be used, that is, to furnish information to agencies engaged in the administration of environmental protection legislation.

Clause 60 provides that the documents prepared for the purpose of carrying out a voluntary audit are protected documents.

Clause 61 sets out the nature of the protection conferred by the proposed Act in relation to protected documents.

Clause 62 sets out the circumstances in which such protection ceases to have effect.

Clause 63 sets out the relationship between the provisions of the proposed Division and the other provisions of the proposed Act in relation to monitoring and reporting.

Part 6 Other ancillary authorities

Division 1 Supplementary authorities

Clause 64 defines the expression *greenhouse gas authority* for the purposes of the proposed Division.

Clause 65 provides that the holder of a greenhouse gas authority may apply for a supplementary authority, and deals with the manner and form in which such an application must be made.

Clause 66 sets out the criteria that must be satisfied before a supplementary authority may be granted, principally that the applicant must have the resources and expertise to carry out prospecting work and (if the authority is associated with an injection lease) that all relevant approvals to the construction of appropriate monitoring plant have been obtained.

Clause 67 provides that a supplementary authority lasts until the expiry of the greenhouse gas authority with which it is associated.

Clause 68 describes the authority conferred by a supplementary authority, that is, to carry out prospecting work and (if the authority is associated with an injection lease) to construct monitoring plant and carry out monitoring work.

Clause 69 makes it a condition of a supplementary authority that any prospecting work is carried out in accordance with the relevant program of work and that any rehabilitation work is carried out in accordance with the relevant program of site rehabilitation.

Division 2 Research permits

Clause 70 provides that any person may, with the consent of the Minister, apply for a research permit, and deals with the manner and form in which such an application must be made.

Clause 71 sets out the criteria that must be satisfied before a research permit may be granted, principally that the applicant must have the resources and expertise to carry out prospecting work.

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Clause 72 provides that a research permit lasts for 5 years, but may be renewed from time to time and cancelled at any time.

Clause 73 describes the authority conferred by a research permit.

Clause 74 applies Divisions 1, 2 and 6 of proposed Part 7 to a research permit, provisions that deal with the imposition of conditions, renewals and other machinery matters.

Division 3 Environmental assessment permits

Clause 75 enables the Minister to issue an environmental assessment permit,

authorising its holder to undertake assessments of the likely environmental effect of activities carried out under a greenhouse gas authority.

Part 7 Greenhouse gas authorities generally

Division 1 General conditions applicable to all authorities

Clause 76 provides that a greenhouse gas authority is subject to both statutory conditions (those imposed by the Act or the regulations) and administrative conditions (those imposed by the Minister).

Clause 77 lists a number of standard administrative conditions that may be imposed.

Clause 78 imposes a condition requiring the discovery of petroleum to be notified to the Director-General.

Clause 79 imposes a condition requiring the discovery of a reservoir (that is, a geological formation that is potentially suitable for the permanent storage of greenhouse gases) to be notified to the Director-General.

Clause 80 imposes a condition requiring the holder of a greenhouse gas authority, as soon as the work under the authority has come to an end, to remove from the land any building, structure or work that the holder has constructed (unless the landowner consents to it remaining on the land).

Clause 81 enables a condition to be imposed requiring certain reports to be furnished to the Director-General, and making provision with respect to the information contained in the reports so provided.

Division 2 Renewals

Clause 82 enables the holder of a greenhouse gas authority to apply for renewal of the authority, and deals with the manner and form in which such an application must be made.

Clause 83 sets out the criteria that must be satisfied before a greenhouse gas authority may be renewed.

Clause 84 makes provision for where some only of the holders of a greenhouse gas authority apply for its renewal.

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Clause 85 ensures that a greenhouse gas authority continues to have effect until any application for its renewal has been determined.

Clause 86 provides that the renewal of a greenhouse gas authority takes effect on the day on which it is granted.

Clause 87 provides that a greenhouse gas authority may be renewed as to part only of the land over which it is in force.

Clause 88 enables applications for the renewal of a greenhouse gas authority and any associated supplementary authority to be dealt with as a single transaction.

Division 3 Transfers

Clause 89 enables the holder of a greenhouse gas authority to apply for approval to the transfer of the authority, and deals with the manner and form in which such an application must be made.

Clause 90 sets out the criteria that must be satisfied before approval to the transfer of a greenhouse gas authority may be given.

Clause 91 provides for the registration of transfers, and for a transfer to take effect on registration.

Clause 92 enables a person to lodge a caveat against the registration of a transfer.

Clause 93 enables applications for approval to the transfer of a greenhouse gas authority and any associated supplementary authority to be dealt with as a single transaction.

Division 4 Cancellations

Clause 94 sets out the grounds on which a greenhouse gas authority may be cancelled, including circumstances in which a supplementary authority needs to be

granted over the same land or the same land is required for a public purpose (such as to enable a mining or petroleum title to be granted).

Clause 95 sets out the procedure to be followed in relation to the cancellation of a greenhouse gas authority.

Clause 96 states when cancellation of a greenhouse gas authority takes effect, and the effect of cancellation.

Clause 97 sets out the circumstances in which compensation may be payable by the Crown as a consequence of the cancellation of a greenhouse gas authority (such as when the land is required for a public purpose) and specifies that compensation is payable only for improvements that have been made by the holder of the cancelled authority and that the amount of compensation payable is to be determined by the Minister.

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Division 5 Legal and equitable interests

Clause 98 provides that a legal or equitable interest in a greenhouse gas authority may not be created except by instrument in writing.

Clause 99 provides for the registration of legal and equitable interests in a greenhouse gas authority. Registered interests have priority over unregistered interests and earlier registered interests have priority over later registered interests.

Clause 100 provides for the registration of an interest in the name of a person to whom the interest has devolved by operation of law.

Clause 101 provides for the establishment of a Register of Interests.

Division 6 Miscellaneous

Clause 102 requires all relevant application fees to have been paid before an application for a greenhouse gas authority may be dealt with.

Clause 103 enables the Minister to ask for further information from an applicant before determining the applicant's application for a greenhouse gas authority.

Clause 104 enables an application for a greenhouse gas authority to be withdrawn.

Clause 105 requires the applicant for a greenhouse gas authority to be notified of the Minister's decision on the application.

Clause 106 specifies the land over which a greenhouse gas authority may be granted and the land over which a greenhouse gas authority may not be granted.

Clause 107 provides that any required security deposit must have been lodged before a greenhouse gas authority may be granted.

Clause 108 provides that a greenhouse gas authority must be in an approved form, and must contain specified information.

Clause 109 abolishes the need for development consent under the *Environmental Planning and Assessment Act 1979* for the use of land for the work and activities carried out under a greenhouse gas authority.

Clause 110 provides that the rights conferred by a greenhouse gas authority may not be exercised in certain locations (such as commons, racecourses, cricket grounds and recreation areas) except with the Minister's consent.

Clause 111 provides for the establishment of a Register of Greenhouse Gas Authorities.

Part 8 Access arrangements

Division 1 Preliminary

Clause 112 sets out the matters for which an access arrangement may provide. The matters set out are in addition to any other matters that the parties to such an arrangement may wish to include.

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Clause 113 requires an access arrangement determined by an arbitrator to make provision for the payment of compensation to the owner of the land in respect of which the arrangement is made.

Clause 114 enables the owner of the land in respect of which an access arrangement is made to require the arrangement to make provision for the payment of the owner's legal costs in relation to the arrangement.

Clause 115 enables the owner of the land in respect of which an access arrangement has been made to refuse access to the land if the holder of the greenhouse gas authority contravenes the arrangement, and provides for an arbitrator to assist in deciding how the contravention should be remedied.

Clause 116 provides that an access arrangement does not affect any right of way to which the holder of an injection lease or associated supplementary authority is entitled in connection with any injection site or monitoring site.

Clause 117 provides that, in certain circumstances, an access arrangement is not required in respect of a native title holder.

Division 2 Access arrangements agreed between parties

Clause 118 sets out the procedure by which the holder of a greenhouse gas authority should negotiate an access arrangement with the owner of land.

Clause 119 requires the holder of a greenhouse gas authority to ensure that all persons having registered interests in the land concerned (that is, interests that are registered or recorded by the Registrar-General) are notified of the making of an access arrangement in relation to the land.

Division 3 Access arrangements determined by arbitration

Clause 120 states that if the holder of a greenhouse gas authority and the owner of land are unable to agree on an access arrangement, they can instead agree on the appointment of a person to arbitrate an access arrangement between them.

Clause 121 sets out the procedure by which a member of the Arbitration Panel can be appointed to arbitrate an access arrangement when the holder of a greenhouse gas authority and the owner of land are unable to agree on an appointment.

Clause 122 requires an arbitrator to appoint a time and place for conducting an arbitration hearing into the question of access to land, and to conduct a hearing at the time and place so appointed.

Clause 123 entitles the holder of a greenhouse gas authority and the owner of land to appear, and to be represented, at an arbitration hearing.

Clause 124 requires an arbitrator to attempt to resolve matters by conciliation and, if successful, to determine an access arrangement in accordance with the results of the conciliation.

Clause 125 sets out the procedure to be followed at an arbitration hearing.

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Clause 126 provides that, at the conclusion of a hearing, an arbitrator must make an interim determination and, if appropriate, must prepare an interim access arrangement. Such an arrangement becomes a final arrangement if no further application is made to the arbitrator for a continuation of the arbitration hearing.

Clause 127 requires an arbitrator to continue an arbitration hearing if asked to do so by any of the parties to the hearing.

Clause 128 provides that, at the conclusion of a continued hearing, an arbitrator must make a final determination and, if appropriate, must prepare a final access arrangement.

Clause 129 states when an access arrangement takes effect, and describes the nature of its effect.

Clause 130 entitles a party to an arbitration to apply to the Land and Environment Court for a review of the arbitrator's determination, and provides that the Court's

decision on the application is to be given effect to as if it were the arbitrator's decision.

Clause 131 requires each party to an arbitration hearing to bear their own costs, and requires the holder of the greenhouse gas authority to bear the arbitrator's costs.

Clause 132 enables the parties to an arbitration hearing to withdraw from arbitration.

Clause 133 protects the arbitrator from personal liability in respect of matters arising from an arbitration hearing.

Division 4 Variation of access arrangements and changes in parties

Clause 134 sets out the procedure for varying or terminating an access arrangement.

Clause 135 makes provision with respect to a change in the ownership of land the subject of an access arrangement.

Part 9 Security deposits

Clause 136 defines certain words and expressions used in the proposed Part.

Clause 137 enables a security deposit condition to be imposed on a greenhouse gas authority.

Clause 138 prescribes the requirements that may be included in a security deposit condition.

Clause 139 prescribes the form in which a security deposit may be given.

Clause 140 prescribes the circumstances in which, and the purposes for which, the Minister may use a security deposit.

Clause 141 specifies when a security deposit condition ceases to have effect, and provides for the return of any unspent money.

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Part 10 Royalty

Clause 142 requires the holder of an injection lease to pay royalty on the quantity of greenhouse gases injected into the leased reservoir.

Clause 143 empowers the regulations to set the rate of royalty and the manner in which the quantity of greenhouse gases injected is to be calculated.

Clause 144 requires the holder of an injection lease to furnish periodic returns.

Clause 145 prescribes how and when royalty is to be paid.

Part 11 Compensation

Division 1 Compensation under greenhouse gas authorities

Clause 146 defines certain words and expressions used in the proposed Division and in proposed Division 3, including *compensable loss*.

Clause 147 entitles an owner of land to compensation for any compensable loss suffered by the owner as a consequence of the exercise of the rights conferred by a greenhouse gas authority or by an access arrangement agreed or determined in respect of that authority.

Clause 148 enables an existing agreement between the holder of a prospecting licence and the owner of land to continue to have effect between them if the holder of the prospecting licence subsequently obtains an assessment lease.

Clause 149 enables an existing agreement between the holder of a prospecting licence or assessment lease and the owner of land to continue to have effect between them if the holder of the prospecting licence or assessment lease subsequently obtains an injection lease.

Clause 150 entitles the owner of land to additional compensation in relation to each injection site and monitoring site located on the land.

Division 2 Compensation under environmental assessment permits

Clause 151 defines certain words and expressions used in the proposed Division and in proposed Division 3, including *compensable loss*.

Clause 152 entitles an owner of land to compensation for any compensable loss suffered by the owner as a consequence of the exercise of the rights conferred by an environmental assessment permit.

Division 3 Compensation assessment procedures

Clause 153 sets out the procedure to be followed by the Land and Environment Court in making an assessment of compensation.

Clause 154 enables the Land and Environment Court to make additional assessments of compensation in certain circumstances.

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Clause 155 enables the Land and Environment to direct the holder of the greenhouse gas authority concerned to notify the Court of the name and address of any owner of land who may be entitled to compensation.

Part 12 Powers of enforcement

Division 1 Powers of Director-General

Clause 156 confers on the Director-General a general power to give directions to the holder of a greenhouse gas authority.

Clause 157 confers on the Director-General a power to direct the holder of an injection lease to take, or refrain from taking, specified action to deal with a serious situation.

Clause 158 confers on the Director-General a power to direct the holder of a greenhouse gas authority to suspend operations in certain circumstances.

Clause 159 enables the Director-General to take whatever action is necessary to fulfil the requirements of a direction under the proposed Division if the direction has not been complied with, and to recover the costs of doing so from the person to whom the direction was given.

Division 2 Powers of inspectors

Clause 160 defines the purposes for which a power conferred by the proposed Division may be exercised.

Clause 161 empowers an inspector to enter premises. Residential premises may only be entered pursuant to a search warrant.

Clause 162 enables an inspector to obtain a search warrant under the *Law Enforcement (Power and Responsibilities) Act 2002*.

Clause 163 sets out the powers that an inspector may exercise in premises that have been lawfully entered.

Clause 164 empowers an inspector to inspect and test any plant, vehicle or thing.

Clause 165 enables an inspector to be accompanied by persons to assist the inspector in the exercise of his or her functions under the proposed Division.

Clause 166 requires an inspector to avoid causing damage, and entitles a person who suffers damage as a consequence of what an inspector has done to receive compensation.

Clause 167 enables the Director-General to require the owner or occupier of land to provide specified assistance and facilities to an inspector.

Clause 168 enables an inspector to demand production of relevant information or records.

Clause 169 enables an order made by an inspector under the proposed Division to be revoked or varied by the Director-General, by the inspector or by any other inspector.

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Part 13 Offences

Division 1 Indictable offences

Clause 170 makes it an offence to interfere with or damage injection plant or

monitoring plant.

Clause 171 makes it an offence to interfere with the carrying out of injection work or monitoring work.

Clause 172 makes it an offence for the holder of an injection lease to fail to report a serious situation as required by proposed section 47 or to fail to comply with a direction given in relation to a serious situation pursuant to proposed section 157.

Division 2 Summary offences

Clause 173 makes it an offence to carry out prospecting work on any land otherwise than pursuant to a greenhouse gas authority.

Clause 174 makes it an offence for the holder of a greenhouse gas authority to contravene any condition to which the authority is subject.

Clause 175 makes it an offence to carry out prospecting work otherwise than in accordance with an access arrangement.

Clause 176 makes it an offence for a person not to pay any royalty required by Part 10.

Clause 177 makes it an offence for a person not to comply with a direction given under the proposed Act (other than a direction given under proposed section 157).

Clause 178 creates a number of offences in relation to mandatory audits.

Clause 179 makes it an offence not to comply with an order given by an inspector in relation to the production of information or records.

Clause 180 makes it an offence to obstruct, hinder or resist an inspector.

Clause 181 makes it an offence to impersonate an inspector.

Clause 182 makes it an offence to prevent the holder of a greenhouse gas authority from doing anything that the proposed Act authorises the holder to do.

Clause 183 makes it an offence to furnish false or misleading information in connection with any application, or in purported compliance with any requirement, under the proposed Act.

Part 14 Legal proceedings

Division 1 Legal proceedings generally

Clause 184 requires offences referred to in Division 1 of proposed Part 13 to be dealt with on indictment, and those referred to in Division 2 of that Part to be dealt with summarily, either by the Local Court or by the Land and Environment Court.

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Clause 185 requires certain matters to be taken into consideration by a court when determining the penalty to be imposed in relation to the offence under proposed section 172 of failing to notify, or to comply with a direction concerning, a serious situation.

Clause 186 provides that if a corporation contravenes a provision of the proposed Act, or the regulations under the proposed Act, then any director or other person concerned in the management of the corporation is taken to have contravened the same provision if he or she knowingly authorised or permitted the contravention.

Clause 187 provides that, in proceedings for an offence in which there is a defence of reasonable excuse, the burden of proving a reasonable excuse lies on the defendant.

Clause 188 provides that a person cannot refuse to provide information pursuant to a requirement under the proposed Act on the ground that the information may incriminate the person, but in that event the information cannot be used to prosecute the person unless the information was false or misleading.

Clause 189 establishes a penalty notice regime for the purposes of the proposed Act.

Clause 190 provides that a continued contravention of a requirement under the proposed Act gives rise to a continuing offence, punishable for each day that the contravention continues.

Clause 191 provides that legal proceedings against a person do not affect, and are unaffected by, any other action that may be taken against the person under the proposed Act.

Clause 192 provides for the issue of evidentiary certificates for use in legal proceedings.

Division 2 Appeals and injunctions

Clause 193 enables an appeal to be made to the Land and Environment Court against certain decisions of the Minister under the proposed Act.

Clause 194 enables the Land and Environment Court to issue an injunction ordering a person to comply with a direction under Division 1 of Part 12.

Clause 195 enables the Land and Environment Court to issue an order to remedy or restrain a breach of the proposed Act or the regulations.

Division 3 Supplementary orders in connection with offences

Clause 196 defines certain words and expressions for the purposes of the proposed Division.

Clause 197 provides that multiple orders in respect of an offence against the proposed Act may be made under the proposed Division, and that the power to make such an order is in addition to any other action that may be taken for the offence.

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Clause 198 enables a court that finds a person guilty of an offence against the proposed Act to order the offender to pay the costs of investigating the offence.

Clause 199 enables a court that finds a person guilty of an offence against the proposed Act to order the offender to pay the costs of dealing with any harm to the environment arising from the commission of the offence, and the costs of dealing with any loss or damage to property so arising.

Clause 200 enables the Land and Environment Court to order an offender whom a court has previously found guilty of an offence against the proposed Act to pay the costs of dealing with any harm to the environment that has subsequently arisen from the commission of the offence, and the costs of dealing with any loss or damage to property that has so arisen.

Clause 201 provides for the enforcement of orders made under proposed sections 198, 199 and 200.

Clause 202 enables the Land and Environment Court to order an offender to pay, as an additional penalty, an amount representing any monetary benefit that the offender has gained from the commission of the offence.

Clause 203 enables a court that finds a person guilty of an offence against the proposed Act to make a number of ancillary orders against the offender.

Part 15 Administration

Clause 204 provides for the establishment of a Greenhouse Gas Safety Fund, into which money is to be paid by the holders of injection leases and from which money is to be used for the long-term monitoring of greenhouse gases following the closure of the injection sites from which those gases have been injected into an approved reservoir.

Clause 205 provides for the establishment of an Arbitration Panel from which arbitrators may be appointed for the purposes of proposed Division 3 of Part 8.

Clause 206 provides for the establishment of expert advisory panels to assist the Minister in the exercise of the Minister's functions under the proposed Act.

Clause 207 provides for the appointment of inspectors for the purposes of the proposed Act.

Clause 208 provides for the delegation of functions by the Minister and the Director-General.

Clause 209 provides for the resolution of disputes between public authorities in relation to matters arising under the proposed Act.

Clause 210 establishes a Ministerial Corporation for the purposes of the proposed Act.

Clause 211 enables the Ministerial Corporation to acquire land for the purposes of the proposed Act, particularly land on which any permanent monitoring plant is situated and easements to facilitate access to any such land.

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Clause 212 provides that certain records received by the Director-General must be kept permanently, and may not be disposed of.

Clause 213 makes provision with respect to the recognition of native title in connection with the administration of the proposed Act.

Clause 214 requires the proposed Act to be administered in accordance with the principles of ecologically sustainable development set out in section 6 (2) of the *Protection of the Environment Administration Act 1991*.

Clause 215 requires the annual report prepared for the Department under the *Annual Reports (Departments) Act 1985* to include a report on the Minister's work and activities under the proposed Act.

Part 16 Miscellaneous

Clause 216 provides that the proposed Act binds the Crown.

Clause 217 enables the Minister to impose fees and charges for the purposes of the proposed Act.

Clause 218 provides for compensation under the proposed Act that is payable by the Crown to be paid out of money appropriated by Parliament.

Clause 219 specifies how documents may be served on a person for the purposes of the proposed Act.

Clause 220 sets out how any requirement under the proposed Act for the newspaper publication of a matter is to be complied with.

Clause 221 protects certain persons from personal liability in connection with the exercise of their functions under the proposed Act.

Clause 222 provides a general immunity to landowners for matters arising on their land as a result of the exercise of functions under the proposed Act by any other person.

Clause 223 provides that greenhouse gases are not waste, and their injection into an approved reservoir is not a scheduled activity and does not constitute pollution of land, for the purposes of the *Protection of the Environment Operations Act 1992*.

Clause 224 declares that a greenhouse gas authority is not personal property for the purposes of the *Personal Property Securities Act 2009* of the Commonwealth.

Clause 225 enables the Governor to make regulations for the purposes of the proposed Act.

Clause 226 provides for the review of the proposed Act in 5 years.

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Schedule 1 Amendment of Acts

Schedule 1.1 amends the *Criminal Procedure Act 1986* so as to require an indictable offence under proposed Division 1 of Part 13 of the proposed Act to be dealt with summarily unless the prosecutor or accused elects otherwise.

Schedule 1.2 amends the *Environmental Planning and Assessment Act 1979* so as to ensure that an injection lease under the proposed Act cannot be refused if it is necessary for carrying out an approved project under that Act and is to be substantially consistent with an approval under Part 3A of that Act.

Schedule 1.3 amends the *Fines Act 1996* in relation to the penalty notice regime established by proposed section 189 of the proposed Act.

Schedule 1.4 amends the *Land and Environment Court Act 1979* so as to assign proceedings under the proposed Act to the appropriate jurisdictions under that Act.

Schedule 1.5 amends the *Law Enforcement (Powers and Responsibilities) Act 2002* in relation to the search warrants referred to in proposed section 162 of the proposed Act.

Schedule 1.6 amends the *Mine Health and Safety Act 2004* so as apply the provisions of that Act to activities carried out under the proposed Act.

Schedule 1.7 amends the *National Parks and Wildlife Act 1974* so as to provide that the restrictions that apply to the carrying out of mining activities under the *Mining Act 1992* extend to the carrying out of activities under the proposed Act.