



New South Wales

# Greenhouse Gas Storage Bill 2010

## 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

(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

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.

## **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.

**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.

**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.

**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.

**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.



**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.

## **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.

**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.

**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.

## **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.

**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.

## **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.

**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.



**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.

**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.

## **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.





New South Wales

# Greenhouse Gas Storage Bill 2010

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New South Wales

# Greenhouse Gas Storage Bill 2010

No. , 2010

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## **A Bill for**

An Act to establish a regime for the permanent underground storage of greenhouse gases; and for other purposes.

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**The Legislature of New South Wales enacts:** 1

**Part 1 Preliminary** 2

**1 Name of Act** 3

This Act is the *Greenhouse Gas Storage Act 2010*. 4

**2 Commencement** 5

This Act commences on a day or days to be appointed by proclamation. 6

**3 Objects of Act** 7

The objects of this Act are as follows: 8

- (a) to enable the Minister to approve certain geological formations for the permanent storage of carbon dioxide and other greenhouse gases, 9  
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11
- (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, 12  
13  
14
- (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, 15  
16  
17
- (d) to ensure that the holder of a prospecting licence, assessment lease or injection lease, and any associated supplementary authority, can obtain access to land, in accordance with a formal access arrangement, for the purpose of exercising certain rights conferred by that licence, lease or authority, 18  
19  
20  
21  
22
- (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, lease or authority, 23  
24  
25
- (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, lease or authority, 26  
27  
28  
29
- (g) to make such other provision as is consequential to the purposes listed above. 30  
31

**4 Definition of “greenhouse gas”** 32

In this Act, *greenhouse gas* means any substance that consists overwhelmingly of: 33  
34

- (a) carbon dioxide, whether in solid, liquid or gaseous form, or 35



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(b)	any other substance prescribed by the regulations, whether in solid, liquid or gaseous form,	1
	so long as the remainder of the substance includes nothing other than:	2
(c)	an approved detecting agent, in a concentration no greater than that prescribed by the regulations in relation to that agent, or	3
(d)	any other substance incidentally derived from the production, capture, transport, injection, storage or monitoring of a substance referred to in paragraph (a) or (b).	4
		5
		6
		7
		8
<b>5</b>	<b>Definition of “approved reservoir”</b>	9
	In this Act, <i>approved reservoir</i> means a reservoir the subject of a declaration in force under section 10.	10
		11
<b>6</b>	<b>Definition of “prospecting work”</b>	12
	In this Act, <i>prospecting work</i> means:	13
(a)	the carrying out of seismic or other surveys, or the taking of surface geological samples, for the purpose of discovering a geological formation that, with or without engineering enhancements, could be suitable for the permanent storage of greenhouse gases, or	14
		15
		16
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		18
(b)	the drilling of test bores, the taking of underground geological samples, the injection of greenhouse gases or the carrying out of monitoring work, for the purpose of ascertaining:	19
		20
		21
(i)	the nature and extent of a geological formation referred to in paragraph (a), or	22
		23
(ii)	the suitability of such a formation for declaration as an approved reservoir, or	24
		25
(c)	the carrying out of any other activity prescribed by the regulations for the purposes of this definition.	26
		27
<b>7</b>	<b>Definition of “injection work”</b>	28
	In this Act, <i>injection work</i> means:	29
(a)	the injection of greenhouse gases into an approved reservoir for the purpose of their permanent storage underground, or	30
		31
(b)	any activity incidental to the activity referred to in paragraph (a), including the conveyance, storage and processing of greenhouse gases preparatory to their injection into an approved reservoir, or	32
		33
		34
(c)	any other activity prescribed by the regulations for the purposes of this definition.	35
		36

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<b>8</b>	<b>Definition of “monitoring work”</b>	1
	In this Act, <i>monitoring work</i> means:	2
	(a) the monitoring of the behaviour of greenhouse gases in an approved reservoir, or	3
		4
	(b) any activity incidental to the activity referred to in paragraph (a), or	5
		6
	(c) any other activity prescribed by the regulations for the purposes of this definition.	7
		8
<b>9</b>	<b>Other definitions</b>	9
(1)	In this Act:	10
	<i>access arrangement</i> means an arrangement giving the holder of a greenhouse gas authority access to land over which the authority is granted, being an arrangement agreed in accordance with Division 2 of Part 8 or determined in accordance with Division 3 of Part 8.	11
		12
		13
		14
	<i>appropriate newspaper</i> means a newspaper referred to in section 220.	15
	<i>approved detecting agent</i> means any substance declared by the regulations to be an approved detecting agent for the purposes of this Act.	16
		17
		18
	<i>approved form</i> means a form approved for the time being by the Director-General.	19
		20
	<i>approved reservoir</i> —see section 5.	21
	<i>arbitrator</i> means an arbitrator appointed under section 120 or 121 to determine an access arrangement between the holder of a greenhouse gas authority and the owner of land over which the authority is granted.	22
		23
		24
	<i>assessment lease</i> means a lease in force under Division 1 of Part 4, and includes a lease granted under section 37.	25
		26
	<i>assessment lease area</i> means land over which an assessment lease is in force.	27
		28
	<i>associated supplementary authority</i> , in relation to a greenhouse gas authority, means a supplementary authority granted to the holder of the greenhouse gas authority to enable certain activities authorised by the greenhouse gas authority to be carried out on the land over which the supplementary authority is granted.	29
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		33
	<i>Class 1 assessment lease</i> means an assessment lease referred to in section 26 (2).	34
		35
	<i>Class 2 assessment lease</i> means an assessment lease referred to in section 26 (3).	36
		37
	<i>competing interest</i> , in relation to an application for a geological formation to be declared an approved reservoir, means an interest in a	38
		39

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mining title or petroleum title over the same land as that in which the formation is located, or over land that is above or below that land.	1
<i>conduct</i> includes both act and omission to act.	2
<i>construct</i> includes install, maintain, alter, extend, replace and repair.	3
<i>Department</i> means the Department of Industry and Investment.	4
<i>Departmental officer</i> means a member of staff of the Department.	5
<i>Director-General</i> means the Director-General of the Department.	6
<i>environment</i> includes all aspects of the surroundings of humans, whether affecting any human as an individual or in his or her social grouping.	7
<i>environmental assessment permit</i> means a permit in force under Division 3 of Part 6.	8
<i>exercise</i> a function includes perform a duty.	9
<i>function</i> includes power, authority and duty.	10
<i>greenhouse gas</i> —see section 4.	11
<i>greenhouse gas authority</i> means a prospecting licence, assessment lease or injection lease, and includes an associated supplementary authority.	12
<i>Greenhouse Gas Safety Fund</i> and <i>Fund</i> mean the fund established under section 204.	13
<i>injection lease</i> means a lease in force under Division 1 of Part 5.	14
<i>injection lease area</i> means land over which an injection lease is in force.	15
<i>injection plant</i> means plant used for:	16
(a) the conveyance, storage or processing of greenhouse gases within an injection site, and	17
(b) the injection of greenhouse gases into an approved reservoir.	18
<i>injection site</i> means any land on which injection work is, or is proposed to be, carried out.	19
<i>injection work</i> —see section 7.	20
<i>inspector</i> means an inspector appointed under section 207.	21
<i>land</i> includes land covered by water, and also includes a stratum of land.	22
<i>leased reservoir</i> , in relation to an injection lease, means the approved reservoir into which the lease authorises greenhouse gases to be injected.	23
<i>mining title</i> means an exploration licence, assessment lease or mining lease within the meaning of the <i>Mining Act 1992</i> .	24

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<b>Ministerial Corporation</b> means the corporation constituted by section 210.	1 2
<b>monitoring plant</b> means plant used for the monitoring of greenhouse gases stored in an approved reservoir.	3 4
<b>monitoring site</b> means any land on which monitoring work is, or is proposed to be, carried out.	5 6
<b>monitoring work</b> —see section 8.	7
<b>native title</b> and <b>native title holder</b> have the same meanings as they have in the <i>Native Title Act 1993</i> of the Commonwealth.	8 9
<b>operational plan</b> means a plan that identifies how injection work and monitoring work are proposed to be carried out within an injection lease area, being a plan that incorporates the following components:	10 11 12
(a) a component that identifies what measures are to be taken to protect the health and safety of those employed in the area and of the general public,	13 14 15
(b) a component that identifies what measures are to be taken to protect the environment,	16 17
(c) a component that identifies what measures are to be taken to rehabilitate the area when injection work and monitoring work have been completed,	18 19 20
(d) such other components as the regulations require.	21
<b>owner</b> , in relation to land, means:	22
(a) the owner of an estate in fee simple in the land, or	23
(b) a native title holder of the land, or	24
(c) the holder of a lease or licence granted under the <i>Crown Lands Act 1989</i> over the land, or	25 26
(d) the holder of a tenure referred to in Part 1 or 2 of Schedule 1 to the <i>Crown Lands (Continued Tenures) Act 1989</i> in the land, or	27 28
(e) the holder of a permissive occupancy within the meaning of the <i>Crown Lands (Continued Tenures) Act 1989</i> granted over the land, or	29 30 31
(f) the holder of a lease granted under the <i>Western Lands Act 1901</i> over the land, or	32 33
(g) a person who is identified in a register or record kept by the Registrar-General as having an interest in the land, being:	34 35
(i) a mortgagee in possession of the land, or	36
(ii) a lessee of the land or other person entitled to an exclusive right of occupation of the land, or	37 38

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(iii)	a Minister or public authority having the benefit of a covenant affecting the land that is imposed by a Minister on behalf of the Crown under the <i>Crown Lands Act 1989</i> , or	1 2 3 4
(iv)	a Minister or public authority having an interest in the land under a conservation, natural heritage or biobanking agreement, or	5 6 7
(v)	a person prescribed by the regulations for the purposes of this paragraph, or	8 9
(h)	a member of a class of persons declared by the regulations to be owners of land for the purposes of this definition,	10 11
	but does not include a member of a class of persons declared by the regulations not to be owners of land for the purposes of this definition.	12 13
	<b>permanent monitoring plant</b> means plant identified as referred to in section 48 (2) (c).	14 15
	<b>petroleum</b> has the same meaning as it has in the <i>Petroleum (Onshore) Act 1991</i> .	16 17
	<b>petroleum title</b> means an exploration licence, assessment lease, production lease or special prospecting authority within the meaning of the <i>Petroleum (Onshore) Act 1991</i> .	18 19 20
	<b>potential reservoir</b> means a reservoir the subject of a declaration in force under section 12 (4).	21 22
	<b>program of site rehabilitation</b> means a program that identifies what work is proposed to be carried out for the purpose of rehabilitating any land over which work has been carried out under a prospecting licence or assessment lease or any associated supplementary authority.	23 24 25 26
	<b>program of work</b> means a program that identifies what work is proposed to be carried out under a prospecting licence or assessment lease, or any associated supplementary authority, including details as to when and where such work is to be carried out.	27 28 29 30
	<b>prospecting area</b> means land over which a prospecting licence is in force.	31 32
	<b>prospecting licence</b> means a licence in force under Division 1 of Part 3.	33
	<b>prospecting work</b> —see section 6.	34
	<b>Register of Greenhouse Gas Authorities</b> means the register kept under section 111.	35 36
	<b>Register of Greenhouse Gas Storage Reservoirs</b> means the register kept under section 16.	37 38
	<b>Register of Interests</b> means the register kept under section 101.	39

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<i>related corporation</i> , in relation to another corporation, means a corporation that is, with respect to that other corporation, a related body corporate within the meaning of the <i>Corporations Act 2001</i> of the Commonwealth.	1 2 3 4
<i>research area</i> means land over which a research permit is in force.	5
<i>research permit</i> means a permit in force under Division 2 of Part 6.	6
<i>section 118 notice</i> means a notice under section 118 as to the intention of the holder of a greenhouse gas authority to obtain an access arrangement in respect of land over which the authority is granted.	7 8 9
<i>serious situation</i> means a situation referred to in section 47 (1).	10
<i>site closure certificate</i> means a certificate issued under section 51.	11
<i>site closure plan</i> means a plan that identifies how an injection site or proposed injection site will be closed once injection work ceases, including details as to the following:	12 13 14
(a) what criteria must be met in relation to the behaviour of greenhouse gases in the leased reservoir before the site should be closed,	15 16 17
(b) what measures are to be taken to decommission and remove the injection plant,	18 19
(c) what measures are to be taken to plug or seal any underground bores or shafts,	20 21
(d) what measures are to be taken to rehabilitate the site,	22
(e) what monitoring plant will continue to monitor the behaviour of greenhouse gases in the leased reservoir after the site has been closed.	23 24 25
<i>site plan</i> means a plan that identifies the injection plant and monitoring plant located, or proposed to be located, in an injection site or proposed injection site, including details as to the location of any injection points in that site.	26 27 28 29
<i>supplementary area</i> means land over which a supplementary authority is in force.	30 31
<i>supplementary authority</i> means an authority in force under Division 1 of Part 6.	32 33
<i>uncommitted land</i> means land that is not the subject of:	34
(a) a greenhouse gas authority, or	35
(b) an application for a greenhouse gas authority, or	36
(c) an invitation under section 17, 23 or 31 for applications for a greenhouse gas authority.	37 38
(2) Notes included in this Act do not form part of this Act.	39

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<b>Part 2</b>	<b>Declaration of reservoirs</b>	1
<b>10</b>	<b>Declaration of approved reservoirs</b>	2
(1)	The Minister may, of the Minister's own motion or on an application under section 11, declare a geological formation to be an approved reservoir.	3 4 5
(2)	Such a declaration may not be made in respect of land that is reserved or dedicated under the <i>National Parks and Wildlife Act 1974</i> other than land that is reserved as a state conservation area within the meaning of that Act.	6 7 8 9
<b>11</b>	<b>Applications for declarations</b>	10
(1)	The holder of a prospecting licence may apply for a geological formation located in the prospecting area to be declared an approved reservoir.	11 12 13
(2)	The holder of a Class 2 assessment lease may apply for a potential reservoir located in the assessment lease area to be declared an approved reservoir.	14 15 16
(3)	Any person may, but only with the consent of the Minister, apply for a geological formation located in uncommitted land to be declared an approved reservoir.	17 18 19
(4)	Subject to subsection (2), an application under this section may not be made in relation to a geological formation that is already declared to be an approved reservoir or a potential reservoir.	20 21 22
(5)	An application for a declaration in relation to a geological formation:	23
(a)	must be made in accordance with the regulations, and	24
(b)	must identify the formation, and	25
(c)	must be accompanied by such information as is available to the applicant to demonstrate that the formation is suitable for the permanent storage of greenhouse gases, and	26 27 28
(d)	must identify any competing interests in relation to the application, and	29 30
(e)	must identify, in relation to each such interest, whether the applicant has consulted any person affected in relation to the application, and	31 32 33
(f)	must indicate, in relation to each such interest, whether the interest conflicts with the rights that would be exercisable under an injection lease granted over the land in which the formation is located, and	34 35 36 37

- (g) must be accompanied by copies of each agreement referred to in subsection (6) that has been entered into in relation to any such interest, and 1  
2  
3
- (h) must contain such other information as the regulations require. 4
- (6) For the purposes of this Part, a competing interest is taken to conflict with the rights exercisable under an injection lease unless the applicant and each person affected have agreed in writing that, subject to the terms of their agreement, those rights do not conflict. 5  
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- (7) In this section *person affected*, in relation to an application under this section, means the holder of a competing interest over the land to which the application relates. 9  
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**12 Minister's decision on application** 12

- (1) The Minister may declare a geological formation to be an approved reservoir if, and only if, the Minister is satisfied: 13  
14
  - (a) that the formation is suitable for the permanent storage of greenhouse gases, and 15  
16
  - (b) that there is no conflict between any competing interest and the rights that would be exercisable under an injection lease granted over the land in which the formation is located, and 17  
18  
19
  - (c) that any requirements of the regulations have been complied with. 20  
21
- (2) For the purposes of subsection (1) (a), a geological formation is not suitable for the permanent storage of greenhouse gases: 22  
23
  - (a) if any part of the formation forms part of, or is likely within the foreseeable future to become part of, the surface of the ground, or 24  
25
  - (b) if there is any risk of greenhouse gases leaking into the atmosphere in quantities that could have a detrimental effect on public health and safety or on the environment. 26  
27  
28
- (3) For the purpose of resolving any conflict referred to in subsection (1) (b), the Minister may request: 29  
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  - (a) the Minister administering the *Mining Act 1992* to take such action as is available under that Act, or 31  
32
  - (b) the Minister administering the *Petroleum (Onshore) Act 1991* to take such action as is available under that Act, 33  
34to assist in the resolution of the conflict. 35
- (4) If the Minister is satisfied as to the matters referred to in subsection (1) (a) and (c), but not as to the matter referred to in subsection (1) (b), the Minister may declare the geological formation to be a potential reservoir. 36  
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(5)	In considering an application by the holder of a Class 2 assessment lease for the declaration of a potential reservoir as an approved reservoir, the Minister may have regard to, but is not bound by, the fact that the reservoir was considered suitable for the permanent storage of greenhouse gases when the reservoir was declared to be a potential reservoir.	1 2 3 4 5 6
<b>13</b>	<b>Consultation with Minister administering Water Management Act 2000</b>	7
	Before deciding whether or not to declare a geological formation to be an approved reservoir or potential reservoir, the Minister must consult with, and have regard to the views of, the Minister administering the <i>Water Management Act 2000</i> in relation to the hydrogeological and geochemical characteristics of the formation and of the land in which it is located.	8 9 10 11 12 13
<b>14</b>	<b>Publication of Minister's decision</b>	14
(1)	The declaration of a geological formation as an approved reservoir or potential reservoir takes effect when notice of the declaration is published in the Gazette.	15 16 17
(2)	Such a notice must specify, in accordance with the regulations, the horizontal and vertical extent of the geological formation concerned.	18 19
<b>15</b>	<b>Approved reservoirs belong to Crown</b>	20
(1)	An approved reservoir, including any estate or interest in the land comprising the reservoir, is the property of the Crown.	21 22
(2)	No compensation is payable by the Crown as a consequence of the declaration of a geological formation as an approved reservoir or the operation of subsection (1) in relation to an approved reservoir.	23 24 25
(3)	Each Crown grant and lease, and each licence and other instrument of title or tenure under any Act relating to lands of the Crown, whether granted before or after the commencement of this section, is taken to contain a reservation to the Crown of all approved reservoirs, whether existing before or after the instrument came into force.	26 27 28 29 30
<b>16</b>	<b>Register of Greenhouse Gas Storage Reservoirs</b>	31
(1)	The Director-General is to keep a register of approved reservoirs and potential reservoirs (the <i>Register of Greenhouse Gas Storage Reservoirs</i> ).	32 33 34
(2)	The Register of Greenhouse Gas Storage Reservoirs must be kept in such form, and include such particulars, as are prescribed by the regulations.	35 36 37

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Clause 16      Greenhouse Gas Storage Bill 2010

Part 2          Declaration of reservoirs

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- (3)    The Register of Greenhouse Gas Storage Reservoirs must be made available at such offices of the Department as may be prescribed by the regulations for inspection, free of charge, by members of the public.      1  
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<b>Part 3</b>	<b>Prospecting licences</b>	1
<b>Division 1</b>	<b>Prospecting licences generally</b>	2
<b>17</b>	<b>Minister may invite applications for prospecting licences</b>	3
(1)	The Minister may, by order published in the Gazette, invite applications for a prospecting licence over any uncommitted land.	4 5
(2)	Copies of each order referred to in subsection (1) must also be published in appropriate newspapers.	6 7
(3)	The Minister may, in such circumstances as are prescribed by the regulations, invite specified persons to apply for a prospecting licence over any uncommitted land.	8 9 10
(4)	An invitation under this section must specify:	11
(a)	the land over which applications are invited, and	12
(b)	the criteria that will be considered in the assessment of any such application, and	13 14
(c)	the address to which any such application should be sent, and	15
(d)	the date by which any such application must be made.	16
<b>18</b>	<b>Applications for prospecting licences</b>	17
(1)	Any person may apply for a prospecting licence over the whole or any part of the land the subject of an invitation under section 17 (1).	18 19
(2)	A person to whom an invitation under section 17 (3) is given may apply for a prospecting licence over the whole or any part of the land the subject of the invitation.	20 21 22
(3)	An application for a prospecting licence:	23
(a)	must be made in accordance with the regulations, and	24
(b)	must identify, in the manner prescribed by the regulations, the land over which it is made, and	25 26
(c)	must contain the applicant's proposed programs of work and site rehabilitation, and	27 28
(d)	must contain such other information as the regulations require.	29

<b>19</b>	<b>Minister's decision on application</b>	1
(1)	Subject to this section, the Minister may grant or refuse to grant a prospecting licence.	2 3
(2)	An application for a prospecting licence is to be refused unless the Minister is satisfied that the applicant has the resources and expertise to carry out prospecting work in the proposed prospecting area.	4 5 6
(3)	In determining whether or not to grant a prospecting licence to an applicant, the Minister must have regard to:	7 8
(a)	the criteria specified in the relevant invitation for applications, and	9 10
(b)	the applicant's proposed programs of work and site rehabilitation, and	11 12
(c)	such other matters as are prescribed by the regulations.	13
(4)	If there is more than one application pursuant to an invitation under section 17 (1), a prospecting licence (if granted) must be granted to the applicant whose application demonstrates the greatest merit.	14 15 16
<b>20</b>	<b>Duration of prospecting licence</b>	17
(1)	A prospecting licence takes effect on the day on which it is granted or on such later day as is specified in the licence.	18 19
(2)	Unless sooner cancelled or renewed, a prospecting licence expires 6 years after the date on which it takes effect.	20 21
(3)	A prospecting licence may be renewed for a period of not more than 6 years, but may not be renewed more than once.	22 23
<b>21</b>	<b>Authority conferred by prospecting licence</b>	24
	While it is in force, a prospecting licence:	25
(a)	authorises its holder to carry out prospecting work in the prospecting area, and	26 27
(b)	gives its holder, to the exclusion of any other person:	28
(i)	the right to make an application under section 11 for a geological formation in the prospecting area to be declared an approved reservoir, and	29 30 31
(ii)	the right to apply for an assessment lease or injection lease in relation to any approved reservoir located in the prospecting area.	32 33 34

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<b>Division 2</b>	<b>Special conditions applicable to prospecting licences</b>	1
		2
<b>22</b>	<b>Compliance with programs of work and site rehabilitation</b>	3
	It is a condition of a prospecting licence that the holder of the licence:	4
	(a) must not carry out prospecting work otherwise than in accordance with the program of work relating to the licence, and	5
		6
	(b) must carry out rehabilitation work in accordance with the program of site rehabilitation relating to the licence.	7
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<b>Part 4</b>	<b>Assessment leases</b>	1
<b>Division 1</b>	<b>Assessment leases generally</b>	2
<b>23</b>	<b>Minister may invite applications for assessment leases</b>	3
(1)	The Minister may, by order published in the Gazette, invite applications for an assessment lease in relation to an approved reservoir located in uncommitted land.	4 5 6
(2)	Copies of each order referred to in subsection (1) must also be published in appropriate newspapers.	7 8
(3)	The Minister may, in such circumstances as are prescribed by the regulations, invite specified persons to apply for an assessment lease in relation to an approved reservoir located in uncommitted land.	9 10 11
(4)	An invitation under this section must specify:	12
(a)	the land over which applications are invited, and	13
(b)	the criteria that will be considered in the assessment of any such application, and	14 15
(c)	the address to which any such application should be sent, and	16
(d)	the date by which any such application must be made.	17
(5)	The horizontal boundaries of the land referred to in subsection (4) (a) must extend over the whole of the approved reservoir to which the invitation relates.	18 19 20
<b>24</b>	<b>Applications for assessment leases</b>	21
(1)	Any person may apply for an assessment lease over the whole or any part of the land the subject of an invitation under section 23 (1).	22 23
(2)	Any person to whom an invitation under section 23 (3) is given may apply for an assessment lease over the whole or any part of the land the subject of the invitation.	24 25 26
(3)	The holder of a prospecting licence may apply for an assessment lease over the whole or any part of the prospecting area, but only if an approved reservoir or potential reservoir is located in that area.	27 28 29
(4)	An application for an assessment lease:	30
(a)	must be made in accordance with the regulations, and	31
(b)	must identify, in the manner prescribed by the regulations, the land over which it is made, and	32 33

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(c)	must contain the applicant's proposed programs of work and site rehabilitation, and	1 2
(d)	must contain such other information as the regulations require.	3
<b>25</b>	<b>Minister's decision on application</b>	4
(1)	Subject to this section, the Minister may grant or refuse to grant an assessment lease.	5 6
(2)	An application for an assessment lease is to be refused unless the Minister is satisfied that the applicant has the resources and expertise to carry out prospecting work in the proposed assessment lease area.	7 8 9
(3)	In determining whether or not to grant an assessment lease to an applicant, the Minister must have regard to:	10 11
(a)	the criteria specified in the relevant invitation for applications, and	12 13
(b)	the applicant's proposed programs of work and site rehabilitation, and	14 15
(c)	such other matters as are prescribed by the regulations.	16
(4)	If there is more than one application pursuant to an invitation under section 23 (1), an assessment lease (if granted) must be granted to the applicant whose application demonstrates the greatest merit.	17 18 19
<b>26</b>	<b>Classes of assessment lease</b>	20
(1)	There are two classes of assessment lease, a Class 1 assessment lease and a Class 2 assessment lease.	21 22
(2)	An assessment lease granted in relation to an approved reservoir is to be a Class 1 assessment lease.	23 24
(3)	An assessment lease granted in relation to a potential reservoir is to be a Class 2 assessment lease.	25 26
<b>27</b>	<b>Duration of assessment lease</b>	27
(1)	An assessment lease takes effect on the day on which it is granted or on such later day as is specified in the lease.	28 29
(2)	Unless sooner cancelled or renewed, a Class 1 assessment lease expires:	30
(a)	5 years after the date on which it takes effect, or	31
(b)	if the holder of the lease applies for an injection lease over the whole or any part of the assessment lease area before the lease expires under paragraph (a), when the application for the injection lease is finally determined.	32 33 34 35

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(3)	A Class 1 assessment lease may be renewed for a further period of 5 years, but may not be renewed more than twice.	1 2
(4)	Unless sooner cancelled, a Class 2 assessment lease expires:	3
(a)	5 years after the date on which the potential reservoir in relation to which the lease is granted is declared to be an approved reservoir, or	4 5 6
(b)	if the holder of the lease applies for an injection lease over the whole or any part of the assessment lease area before the lease expires under paragraph (a), when the application for the injection lease is finally determined.	7 8 9 10
<b>28</b>	<b>Authority conferred by assessment lease</b>	11
	While it is in force, an assessment lease:	12
(a)	authorises its holder to carry out prospecting work in the assessment lease area, and	13 14
(b)	in the case of a Class 1 assessment lease, gives its holder, to the exclusion of any other person, the right to apply for an injection lease over the assessment lease area, and	15 16 17
(c)	in the case of a Class 2 assessment lease, gives its holder, to the exclusion of any other person:	18 19
(i)	the right to apply for the potential reservoir in relation to which the lease is granted to be declared an approved reservoir, and	20 21 22
(ii)	after such a declaration has been made, the right to apply for an injection lease over the assessment lease area.	23 24
<b>Division 2</b>	<b>Special conditions applicable to assessment leases</b>	25 26
<b>29</b>	<b>Compliance with programs of work and site rehabilitation</b>	27
	It is a condition of an assessment lease that the holder of the lease:	28
(a)	must not carry out prospecting work otherwise than in accordance with the program of work relating to the lease, and	29 30
(b)	must carry out rehabilitation work in accordance with the program of site rehabilitation relating to the lease.	31 32
<b>30</b>	<b>Compliance with agreement concerning competing interests</b>	33
	It is a condition of an assessment lease that the holder of the lease must comply with the terms of any agreement that has been entered into pursuant to section 11 (6) between the holder of the lease and any holder of a competing interest over the assessment lease area.	34 35 36 37



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<b>Part 5</b>	<b>Injection leases</b>	1
<b>Division 1</b>	<b>Injection leases generally</b>	2
<b>31</b>	<b>Minister may invite applications for injection leases</b>	3
(1)	The Minister may, by order published in the Gazette, invite applications for an injection lease in relation to an approved reservoir located in uncommitted land.	4 5 6
(2)	Copies of each order referred to in subsection (1) must also be published in appropriate newspapers.	7 8
(3)	The Minister may, in such circumstances as are prescribed by the regulations, invite specified persons to apply for an injection lease in relation to an approved reservoir located in uncommitted land.	9 10 11
(4)	An invitation under this section must specify:	12
(a)	the land over which applications are invited, and	13
(b)	the criteria that will be considered in the assessment of any such application, and	14 15
(c)	the address to which any such application should be sent, and	16
(d)	the date by which any such application must be made.	17
(5)	The horizontal boundaries of the land referred to in subsection (4) (a) must extend over the whole of the approved reservoir to which the invitation relates.	18 19 20
<b>32</b>	<b>Applications for injection leases</b>	21
(1)	Any person may apply for an injection lease over the whole or any part of the land the subject of an invitation under section 31 (1).	22 23
(2)	Any person to whom an invitation under section 31 (3) is given may apply for an injection lease over the whole or any part of the land the subject of the invitation.	24 25 26
(3)	The holder of a prospecting licence or assessment lease may apply for an injection lease over the whole or any part of the prospecting area or assessment lease area, but only if an approved reservoir is located in the area.	27 28 29 30
(4)	An application for an injection lease:	31
(a)	must be made in accordance with the regulations, and	32
(b)	must identify, in the manner prescribed by the regulations, the land over which it is made, and	33 34

- (c) must be accompanied by: 1
  - (i) a proposed operational plan for the injection work and 2  
monitoring work to be carried out in relation to the 3  
proposed leased reservoir, and 4
  - (ii) a map showing the locations of any proposed injection 5  
sites and monitoring sites, and 6
  - (iii) for each proposed injection site, a proposed site plan and a 7  
proposed site closure plan, and 8
- (d) must contain such other information as the regulations require. 9

**33 Minister's decision on application** 10

- (1) Subject to this section, the Minister may grant or refuse to grant an 11  
injection lease. 12
- (2) An application for an injection lease is to be refused unless the Minister 13  
is satisfied: 14
  - (a) that the applicant has the resources and expertise: 15
    - (i) to carry out injection work in relation to the proposed 16  
leased reservoir, and 17
    - (ii) to decommission the proposed injection plant, and seal any 18  
underground bores or shafts, as occasion requires, and 19
  - (b) that all approvals, consents, authorities and permissions that are 20  
required by or under any other Act or law have been obtained in 21  
relation to: 22
    - (i) the construction of injection plant and monitoring plant, 23  
and 24
    - (ii) the carrying out of injection work and monitoring work, 25  
on each proposed injection site and monitoring site in the 26  
proposed injection lease area, and 27
  - (c) that arrangements are in place: 28
    - (i) for the construction of appropriate injection plant on each 29  
such site, and 30
    - (ii) for the supply to that plant, at a rate and over a period not 31  
less than those prescribed by the regulations, of 32  
greenhouse gases for injection into the proposed leased 33  
reservoir, and 34
  - (d) that the proposed operational plans and proposed site closure 35  
plans contain appropriate measures to protect public health and 36  
safety and the environment. 37

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(3)	Subsection (2) (c) (ii) does not apply to:	1
(a)	an application for an injection lease for a project that the Minister is satisfied is intended to be a pilot or demonstration project, or	2 3
(b)	an application made by the holder of a production lease in force under the <i>Petroleum (Onshore) Act 1991</i> for an injection lease for the storage of greenhouse gases used or produced in connection with the holder's operations under the production lease.	4 5 6 7
(4)	In determining whether or not to grant an injection lease to an applicant, the Minister must have regard to:	8 9
(a)	the criteria specified in the relevant invitation for applications, and	10 11
(b)	such other matters as are prescribed by the regulations.	12
(5)	If there is more than one application pursuant to an invitation under section 31 (1), an injection lease (if granted) must be granted to the applicant whose application demonstrates the greatest merit.	13 14 15
(6)	As soon as practicable after determining to grant an injection lease, the Minister is to cause notice of the locations of the injection sites and monitoring sites referred to in section 32 (4) (c) (ii) to be given to the owners of the land on which those sites are located.	16 17 18 19
<b>34</b>	<b>Duration of injection lease</b>	20
(1)	An injection lease takes effect on the day on which it is granted or on such later day as is specified in the lease.	21 22
(2)	Unless sooner cancelled, an injection lease expires when site closure certificates have been issued in relation to each injection site in the injection lease area.	23 24 25
<b>35</b>	<b>Authority conferred by injection lease</b>	26
	While it is in force, an injection lease:	27
(a)	authorises its holder:	28
(i)	to carry out prospecting work in the injection lease area, and	29 30
(ii)	to construct injection plant, and carry out injection work, on the injection sites identified in the lease, and	31 32
(iii)	to construct monitoring plant, and carry out monitoring work, on the monitoring sites identified in the lease, and	33 34
(b)	gives its holder, to the exclusion of any other person, the right to inject greenhouse gases into the leased reservoir.	35 36

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<b>36</b>	<b>Amendment of injection lease as to injection sites and monitoring sites</b>	1
(1)	On the request of the holder of an injection lease, the Minister may amend the lease, and any associated supplementary authority, in relation to the number, location and size of the injection sites and monitoring sites specified in the lease.	2 3 4 5
(2)	As soon as practicable after amending an injection lease or associated supplementary authority under this section, the Minister is to cause notice of the locations of the new injection sites and monitoring sites to be given to the owners of the land on which those sites are located.	6 7 8 9
<b>37</b>	<b>Cancellation of injection lease if injection work not commenced</b>	10
(1)	If the holder of an injection lease fails to begin injection work on any injection site within 5 years after the lease takes effect, the Minister may cancel the lease and, if the holder so requests, grant an assessment lease to the holder over the same land.	11 12 13 14
(2)	Part 4 applies to an assessment lease granted under this section in the same way as it applies to an assessment lease granted under that Part.	15 16
(3)	Division 4 of Part 7 does not apply to the cancellation of an injection lease under this section.	17 18
<b>Division 2</b>	<b>Special conditions applicable to injection leases</b>	19
<b>38</b>	<b>Contributions to Greenhouse Gas Safety Fund</b>	20
	It is a condition of an injection lease that the holder of the lease must pay to the Director-General, for payment into the Greenhouse Gas Safety Fund, such amounts, at such times, as are prescribed by, or calculated in accordance with, the regulations.	21 22 23 24
<b>39</b>	<b>Keeping of records</b>	25
	It is a condition of an injection lease that the holder of the lease:	26
(a)	must keep and maintain such records in relation to the activities carried out under the lease as are required by the regulations, and	27 28
(b)	must send copies of those records to the Director-General, in the approved form, at such times as are prescribed by the regulations.	29 30
<b>40</b>	<b>Compliance with agreement concerning competing interests</b>	31
	It is a condition of an injection lease that the holder of the lease must comply with the terms of any agreement that has been entered into pursuant to section 11 (6) between the holder of the lease and any holder of a competing interest over the injection lease area.	32 33 34 35

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<b>41</b>	<b>Monitoring of stored greenhouse gases</b>	1
	It is a condition of an injection lease that the holder of the lease must ensure that greenhouse gases stored in the leased reservoir are monitored in accordance with:	2
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		4
	(a) the operational plan for the injection lease area, and	5
	(b) the site closure plans for each injection site in the injection lease area.	6
		7
<b>42</b>	<b>Compliance with site plan and operational plan</b>	8
	It is a condition of an injection lease that the holder of the lease:	9
	(a) must construct injection plant on each injection site in accordance with the site plan for the site, and	10
		11
	(b) must carry out injection work on each injection site in accordance with the operational plan for the injection lease area.	12
		13
<b>43</b>	<b>Compliance with site closure plan</b>	14
	It is a condition of an injection lease that, if the Director-General gives a direction to close down the injection site, the holder of the lease must close down the injection site in accordance with the site closure plan for the site.	15
		16
		17
		18
<b>Division 3</b>	<b>Operational matters</b>	19
<b>44</b>	<b>Rights of way</b>	20
	(1) The holder of an injection lease is entitled to a right of way, to be indicated or described in the manner prescribed by the regulations, between:	21
		22
		23
	(a) each injection site or monitoring site in the injection lease area, or	24
	(b) each monitoring site in any associated supplementary area,	25
	and the nearest accessible public road.	26
	(2) The route of a right of way should, wherever practicable, follow the route of existing roads or tracks (particularly, in the case of land in the Western Division, those the subject of special easements under section 35S of the <i>Western Lands Act 1901</i> ).	27
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	(3) It is a condition of an injection lease that the holder of the injection lease:	31
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	(a) must ensure that substantial gates or grids, of a design and construction adequate to prevent stock from straying, are placed wherever fences are intersected by the right of way, or	33
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(b)	if those fences are rabbit-proof, marsupial-proof or dog-proof fences, must ensure that rabbit-proof, marsupial-proof or dog-proof gates are placed at all such intersections.	1 2 3
(4)	The costs of installing and maintaining any gates or grids required by this section are to be borne by the holder of the injection lease.	4 5
(5)	Subject to any determination by the Land and Environment Court, a right of way is subject to such conditions as to its exercise, and to such exceptions as to the land over which it may be exercised, as may be prescribed by the regulations.	6 7 8 9
(6)	If a dispute arises as to the exercise of a right of way, any party to the dispute may apply to the Land and Environment Court for a determination of the matter.	10 11 12
<b>45</b>	<b>Dwelling-houses, gardens and significant improvements</b>	13
(1)	Injection plant must not be constructed over any land:	14
(a)	on which, or within the prescribed distance of which, is situated a dwelling-house that is the principal place of residence of its occupant, or	15 16 17
(b)	on which, or within the prescribed distance of which, is situated any garden, or	18 19
(c)	on which is situated any significant improvement other than an improvement constructed for the use of the holder of the relevant injection lease,	20 21 22
	except with the written consent of the owner of the dwelling-house, garden or improvement (and, in the case of the dwelling-house, the written consent of its occupant).	23 24 25
(2)	The prescribed distance is:	26
(a)	200 metres (or, if a greater distance is prescribed by the regulations, that greater distance) for the purposes of subsection (1) (a), and	27 28 29
(b)	50 metres (or, if a greater distance is prescribed by the regulations, that greater distance) for the purposes of subsection (1) (b).	30 31 32
(3)	A written consent given under this section is irrevocable.	33
(4)	Subsection (1) does not apply in respect of a dwelling-house, garden or significant improvement that was not in existence when the application for the relevant injection lease was made.	34 35 36
(5)	If a dispute arises as to whether or not subsection (1) applies in a particular case, any party to the dispute may apply to the Land and Environment Court for a determination of the matter.	37 38 39

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- (6) In this section, *significant improvement* means any substantial building, dam, reservoir, contour bank, graded bank, levee, water disposal area or soil conservation work, and (without limitation) includes any other work or structure prescribed by the regulations or belonging to a class of works or structures so prescribed.
- 46 Linked reservoirs**
- (1) This section applies to an approved reservoir that is linked to another reservoir (whether or not an approved reservoir) in a manner that permits greenhouse gases to pass from one to the other, where:
- (a) an injection lease is in force in relation to the approved reservoir, and
- (b) some other person is injecting greenhouse gases into the other reservoir (whether or not pursuant to an injection lease).
- (2) The Minister may, by order in writing served on the holder of the injection lease, direct the holder to enter into a co-operative arrangement with the other person for any one or more of the following purposes:
- (a) to maximise the effectiveness of the injection of greenhouse gases into each reservoir,
- (b) to maximise the volume of greenhouse gases that can be stored in each reservoir,
- (c) to maximise the effectiveness of the monitoring of greenhouse gases stored in each reservoir,
- (d) to minimise any risk to public health and safety from the greenhouse gases stored in each reservoir,
- (e) to minimise the environmental impact of greenhouse gases stored in each reservoir.
- (3) Such an order must specify:
- (a) the time within which the direction must be complied with, and
- (b) how any dispute between the parties to the arrangement is to be resolved, and
- (c) what action will be taken if the direction is not complied with.
- (4) Failure to comply with a direction is not an offence, but may give rise to action of the kind referred to in subsection (3) (c).
- (5) If the other reservoir extends into some other State or Territory, such an order may not be served on the holder of the injection lease except with the concurrence of the public authority of that State or Territory responsible for regulating injection work (however described) within that State or Territory.

- (6) The Minister may amend an injection lease so as: 1
- (a) to give effect to a co-operative arrangement referred to in subsection (2), or 2  
3
  - (b) to give effect to the terms of an order referred to in subsection (3) (c). 4  
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- (7) In this section, a reference to a reservoir (other than an approved reservoir) is a reference to a geological formation that is capable of storing or holding greenhouse gases. 6  
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**47 Serious situations** 9

- (1) The holder of an injection lease must cause written notice to be served on the Director-General if any of the following situations occur in relation to the leased reservoir: 10  
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12
- (a) a greenhouse gas appears to be leaking, or about to leak: 13
    - (i) from the reservoir, or 14
    - (ii) from equipment by means of which it is being injected into the reservoir, or 15  
16
    - (iii) from equipment by means of which it is being conveyed, stored or processed pending its injection into the reservoir, 17  
18
  - (b) a greenhouse gas that has been injected into the reservoir appears to be behaving, or about to behave, otherwise than as predicted in the operational plan for the injection lease area, 19  
20  
21
  - (c) the geotechnical integrity of the reservoir appears to have been compromised as a consequence of the injection of greenhouse gases into, or the storage of greenhouse gases in, the reservoir, 22  
23  
24
  - (d) the reservoir appears to be no longer suitable for the permanent storage of greenhouse gases, 25  
26
  - (e) any other situation prescribed by the regulations for the purposes of this section. 27  
28
- (2) A notice referred to in subsection (1): 29
- (a) must contain the information required by the regulations, and 30
  - (b) must be delivered to the Director-General within the time prescribed by the regulations. 31  
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<b>Division 4</b>	<b>Site closure</b>	1
<b>48</b>	<b>Applications for cancellation of injection lease</b>	2
(1)	The holder of an injection lease may apply for the lease to be cancelled.	3
(2)	An application for cancellation of an injection lease:	4
(a)	must be made in accordance with the regulations, and	5
(b)	must identify any associated supplementary authority, and	6
(c)	must identify the location of any monitoring plant:	7
(i)	that has been constructed pursuant to the lease or authority, and	8 9
(ii)	that is intended, after the lease is cancelled, to continue monitoring greenhouse gases stored in the leased reservoir, and	10 11 12
(d)	must include an estimate of the annual cost (at current values) of maintaining and operating the monitoring plant referred to in paragraph (c), and	13 14 15
(e)	must contain such other information as the regulations require.	16
<b>49</b>	<b>Direction to close injection site</b>	17
(1)	On receiving an application for cancellation of an injection lease, the Minister:	18 19
(a)	may direct the holder of the lease to close all injection sites in the injection lease area, and	20 21
(b)	may delay cancelling the lease until a site closure certificate has been issued in relation to each such site.	22 23
(2)	Such a direction need not be given if the Minister is satisfied that no injection work has ever been carried out in the injection lease area, in which case the Minister may cancel the injection lease, and any associated supplementary authority, without delay.	24 25 26 27
<b>50</b>	<b>Applications for site closure certificates</b>	28
(1)	On completing the closure of an injection site, the holder of the injection lease may apply to the Minister for a site closure certificate for the site.	29 30
(2)	An application for a site closure certificate:	31
(a)	must include the current site closure plan for the site, and	32
(b)	must contain full details of the steps that have been taken to close the injection site, and	33 34
(c)	must contain such other information as the regulations require.	35

- (3) The Minister may request the applicant to provide further information in support of the application, and may refuse to deal further with the application until such information has been provided. 1  
2  
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**51 Site closure certificate** 4

- (1) The Minister may issue a site closure certificate for an injection site if, and only if, the Minister is satisfied that: 5  
6
- (a) the injection site has been closed in accordance with the site closure plan for the site, and 7  
8
  - (b) the greenhouse gases stored in the leased reservoir are behaving as predicted by the site closure plan, and 9  
10
  - (c) such other requirements as are prescribed by the regulations have been complied with. 11  
12
- (2) If the Minister is satisfied as to subsection (1) (a) and (c) but not as to subsection (1) (b), the Minister: 13  
14
- (a) may, by order in writing, direct the holder of the injection lease to carry out specified work to control the behaviour of the greenhouse gases, and 15  
16  
17
  - (b) may delay issuing a site closure certificate until satisfied that: 18
    - (i) the work has been carried out, and 19
    - (ii) the greenhouse gases stored in the leased reservoir are behaving as predicted by the site closure plan. 20  
21
- (3) The Minister must cancel an injection lease, and any associated supplementary authority, when: 22  
23
- (a) site closure certificates have been issued in relation to each injection site in the injection lease area, and 24  
25
  - (b) copies of all records kept under section 39 in relation to the lease (other than those previously supplied to the Minister) have been delivered to the Minister. 26  
27  
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**52 Effect of cancellation** 29

Cancellation of an injection lease under this Division: 30

- (a) takes effect on the date on which the written notice of the cancellation is served on the holder of the lease, and 31  
32
- (b) does not affect any liability incurred by the holder of the lease before the cancellation took effect. 33  
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<b>53</b>	<b>Permanent monitoring plant vests in Crown</b>	1
(1)	If an injection lease or associated supplementary authority is cancelled under this Division, any permanent monitoring plant located in the injection lease area or associated supplementary area is, by virtue of this subsection, vested in the Ministerial Corporation.	2 3 4 5
(2)	The Minister may, by order in writing, exclude any specified monitoring plant from the operation of this section.	6 7
(3)	No compensation is payable by the Crown as a consequence of the vesting in the Crown of permanent monitoring plant or the operation of subsection (1) in relation to any such plant.	8 9 10
<b>54</b>	<b>Long-term liability</b>	11
(1)	The following provisions take effect when an injection lease is cancelled under this Division:	12 13
(a)	the holder of the injection lease ceases to be subject to any action, liability, claim or demand that, after the lease was cancelled, arises from the holder's conduct, before the lease was cancelled, in the exercise, or purported exercise, of the holder's functions under the lease,	14 15 16 17 18
(b)	the Crown becomes subject to any such action, liability, claim or demand.	19 20
(2)	Despite subsection (1), the holder of the injection lease is taken to indemnify the Crown against any liability incurred by the Crown under that subsection to the extent to which the conduct giving rise to that liability constitutes fraud or negligence.	21 22 23 24
<b>55</b>	<b>Exclusion of Division 4 of Part 7</b>	25
	Division 4 of Part 7 does not apply to the cancellation of an injection lease under this Division.	26 27
<b>Division 5</b>	<b>Audits</b>	28
<b>56</b>	<b>Definitions</b>	29
	In this Division:	30
	<i>audit</i> means a periodic or particular documented evaluation of prospecting work, injection work or monitoring work carried out under an injection lease (including management practices, systems and plant) for any one or more of the following purposes:	31 32 33 34
(a)	to provide information on compliance or otherwise with:	35
(i)	the obligations under the lease, or	36

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(ii)	other related requirements under this or any other Act or law,	1
		2
(b)	to provide information on compliance or otherwise with any codes of practice or policies relevant to the injection lease,	3
		4
(c)	to enable a determination of whether the way activities are being carried out under the injection lease can be improved in order to protect the environment.	5
		6
		7
	<b>mandatory audit</b> means an audit carried out pursuant to a mandatory audit condition.	8
		9
	<b>mandatory audit condition</b> means a condition imposed on an injection lease pursuant to section 57.	10
		11
	<b>voluntary audit</b> means an audit commissioned or carried out voluntarily, whether or not in relation to matters concerning an injection lease, but does not include an audit in relation to a matter in respect of which:	12
		13
		14
		15
(a)	there is a contemporaneous requirement for a mandatory audit, and	16
		17
(b)	both audits are to be carried out by the same person.	18
<b>57</b>	<b>Conditions for mandatory audits</b>	19
(1)	The Minister may impose a condition on an injection lease requiring one or more audits to be undertaken, to the satisfaction of the Director-General, for any one or more of the purposes referred to in the definition of <b>audit</b> in section 56.	20
		21
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(2)	A mandatory audit condition must specify the purpose or purposes of the audit.	24
		25
(3)	A mandatory audit condition may require any one or more of the following:	26
		27
(a)	the appointment of an auditor to undertake the audit,	28
(b)	the approval by the Director-General of the auditor before being appointed,	29
		30
(c)	the preparation of particular written documentation during the course of the audit,	31
		32
(d)	the preparation of an audit report,	33
(e)	the production to the Director-General of the audit report.	34

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(4)	A mandatory audit condition:	1
(a)	may specify the format and level of detail required for the audit, and	2 3
(b)	may require the auditor to submit the proposed format and level of detail to the Director-General for approval.	4 5
(5)	A mandatory audit condition may be varied or revoked by written notice served on the holder of the injection lease.	6 7
(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 injection lease or on such later day as is specified in the notice.	8 9 10
<b>58</b>	<b>Certification of audit report</b>	11
	The audit report for a mandatory audit is taken not to have been duly produced to the Director-General unless it is accompanied by:	12 13
(a)	a declaration, signed by the holder of the injection lease, certifying:	14 15
(i)	that the holder has provided all relevant information to the auditor, and	16 17
(ii)	that the holder has not knowingly provided any false or misleading information to the auditor, and	18 19
(b)	a declaration, signed by the auditor, setting out the auditor's qualifications and certifying:	20 21
(i)	that the report is accurate, and	22
(ii)	that the auditor has not failed to include any relevant information in it, and	23 24
(iii)	that the auditor has not knowingly included any false or misleading information in it.	25 26
<b>59</b>	<b>Use of information</b>	27
(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:	28 29 30 31
(a)	this Act, or	32
(b)	the <i>Environmental Planning and Assessment Act 1979</i> , or	33
(c)	the environment protection legislation within the meaning of the <i>Protection of the Environment Administration Act 1991</i> ,	34 35
	and may be used by that person for the purposes of those laws.	36

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(2)	Without limiting subsection (1), the Director-General is authorised, despite any other Act or law, to provide a relevant agency with any such information.	1 2 3
(3)	In this section, <b>relevant agency</b> means the Department, or a public authority engaged in the administration of:	4 5
(a)	the <i>Environmental Planning and Assessment Act 1979</i> , or	6
(b)	the environment protection legislation within the meaning of the <i>Protection of the Environment Administration Act 1991</i> , or	7 8
(c)	such other legislation as may be prescribed by the regulations.	9
<b>60</b>	<b>Protected documents</b>	10
(1)	Documents prepared for the sole purpose of a voluntary audit are protected documents for the purposes of this Act.	11 12
(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.	13 14 15
(3)	Without limiting 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 an injection lease or by a direction under Division 1 of Part 12.	16 17 18 19
<b>61</b>	<b>Nature of protection</b>	20
(1)	A protected document:	21
(a)	is not admissible in evidence against any person in any proceedings connected with the administration or enforcement of:	22 23 24
(i)	this Act, or	25
(ii)	the environment protection legislation within the meaning of the <i>Protection of the Environment Administration Act 1991</i> , or	26 27 28
(iii)	such other legislation as may be prescribed by the regulations, and	29 30
(b)	must not be inspected, copied, seized or otherwise obtained by the Department, any authority prescribed by the regulations or any other person for any purpose connected with such administration or enforcement.	31 32 33 34
(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 a protected document or about what it contains.	35 36 37 38

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(3)	The burden of establishing that a document is a protected document lies on the person asserting that it is protected.	1 2
(4)	A court may inspect any document that is claimed to be a protected document for the purpose of determining whether or not it is a protected document.	3 4 5
(5)	The regulations may prescribe procedures for making and determining claims that a document is a protected document.	6 7
<b>62</b>	<b>Lifting of protection</b>	8
(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:	9 10 11 12 13
(a)	this Act, or	14
(b)	the environment protection legislation within the meaning of the <i>Protection of the Environment Administration Act 1991</i> , or	15 16
(c)	such other legislation as may be prescribed by the regulations.	17
(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.	18 19 20
<b>63</b>	<b>Relationship of Division to other provisions of Act</b>	21
	This Division does not affect any other provision of this Act:	22
(a)	that enables an injection lease to be subject to a condition requiring monitoring or reporting, or	23 24
(b)	that relates to functions exercisable by persons for the purpose of auditing compliance with this Act, the regulations or conditions of greenhouse gas authorities.	25 26 27

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<b>Part 6</b>	<b>Other ancillary authorities</b>	1
<b>Division 1</b>	<b>Supplementary authorities</b>	2
<b>64</b>	<b>Definition</b>	3
	In this Division, <i>greenhouse gas authority</i> does not include a supplementary authority.	4 5
<b>65</b>	<b>Applications for supplementary authorities</b>	6
(1)	The holder of a greenhouse gas authority may apply for a supplementary authority over any land, whether or not the land is the subject of some other greenhouse gas authority or an application for some other greenhouse gas authority.	7 8 9 10
(2)	An application for a supplementary authority:	11
(a)	must be made in accordance with the regulations, and	12
(b)	must identify the greenhouse gas authority with which the supplementary authority is intended to be associated, and	13 14
(c)	must identify, in the manner prescribed by the regulations, the land over which it is made, and	15 16
(d)	must contain proposed programs of work and site rehabilitation, and	17 18
(e)	must be accompanied by a map showing the locations of any proposed injection sites and monitoring sites, and	19 20
(f)	must contain such other information as the regulations require.	21
(3)	If the greenhouse gas authority is an injection lease, the application must identify the locations in the proposed supplementary area of any proposed monitoring sites.	22 23 24
<b>66</b>	<b>Minister's decision on application</b>	25
(1)	Subject to this section, the Minister may grant or refuse to grant a supplementary authority.	26 27
(2)	An application is to be refused unless the Minister is satisfied that:	28
(a)	the applicant has the resources and expertise to carry out prospecting work in the proposed supplementary area, and	29 30
(b)	in the case of an application for a supplementary authority that is intended to be associated with an injection lease, all approvals, consents, authorities and permissions that are required by or under any other Act or law have been obtained in relation to:	31 32 33 34
(i)	the construction of monitoring plant, and	35



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(ii)	the carrying out of monitoring work,	1
	on each proposed monitoring site in the proposed supplementary	2
	area.	3
(3)	In determining whether or not to grant a supplementary authority to an	4
	applicant, the Minister must have regard to:	5
(a)	the proposed programs of work and site rehabilitation, and	6
(b)	such other matters as are prescribed by the regulations.	7
(4)	As soon as practicable after determining to grant an injection lease, the	8
	Minister is to cause notice of the locations of the monitoring sites	9
	referred to in section 65 (2) (e) to be given to the owners of the land on	10
	which those sites are located.	11
<b>67</b>	<b>Duration of supplementary authority</b>	12
(1)	A supplementary authority takes effect on the day on which it is granted	13
	or on such later day as is specified in the authority.	14
(2)	Unless sooner cancelled or renewed, a supplementary authority expires	15
	on the date on which the greenhouse gas authority with which it is	16
	associated expires.	17
(3)	A supplementary authority may not be renewed unless the greenhouse	18
	gas authority with which it is associated:	19
(a)	is renewed, or	20
(b)	is replaced by another kind of greenhouse gas authority pursuant	21
	to a right conferred by section 21 or 28.	22
(4)	If a supplementary authority is renewed in conjunction with the renewal	23
	of a greenhouse gas authority, it is to be renewed for the same period as	24
	that for which the greenhouse gas authority is renewed.	25
<b>68</b>	<b>Authority conferred by supplementary authority</b>	26
	A supplementary authority authorises its holder:	27
(a)	to carry out prospecting work in the supplementary area, and	28
(b)	if it is associated with an injection lease, to construct monitoring	29
	plant, and carry out monitoring work, on any monitoring sites	30
	identified in the supplementary authority,	31
	for the purpose of supplementing the activities carried out under the	32
	greenhouse gas authority with which it is associated.	33

<b>69 Compliance with programs of work and site rehabilitation</b>	1
It is a condition of a supplementary authority that the holder of the authority:	2
(a) must not carry out prospecting work otherwise than in accordance with the program of work relating to the authority, and	3
(b) must carry out rehabilitation work in accordance with the program of site rehabilitation relating to the authority.	4
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<b>Division 2 Research permits</b>	9
<b>70 Applications for research permits</b>	10
(1) Any person may, but only with the consent of the Minister, apply for a research permit over any uncommitted land.	11
(2) An application for a research permit:	12
(a) must be made in accordance with the regulations, and	13
(b) must identify, in the manner prescribed by the regulations, the land over which it is made, and	14
(c) must contain such information as the regulations require.	15
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	17
<b>71 Minister's decision on application</b>	18
(1) Subject to this section, the Minister may grant or refuse to grant a research permit.	19
(2) An application is to be refused unless the Minister is satisfied that the applicant has the resources and expertise to carry out prospecting work in the proposed research area.	20
(3) In determining whether or not to grant a research permit to an applicant, the Minister must have regard to such matters as are prescribed by the regulations.	21
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<b>72 Duration of research permit</b>	27
(1) A research permit takes effect on the day on which it is granted or on such later day as is specified in the permit.	28
(2) Unless sooner cancelled or renewed, a research permit expires 5 years after the date on which it takes effect.	29
(3) There is no limit to the number of times a research permit may be renewed.	30
(4) The Minister may cancel a research permit, at any time and for any reason, by written notice served on the holder of the permit.	31
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<b>73 Authority conferred by research permit</b>	1
A research permit authorises its holder to carry out prospecting work, as prescribed by the regulations, in the research area.	2 3
<b>74 Application of Divisions 1, 2 and 6 of Part 7</b>	4
Divisions 1, 2 and 6 of Part 7 apply to and in respect of a research permit in the same way as they apply to and in respect of a greenhouse gas authority.	5 6 7
<b>Division 3 Environmental assessment permits</b>	8
<b>75 Environmental assessment permits</b>	9
(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 greenhouse gas authority, grant a permit to the applicant to enter any land so as to enable the person to undertake the assessment.	10 11 12 13 14 15
(2) The holder of a permit under this section, and any employee or agent of the holder, may, in accordance with the permit:	16 17
(a) enter the land to which the permit relates, and	18
(b) do on that land all such things as are reasonably necessary to carry out the assessment to which the permit relates.	19 20
(3) A permit under this section may not be granted in respect of land in 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.	21 22 23 24 25 26

<b>Part 7</b>	<b>Greenhouse gas authorities generally</b>	1
<b>Division 1</b>	<b>General conditions applicable to all authorities</b>	2
<b>76</b>	<b>Statutory and administrative conditions</b>	3
(1)	A greenhouse gas authority is subject to such conditions as are imposed on it by this Act or the regulations ( <i>statutory conditions</i> ), and to such other conditions ( <i>administrative conditions</i> ) as the Minister may impose.	4 5 6 7
(2)	Administrative conditions may be imposed on a greenhouse gas authority, and any such condition may be varied or revoked:	8 9
(a)	when the authority is granted or renewed or its transfer is approved, or	10 11
(b)	at any time after the authority is granted or renewed or its transfer is approved.	12 13
(3)	The imposition, variation or revocation of the administrative conditions of a greenhouse gas authority takes effect:	14 15
(a)	if effected pursuant to subsection (2) (a), on the day on which the authority, renewal or transfer takes effect, or	16 17
(b)	if effected pursuant to subsection (2) (b), on the day on which written notice of the imposition, variation or revocation is served on the holder of the authority, or on such later day as is specified in the notice.	18 19 20 21
(4)	A statutory condition prevails over an administrative condition to the extent of any inconsistency between them.	22 23
(5)	The Minister may, by notice in writing served on the holder of a greenhouse gas authority, suspend a statutory condition in relation to the authority, either unconditionally or subject to specified conditions, for a specified period (not exceeding 6 months).	24 25 26 27
(6)	Nothing in this section or any other provision of this Act limits or affects the operation of section 75V (Approvals etc legislation that must be applied consistently) or 93 (Granting and modification of approval by approval body) of the <i>Environmental Planning and Assessment Act 1979</i> .	28 29 30 31 32
<b>77</b>	<b>Standard administrative conditions</b>	33
	Without limiting section 76 (1), the conditions that may be imposed on a greenhouse gas authority include the following:	34 35
(a)	conditions as to matters to be completed before the work to which the authority relates is commenced,	36 37

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(b)	conditions as to how much money is to be spent on any specified aspect of the work to which the authority relates,	1
(c)	conditions as to the precautions to be taken to protect public health and safety,	2
(d)	conditions as to the protection of the environment,	3
(e)	conditions as to the rehabilitation of land affected by the carrying out of the work authorised by the authority,	4
(f)	conditions as to the information to be given to the Director-General in connection with any change in the controlling body of any corporation having an interest in the authority.	5
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<b>78</b>	<b>Discovery of petroleum to be notified</b>	12
(1)	If petroleum is discovered in the land over which a greenhouse gas authority is granted, the holder of the authority:	13
(a)	must immediately inform the Director-General of the discovery, and	14
(b)	must, within 3 days after the date of the discovery, provide the Director-General with written particulars of the discovery.	15
(2)	It is a condition of a greenhouse gas authority that the holder of the authority must comply with the requirements imposed by or under this section.	16
(3)	This section does not apply if the holder of the greenhouse gas authority is also the holder of a petroleum title over the same land.	17
	<b>Note.</b> An obligation to notify a discovery of petroleum, and to provide detailed information about such a discovery, is imposed on the holder of a petroleum title by sections 27 and 28 of the <i>Petroleum (Onshore) Act 1991</i> .	18
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<b>79</b>	<b>Discovery of reservoir to be notified</b>	27
(1)	If a possible reservoir (that is, a geological formation that could, with or without engineering enhancements, be suitable for use for the permanent underground storage of greenhouse gases) is discovered in the land over which a greenhouse gas authority is granted, the holder of the authority:	28
(a)	must immediately inform the Director-General of the discovery, and	29
(b)	must, within 30 days after the date of the discovery, provide the Director-General with written particulars of the discovery.	30
(2)	The Director-General may, by instrument in writing served on the holder of the authority, direct the holder to do either or both of the following:	31
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(a)	within such period as is specified in the instrument, to provide the Director-General with written particulars as to:	1
	(i) the nature of the stratum in which the reservoir is situated, and	2
	(ii) any other matters relating to the discovery that are specified by the Director-General in the instrument,	3
		4
(b)	within such period as is specified in the instrument, to do such things as are specified in the instrument to determine the location and size of the reservoir.	5
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(3)	It is a condition of a greenhouse gas authority that the holder of the authority must comply with the requirements imposed by or under this section.	7
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<b>80</b>	<b>Removal of buildings, structures and works</b>	13
(1)	As soon as practicable after ceasing to carry out work on any land to which a greenhouse gas authority relates, the holder of the authority:	14
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(a)	must remove any building, structure or work that the holder has constructed, and	16
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(b)	must rehabilitate any land that the holder has disturbed, in the course of carrying out the work for which the authority was granted.	18
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(2)	It is a condition of a greenhouse gas authority that the holder of the authority must comply with the requirements imposed by this section.	21
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(3)	The requirements imposed by this section do not cease merely because the greenhouse gas authority expires or is cancelled.	23
		24
(4)	This section does not apply to:	25
(a)	any permanent monitoring plant, or	26
(b)	any building, structure or work that the owner of the land on which it is situated consents to it remaining on the land.	27
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<b>81</b>	<b>Reporting requirements</b>	29
(1)	A condition may be imposed on a greenhouse gas authority requiring the holder to provide the Director-General with reports detailing any one or more of the following:	30
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(a)	the extent to which the conditions of the authority, or any provisions of this Act or the regulations applicable to activities under the authority, have or have not been complied with,	33
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(b)	particulars of any non-compliance with any such conditions or provisions,	36
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(c)	the reasons for any such non-compliance,	1
(d)	any action taken, or proposed to be taken, to prevent any recurrence, or to mitigate the effects, of that non-compliance.	2 3
(2)	A condition under this section may require a report to be certified as correct by the holder, by some other person approved by the Director-General or by a member of a class of persons prescribed by the regulations.	4 5 6 7
(3)	Any information contained in a report provided under this section may be used for the purposes of this Act.	8 9
(4)	The Director-General is authorised, despite any other Act or law, to provide a relevant agency with any such information.	10 11
(5)	In this section, <i>relevant agency</i> means the Department or any public authority engaged in the administration of:	12 13
(a)	the <i>Environmental Planning and Assessment Act 1979</i> , or	14
(b)	the environment protection legislation within the meaning of the <i>Protection of the Environment Administration Act 1991</i> , or	15 16
(c)	such other legislation as may be prescribed by the regulations.	17
<b>Division 2</b>	<b>Renewals</b>	18
<b>82</b>	<b>Applications for renewal</b>	19
(1)	The holder of an authority may apply for the renewal of the authority.	20
(2)	An application for approval:	21
(a)	must be made in accordance with the regulations, and	22
(b)	must contain such information as the regulations require.	23
(3)	If the application is in respect of part only of the land subject to the authority, the application must be accompanied by a description, prepared in the manner prescribed by the regulations, of the land over which renewal of the authority is sought.	24 25 26 27
(4)	Any application for the renewal of a greenhouse gas authority must be lodged with the Director-General within the period of 2 months before the authority ceases to have effect.	28 29 30
<b>83</b>	<b>Minister's decision on application</b>	31
(1)	Subject to this section, the Minister may renew or refuse to renew a greenhouse gas authority.	32 33

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(2)	Renewal is to be refused on the same grounds as the granting of a greenhouse gas authority of the same kind would be refused had the applicant for renewal been the applicant for a greenhouse gas authority.	1 2 3
(3)	In determining whether or not to renew a greenhouse gas authority, the Minister must have regard to:	4 5
(a)	the same matters as those to which the Minister would be required to have regard in relation to an application for a greenhouse gas authority of the same kind had the applicant for renewal been the applicant for a greenhouse gas authority, and	6 7 8 9
(b)	such other matters as are prescribed by the regulations.	10
(4)	A greenhouse gas authority may be renewed in respect of part only of the land to which the application for renewal relates.	11 12
<b>84</b>	<b>Application by some only of holders of authority</b>	13
(1)	The Minister may not renew a greenhouse gas authority otherwise than in the names of each of the holders of the authority unless satisfied that any holder of the authority not applying for its renewal does not wish the authority to be renewed in that person's name.	14 15 16 17
(2)	The Minister may cause to be served on any holder of a greenhouse gas authority not applying for its renewal a written notice:	18 19
(a)	stating that an application for renewal of the authority has been made, and	20 21
(b)	requiring the person, in such manner and on or before such date as is specified in the notice, to state whether or not the person wishes the authority to be renewed in that person's name.	22 23 24
(3)	If a person on whom such a notice is served fails to state whether or not the person wishes a greenhouse gas authority to be renewed in his or her name, the failure to do so is conclusive evidence that the person does not wish the authority to be renewed in that person's name.	25 26 27 28
<b>85</b>	<b>Authority to have effect until application dealt with</b>	29
	If an application for the renewal of a greenhouse gas authority is not finally dealt with before the date on which the authority would otherwise cease to have effect, the authority continues to have effect, in relation only to the land to which the application relates, until the application is finally disposed of.	30 31 32 33 34
<b>86</b>	<b>Date from which renewal of authority has effect</b>	35
	The renewal of a greenhouse gas authority takes effect on the day on which it is granted.	36 37



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<b>87</b>	<b>Partial renewals</b>	1
	If a greenhouse gas authority is renewed as to part only of the land to which the application for renewal relates, the authority ceases to have effect in relation to the remainder of the land on the date on which the renewal takes effect.	2 3 4 5
<b>88</b>	<b>Renewal of greenhouse gas authority and associated supplementary authority</b>	6 7
	If applicable, the renewal of a greenhouse gas authority and any associated supplementary authority may be dealt with as a single transaction.	8 9 10
<b>Division 3</b>	<b>Transfers</b>	11
<b>89</b>	<b>Applications for approval of transfers</b>	12
	(1) The holder of a greenhouse gas authority may apply for approval to the transfer of the authority to another person.	13 14
	(2) An application for approval:	15
	(a) must be made in accordance with the regulations, and	16
	(b) must include the consent of the proposed transferee, and	17
	(c) must contain such information as the regulations require.	18
	(3) If the application is in respect of part only of the land subject to the authority, the application must be accompanied by a description, prepared in the manner prescribed by the regulations, of the land over which approval to the transfer of the authority is sought.	19 20 21 22
<b>90</b>	<b>Minister's decision on application</b>	23
	(1) Subject to this section, the Minister may approve or refuse to approve the transfer of a greenhouse gas authority.	24 25
	(2) Approval to the transfer is to be refused on the same grounds as the granting of a greenhouse gas authority of the same kind would be refused had the proposed transferee been the applicant for the authority.	26 27 28
	(3) In determining whether or not to approve the transfer, the Minister must have regard to:	29 30
	(a) the same matters as those to which the Minister would be required to have regard in relation to an application for a greenhouse gas authority of the same kind had the applicant for approval of the transfer been the applicant for a greenhouse gas authority, and	31 32 33 34 35
	(b) such other matters as are prescribed by the regulations.	36

<b>91 Registration of transfers</b>	1
(1) If the transfer of a greenhouse gas authority is approved, the transferor or transferee of the authority may, within 3 months after being notified of the approval, apply for registration of the transfer.	2 3 4
(2) An application for registration of a transfer:	5
(a) must be made in accordance with the regulations, and	6
(b) in the case of a full transfer, must be accompanied by a document signed by the Director-General and the transferee acknowledging the terms of the authority after the transfer, and	7 8 9
(c) in the case of a partial transfer, must be accompanied by:	10
(i) a document signed by the Director-General and the transferor acknowledging the terms of the original authority after the transfer, and	11 12 13
(ii) a document signed by the Director-General and the transferee acknowledging the terms of the new authority.	14 15
(3) On receipt of the application, the Director-General must register the transferee as the holder of the authority or (in the case of a partial transfer) the new authority.	16 17 18
(4) On registration of a full transfer the transferee becomes the holder of the authority.	19 20
(5) On registration of a partial transfer:	21
(a) the original authority is taken to have been cancelled as to the area of the part transferred, and	22 23
(b) an authority over the part transferred is taken to have been granted to the transferee for the period from the date of registration until the date on which the original authority is due to expire, and	24 25 26 27
(c) the transferee becomes the holder of the new authority.	28
<b>92 Caveats</b>	29
(1) A person claiming a legal or equitable interest in a greenhouse gas authority may lodge with the Director-General a caveat directing the Director-General not to register any transfer of the authority otherwise than in accordance with the provisions of the caveat.	30 31 32 33
(2) Unless sooner withdrawn, the caveat remains in force for the period of 3 months from the date on which it is lodged.	34 35
(3) While the caveat remains in force, a transfer of the authority to which it relates may not be registered in contravention of the provisions of the caveat otherwise than pursuant to an order of the Supreme Court.	36 37 38

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(4)	When the caveat expires, any transfer of the authority to which it relates in respect of which an application for registration has been made may be registered unless, before the caveat expired, the Director-General was served with an order of the Supreme Court prohibiting registration of the transfer.	1 2 3 4 5
<b>93</b>	<b>Transfer of greenhouse gas authority and associated supplementary authority</b>	6 7
	If applicable, the transfer of a greenhouse gas authority and any associated supplementary authority may be dealt with as a single transaction.	8 9 10
<b>Division 4 Cancellations</b>		11
<b>94</b>	<b>Grounds for cancellation of authority</b>	12
(1)	The Minister may cancel a greenhouse gas authority, as to the whole or any part of the land to which it relates:	13 14
(a)	if the holder of the authority contravenes a provision of this Act or the regulations (whether or not the holder is prosecuted or convicted of any offence arising from the contravention), or	15 16 17
(b)	if the holder of the authority contravenes a condition of the authority (whether or not the person is prosecuted or convicted of any offence arising from the contravention), or	18 19 20
(c)	if the holder of the authority provides false or misleading information in or in connection with an application or any report provided under this Act for or with respect to the authority, or	21 22 23
(d)	if the Minister is of the opinion that it is necessary to cancel the authority so as to prevent, reduce or mitigate:	24 25
	(i) any risk to public health or safety, or	26
	(ii) any damage to the environment,	27
	that has arisen, or may arise, from the carrying out of the work for which the authority has been granted, or	28 29
(e)	if the holder of the authority no longer has the resources or expertise to carry out the work for which the authority was granted, or	30 31 32
(f)	if the holder of the authority fails to use the land to which the authority relates for the purposes for which it has been granted, or uses the land for a purpose other than a purpose for which it has been granted, or	33 34 35 36

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(g)	if the holder of the authority (other than an injection lease) applies for cancellation of the authority, or	1 2
	<b>Note.</b> See Division 4 of Part 5 for the procedure for cancelling an injection lease pursuant to an application by the holder of the lease.	3 4
(h)	if the land is required to enable a supplementary authority to be granted, or	5 6
(i)	if the land is required for a public purpose, or	7
(j)	if it is otherwise in the public interest for the authority to be cancelled.	8 9
(2)	An application referred to in subsection (1) (g):	10
(a)	must be lodged with the Director-General, and	11
(b)	if the application is for the cancellation of a greenhouse gas authority as to part only of the land to which it relates, must identify, in the manner prescribed by the regulations, the land in respect of which the authority is to be cancelled.	12 13 14 15
(3)	Without limiting subsection (1) (i), a greenhouse gas authority may be cancelled, as to the whole or any part of the land to which it relates:	16 17
(a)	if the Minister administering the <i>Mining Act 1992</i> requests that the authority be cancelled so as to enable a mining title to be granted under that Act, or	18 19 20
(b)	if the Minister administering the <i>Petroleum (Onshore) Act 1991</i> requests that the authority be cancelled so as to enable a petroleum title to be granted under that Act.	21 22 23
(4)	Action taken under this section in respect of a greenhouse gas authority is not affected by, and does not affect, any other action that has been taken under this Act in respect of the authority.	24 25 26
<b>95</b>	<b>Procedure for cancelling authorities</b>	27
	Before cancelling a greenhouse gas authority on a ground referred to in section 94 (1) (a)–(f), the Minister:	28 29
(a)	must cause written notice of the proposed cancellation and the grounds for it to be served on the holder of the authority, and	30 31
(b)	must give the holder a reasonable opportunity to make representations with respect to the proposed cancellation, and	32 33
(c)	must take any such representations into consideration.	34
<b>96</b>	<b>Effect of cancellation</b>	35
	Cancellation of a greenhouse gas authority under this Division:	36
(a)	takes effect on the date on which the written notice of the cancellation is served on the holder of the authority, and	37 38

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(b)	does not affect any liability incurred by the holder of the authority before the cancellation took effect.	1 2
<b>97</b>	<b>Compensation for cancellation</b>	3
(1)	The holder of a greenhouse gas authority is not entitled to compensation merely because the authority is cancelled.	4 5
(2)	However, if the authority is cancelled, as to the whole or any part of the land to which it relates, on the ground that:	6 7
(a)	the land in respect of which it is cancelled is required to enable a supplementary authority to be granted, or	8 9
(b)	the land in respect of which it is cancelled is required for a public purpose, or	10 11
(c)	it is otherwise in the public interest for the authority to be cancelled,	12 13
	the holder of the authority is entitled to compensation, of an amount to be determined by the Minister, for any improvements that have been made, in connection with anything done by the holder under the authority, to the land in respect of which the authority is cancelled.	14 15 16 17
<b>Division 5</b>	<b>Legal and equitable interests</b>	18
<b>98</b>	<b>Interests in authority to be created by instrument in writing</b>	19
(1)	A legal or equitable interest in a greenhouse gas authority may not be created or disposed of except by instrument in writing.	20 21
(2)	The creation of a legal or equitable interest in a greenhouse gas authority does not affect the liability of the holder of the authority for any contravention of the conditions of the authority or any contravention of this Act or the regulations.	22 23 24 25
<b>99</b>	<b>Registration of interests</b>	26
(1)	Any person claiming a legal or equitable interest in a greenhouse gas authority may apply for registration of the interest in the Register of Interests.	27 28 29
(2)	An application must be lodged with the Director-General and must be accompanied by documentary evidence of the legal or equitable interest concerned.	30 31 32
(3)	If satisfied that the applicant holds the interest concerned, the Director-General may register the document by which the legal or equitable interest is evidenced.	33 34 35

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Clause 100	Greenhouse Gas Storage Bill 2010	
Part 7	Greenhouse gas authorities generally	

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(4)	On application by the holder of an interest or otherwise, the Director-General may make such amendments to the Register of Interests as are appropriate to reflect dealings in the interest.	1 2 3
(5)	Without limiting subsection (4), the Director-General may cancel the registration of an interest if of the opinion that the interest has ceased to exist.	4 5 6
(6)	Registration of an interest under this section is not evidence of the existence of the interest.	7 8
(7)	For the purposes of any legal proceedings concerning an authority:	9
(a)	a registered interest has priority over an unregistered interest, and	10
(b)	an earlier registered interest has priority over a later registered interest.	11 12
<b>100</b>	<b>Devolution of rights of holder of authority</b>	13
	A person on whom the rights of the holder of a greenhouse gas authority have devolved by operation of law may apply to the Director-General to have that person's name recorded in the Register of Interests as the holder of the authority and, if satisfied that those rights have so devolved, the Director-General must amend the Register in accordance with the application.	14 15 16 17 18 19
<b>101</b>	<b>Register of Interests</b>	20
(1)	The Director-General is to keep a register of legal and equitable interests in greenhouse gas authorities (the <i>Register of Interests</i> ).	21 22
(2)	The Register of Interests must be kept in such form, and include such particulars, as are prescribed by the regulations.	23 24
(3)	The Register of Interests must be made available at such offices of the Department as may be prescribed by the regulations for inspection, free of charge, by members of the public.	25 26 27
<b>Division 6</b>	<b>Miscellaneous</b>	28
<b>102</b>	<b>Application fee to be paid</b>	29
	An application for a greenhouse gas authority, or for the renewal, transfer or cancellation of a greenhouse gas authority, is not to be dealt with until any relevant application fee has been paid, or until the Minister is satisfied that arrangements have been made for it to be paid.	30 31 32 33
	<b>Note.</b> Section 217 enables the Minister to impose fees and charges for the purposes of this Act.	34 35

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<b>103</b>	<b>Request for further information</b>	1
	The Minister may request an applicant for a greenhouse gas authority, or for the renewal, transfer or cancellation of a greenhouse gas authority, to provide further information in support of the application, and may refuse to deal further with the application until such information has been provided.	2 3 4 5 6
<b>104</b>	<b>Withdrawal of application</b>	7
	An applicant for a greenhouse gas authority, or for the renewal, transfer or cancellation of a greenhouse gas authority, may withdraw the application, by written notice lodged with the Director-General, at any time before the application is determined.	8 9 10 11
<b>105</b>	<b>Applicant to be notified of Minister's decision</b>	12
	Notice of the Minister's decision on an application for a greenhouse gas authority, or for the renewal, transfer or cancellation of a greenhouse gas authority, must be served on the applicant within 14 days after the decision is made.	13 14 15 16
<b>106</b>	<b>Land over which authority may be granted</b>	17
	(1) Subject to subsection (2), a greenhouse gas authority may be granted over land of any title or tenure, other than land the subject of some other greenhouse gas authority.	18 19 20
	(2) A greenhouse gas authority may not be granted over land in the adjacent area within the meaning of the <i>Petroleum (Offshore) Act 1982</i> .	21 22
	<b>Note.</b> See also the <i>National Parks and Wildlife Act 1974</i> which prohibits the granting of greenhouse gas authorities over certain other land.	23 24
	(3) A greenhouse gas authority may be granted:	25
	(a) over the surface of land and the subsoil below the surface, or	26
	(b) over the surface of land and the subsoil down to a specified depth below the surface, or	27 28
	(c) over the subsoil below or between any specified depth or depths below the surface of land.	29 30
	(4) A greenhouse gas authority may be granted over part only of the land to which the application for the authority relates.	31 32
	(5) The land over which a greenhouse gas authority is granted must comply with the regulations in relation to shape and size.	33 34

Clause 107	Greenhouse Gas Storage Bill 2010
Part 7	Greenhouse gas authorities generally

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<b>107</b>	<b>Security deposit to be lodged</b>	1
	A greenhouse gas authority may not be granted until any security deposit required under Part 9 has been lodged, or until the Minister is satisfied that arrangements have been made for it to be lodged.	2 3 4
<b>108</b>	<b>Form of authority</b>	5
	(1) A greenhouse gas authority is to be in the approved form and is to include the following particulars:	6 7
	(a) a description of the land over which it is granted,	8
	(b) a description of the work and activities that the holder of the authority is authorised to carry out pursuant to the authority,	9 10
	(c) the conditions imposed on it by the Minister,	11
	(d) the period for which it is to have effect.	12
	(2) In addition to the particulars referred to in subsection (1), an injection lease must indicate:	13 14
	(a) the number, size and location of the injection sites on which the holder of the lease is authorised to construct injection plant and carry out injection work, and	15 16 17
	(b) the number, size and location of the monitoring sites on which the holder of the lease is authorised to construct monitoring plant and carry out monitoring work.	18 19 20
<b>109</b>	<b>Landowner's consent to application for development consent not required</b>	21 22
	(1) This section applies if development consent under the <i>Environmental Planning and Assessment Act 1979</i> is required for the use of land for any of the following purposes:	23 24 25
	(a) carrying out prospecting work,	26
	(b) constructing injection plant or carrying out injection work,	27
	(c) constructing monitoring plant or carrying out monitoring work.	28
	(2) Any requirement of or made under the <i>Environmental Planning and Assessment Act 1979</i> that an application for development consent to the use of land for a purpose referred to in subsection (1) be accompanied by the consent of the owner of the land is of no effect.	29 30 31 32
<b>110</b>	<b>Rights under authority not exercisable in certain areas</b>	33
	(1) The holder of a greenhouse gas authority may not, except with the consent of the Minister, exercise any of the rights conferred by the authority on any of the following land:	34 35 36



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(a)	land reserved, dedicated, appropriated, resumed or acquired for public purposes (except land reserved for a temporary common or a commonage), whether vested in the Crown or in any person as trustee for public purposes,	1 2 3 4
(b)	land held under a lease for water supply by virtue of a special lease or otherwise,	5 6
(c)	land transferred, granted or vested in trust by the Crown for the purpose of a racecourse, cricket ground, recreation reserve, park or permanent common or for any public purpose,	7 8 9
(d)	land prescribed by the regulations for the purposes of this section.	10
	<b>Note.</b> See also the <i>National Parks and Wildlife Act 1974</i> which prohibits rights under greenhouse gas authorities from being exercised over certain other land.	11 12
(2)	The Minister's consent may be given unconditionally or subject to conditions.	13 14
(3)	The Minister's consent may not be given in respect of land in a state conservation area under the <i>National Parks and Wildlife Act 1974</i> without the concurrence in writing of the Minister administering that Act.	15 16 17 18
<b>111</b>	<b>Register of Greenhouse Gas Authorities</b>	19
(1)	The Director-General is to keep a register of greenhouse gas authorities (the <i>Register of Greenhouse Gas Authorities</i> ).	20 21
(2)	The Register of Greenhouse Gas Authorities:	22
(a)	must be kept in the manner prescribed by the regulations, and	23
(b)	must contain records of:	24
(i)	each application for a greenhouse gas authority made under this Act, and	25 26
(ii)	each greenhouse gas authority granted, renewed, transferred or cancelled under this Act, and	27 28
(c)	must contain such other particulars as the regulations require.	29
(3)	The Register of Greenhouse Gas Authorities must be made available, at such offices of the Department as may be prescribed by the regulations, for inspection, free of charge, by members of the public.	30 31 32

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<b>Part 8</b>	<b>Access arrangements</b>	1
<b>Division 1</b>	<b>Preliminary</b>	2
<b>112</b>	<b>Access arrangements generally</b>	3
(1)	An access arrangement may make provision generally with respect to the access that the holder of a greenhouse gas authority is to be permitted to have to the land the subject of the arrangement.	4 5 6
(2)	Without limiting subsection (1), an access arrangement may make provision for or with respect to the following matters:	7 8
(a)	the periods during which the holder of the greenhouse gas authority is to be permitted to have access to the land,	9 10
(b)	the parts of the land in or on which the holder of the greenhouse gas authority may carry out prospecting work, and the means by which the holder may gain access to those parts of the land,	11 12 13
(c)	the kinds of prospecting work that may be carried out in or on the land,	14 15
(d)	the conditions to be observed by the holder of the greenhouse gas authority when carrying out prospecting work or rehabilitation work in or on the land,	16 17 18
(e)	the compensation to be paid to any owner of the land as a consequence of the holder of the greenhouse gas authority carrying out prospecting work in or on the land,	19 20 21
	<b>Note.</b> See also section 147 (3) as to the effect of a provision of an access arrangement relating to compensation.	22 23
(f)	the manner of resolving any dispute arising in connection with the arrangement,	24 25
(g)	the way in which changes in the ownership of the land are to be dealt with,	26 27
(h)	the preservation of confidentiality in relation to the contents of the arrangement,	28 29
(i)	the manner of varying the arrangement,	30
(j)	the notification to the holder of the greenhouse gas authority of particulars of any person who becomes an additional owner.	31 32
(3)	Separate access arrangements may (but need not) be agreed or determined with different owners of the same area of land, for different areas of the same land or with respect to the different matters to which access arrangements relate.	33 34 35 36

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(4)	The Director-General may, with the concurrence of the NSW Farmers Association and the NSW Minerals Council, publish templates that may (but need not) be used for standard access arrangements.	1 2 3
(5)	A provision of this Act, the regulations or the conditions of a greenhouse gas authority prevails over a provision of an access arrangement to the extent of any inconsistency between them.	4 5 6
<b>113</b>	<b>Compensation to landowner to be specified by access arrangement determined by arbitrator</b>	7 8
	An access arrangement that is determined by an arbitrator must specify the compensation, as assessed by the arbitrator, to which each owner of the land is entitled under Part 11.	9 10 11
<b>114</b>	<b>Payment of landowner's legal costs</b>	12
(1)	If the owner of the land so requests, an access arrangement must specify that the holder of the greenhouse gas authority is required to pay the reasonable legal costs of the owner in obtaining initial advice about the making of the arrangement.	13 14 15 16
(2)	The costs referred to in subsection (1) are not to exceed the maximum amount set by the Director-General, with the concurrence of the NSW Farmers Association and the NSW Minerals Council, by order published in the Gazette.	17 18 19 20
<b>115</b>	<b>Consequences of contravention of access arrangement</b>	21
(1)	If the holder of a greenhouse gas authority contravenes an access arrangement, an owner of the land may deny the holder access to the land until:	22 23 24
	(a) the holder ceases the contravention, or	25
	(b) the contravention is remedied to the reasonable satisfaction of, or in the manner directed by, an arbitrator appointed by the Director-General.	26 27 28
	<b>Note.</b> Carrying out prospecting work in contravention of an access arrangement also constitutes an offence under section 175.	29 30
(2)	The Director-General is to make such an appointment within 48 hours after being requested to do so by the owner, and the arbitrator is to deal with the matter within 5 business days of the appointment.	31 32 33
(3)	If the arbitrator does not deal with the matter within that time, the owner may deny the holder of the greenhouse gas authority access to the land until such time as the matter is determined by the arbitrator.	34 35 36
(4)	Subsection (3) does not affect any proceedings that may be brought against the holder of the greenhouse gas authority in respect of the contravention of the access arrangement.	37 38 39

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(5)	This section does not empower the owner of the land to deny the holder of the authority access to any monitoring site on the land or to prevent the holder from carrying out monitoring work at any such site.	1 2 3
<b>116</b>	<b>Access arrangement not to affect right of way to injection site or monitoring site</b>	4 5
	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 located in the injection lease area or supplementary area.	6 7 8 9
<b>117</b>	<b>Access arrangements not required in certain circumstances</b>	10
(1)	This Part does not require an access arrangement in respect of an owner of land who is a native title holder if:	11 12
(a)	the greenhouse gas authority was granted or renewed after compliance with Subdivision P of Division 3 of Part 2 of the <i>Native Title Act 1993</i> of the Commonwealth, and	13 14 15
(b)	the grant or renewal was not an act that attracted the expedited procedure under and within the meaning of that Subdivision.	16 17
(2)	This Part does not require an access arrangement in respect of an owner of land who is a native title holder if:	18 19
(a)	the greenhouse gas authority was granted or renewed after compliance with a registered indigenous land use agreement under the <i>Native Title Act 1993</i> of the Commonwealth, and	20 21 22
(b)	the agreement provides that an access arrangement is not required in respect of such an owner.	23 24
<b>Division 2</b>	<b>Access arrangements agreed between parties</b>	25
<b>118</b>	<b>Holder of authority to seek access arrangement</b>	26
(1)	The holder of a greenhouse gas authority may, by written notice served on each owner of the land, give notice of the holder's intention to obtain an access arrangement in respect of the land (a <i>section 118 notice</i> ).	27 28 29
(2)	In addition to stating the holder's intention, the notice must contain:	30
(a)	a plan and description of the land over which the access is sought sufficient to enable the ready identification of that land, and	31 32
(b)	a description of the prospecting work that the holder proposes to carry out on the land.	33 34
(3)	The holder of a greenhouse gas authority and an owner of the land may agree in writing (either before or after the greenhouse gas authority is granted) on an access arrangement.	35 36 37

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(4)	If some but not all of the owners of any particular land have agreed to an access arrangement, a reference in Division 3 to each owner of the land, or to a party to the hearing before an arbitrator, does not include a reference to such of them as have agreed to an access arrangement.	1 2 3 4
(5)	However, the arbitrator may allow an owner who has agreed to an access arrangement to become a party to the hearing of the matter in order to ensure consistency in the access arrangements over the same land and may, for that purpose, replace the agreed access arrangement with the access arrangement determined by the arbitrator.	5 6 7 8 9
(6)	In this section, a reference to the holder of a greenhouse gas authority includes a reference to the proposed holder of a greenhouse gas authority.	10 11 12
<b>119</b>	<b>Notice to mortgagees of agreed access arrangements</b>	13
(1)	Within 14 days after an access arrangement is agreed between an owner of the land and the holder of a greenhouse gas authority, the holder is to serve notice of the making of the arrangement on each person (other than that owner) who is identified in any register or record kept by the Registrar-General as being a mortgagee of the land.	14 15 16 17 18
(2)	Notice is not required to be served on a mortgagee under this section:	19
(a)	if the mortgagee is a mortgagee in possession of the land, or	20
	<b>Note.</b> An access arrangement with a mortgagee in possession of the land is required before prospecting work may be carried out on the land.	21 22
(b)	if the mortgagee has been given a copy of the relevant section 118 notice, or	23 24
(c)	if the owner with whom the access arrangement was made is not the mortgagor.	25 26
(3)	If notice is required to be served on a mortgagee under this section, the access arrangement takes effect at the end of the period of 14 days after the notice is served.	27 28 29
(4)	The requirement imposed by this section on the holder of a greenhouse gas authority is taken to be a condition of the greenhouse gas authority.	30 31
(5)	In this section, a reference to the holder of a greenhouse gas authority includes a reference to the proposed holder of a greenhouse gas authority.	32 33 34

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<b>Division 3</b>	<b>Access arrangements determined by arbitration</b>	1
<b>120</b>	<b>Appointment of arbitrator by agreement</b>	2
(1)	If, by the end of 28 days after service of the relevant section 118 notice, the holder of the greenhouse gas authority and each owner of the land have been unable to agree on an access arrangement, the holder may, by further notice in writing served on each owner, request each owner to agree to the appointment of an arbitrator.	3 4 5 6 7
(2)	The holder of a greenhouse gas authority and each owner of the land may appoint any person as an arbitrator.	8 9
<b>121</b>	<b>Appointment of arbitrator in default of agreement</b>	10
(1)	If, by the end of 28 days after service of the relevant section 118 notice, the holder of the greenhouse gas authority and each owner of the land have been unable to agree on the appointment of an arbitrator, then any one of them may apply to the Director-General for the appointment of a member of the Arbitration Panel as an arbitrator.	11 12 13 14 15
(2)	The Director-General is to appoint a member of the Arbitration Panel as an arbitrator.	16 17
<b>122</b>	<b>Arbitration hearing to be conducted</b>	18
(1)	As soon as practicable after being appointed, an arbitrator:	19
(a)	must fix a time and place for conducting a hearing into the question of access to the land, and	20 21
(b)	must cause notice of his or her appointment, and of the time and place fixed for the hearing, to be served on the holder of the greenhouse gas authority and on each owner of the land.	22 23 24
(2)	The arbitrator may, by a further notice served on the holder of the greenhouse gas authority and on each owner of the land, vary the time or place fixed for the hearing.	25 26 27
(3)	The arbitrator must, at the time and place fixed under this section, conduct a hearing into the question of access to the land.	28 29
<b>123</b>	<b>Right of appearance</b>	30
(1)	At any hearing into the question of access to land, the holder of the greenhouse gas authority and each owner of the land are entitled to appear and be heard.	31 32 33

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(2)	A party to a hearing may be represented:	1
(a)	by an agent who is not an Australian legal practitioner, or	2
(b)	with the agreement of the parties and the leave of the arbitrator, by an Australian legal practitioner.	3 4
<b>124</b>	<b>Conciliation to be attempted</b>	5
(1)	An arbitrator is not to make a determination until the arbitrator has used his or her best endeavours to bring the parties to a settlement acceptable to all of them.	6 7 8
(2)	If the parties come to such a settlement, the arbitrator must make a determination that gives effect to the terms of the settlement.	9 10
<b>125</b>	<b>Procedure at hearings</b>	11
(1)	Subject to this Division, the procedure at a hearing is to be as determined by the arbitrator.	12 13
(2)	An arbitrator must act according to equity, good conscience and the substantial merits of the case without regard to technicalities or legal forms.	14 15 16
(3)	An arbitrator may conduct a hearing even though one or more of the parties to the hearing does not attend the hearing.	17 18
<b>126</b>	<b>Interim determination by arbitrator</b>	19
(1)	As soon as practicable after concluding a hearing, an arbitrator:	20
(a)	must make an interim determination as to whether or not the holder of the greenhouse gas authority should have a right of access to the land, and	21 22 23
(b)	if the arbitrator determines that the holder of the greenhouse gas authority should have a right of access to the land, must prepare a draft access arrangement in respect of the land.	24 25 26
(2)	As soon as practicable after making an interim determination, the arbitrator:	27 28
(a)	must reduce the determination to writing, and	29
(b)	must cause a copy of the determination, together with a copy of any draft access arrangement, to be served on each of the parties to the hearing.	30 31 32
(3)	Unless an application is made to the arbitrator within the period of 14 days referred to in section 127 (1):	33 34
(a)	the interim determination becomes the arbitrator's final determination, and	35 36

(b)	any draft access arrangement becomes a final access arrangement.	1 2
<b>127</b>	<b>Arbitration hearing to be continued on application of party</b>	3
(1)	Within 14 days after being served with a copy of the arbitrator's interim determination, a party to a hearing may apply to the arbitrator:	4 5
(a)	for reconsideration of the question of access to the land, or	6
(b)	for variation of any draft access arrangement prepared by the arbitrator in respect of that land.	7 8
(2)	As soon as practicable after receiving such an application, the arbitrator:	9
(a)	must fix a time and place for continuing the hearing into the question of access to the land, and	10 11
(b)	must cause notice of the time and place fixed for continuing the hearing to be served on the holder of the greenhouse gas authority and to each owner of the land.	12 13 14
(3)	The arbitrator may, by a further notice served on the holder of the greenhouse gas authority and on each owner of the land, vary the time or place fixed for continuing the hearing.	15 16 17
(4)	The arbitrator must, at the time and place fixed under this section, continue the hearing into the question of access to the land.	18 19
<b>128</b>	<b>Final determination by arbitrator</b>	20
(1)	As soon as practicable after concluding a continued hearing under section 127, the arbitrator:	21 22
(a)	must make a final determination as to whether or not the holder of the greenhouse gas authority should have a right of access to the land, and	23 24 25
(b)	if the arbitrator determines that the holder of the greenhouse gas authority should have a right of access to the land, must determine a final access arrangement in respect of the land.	26 27 28
(2)	As soon as practicable after making a final determination, the arbitrator:	29
(a)	must reduce the determination to writing, and	30
(b)	must cause a copy of the determination, together with a copy of any final access arrangement forming part of the determination, to be served on each of the parties to the hearing.	31 32 33



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<b>129</b>	<b>Effect of access arrangement</b>	1
	An access arrangement determined by an arbitrator:	2
	(a) takes effect:	3
	(i) in the case of a draft access arrangement that becomes a final access arrangement pursuant to section 126 (3), at the end of the period of 14 days after a copy of the draft access arrangement has been served on all of the parties, or	4 5 6 7
	(ii) in the case of a final access arrangement determined under section 128 (1), when a copy of the arrangement has been served on all of the parties,	8 9 10
	or on such later date as may be specified in the arrangement, and	11
	(b) subject to section 112 (5), has effect as if its terms were embodied in a deed that had been duly executed by each of the parties.	12 13
<b>130</b>	<b>Review of arbitrator's determination</b>	14
(1)	A party to a hearing who is aggrieved by an arbitrator's determination under section 128 may apply to the Land and Environment Court for a review of the determination.	15 16 17
(2)	An application under this section:	18
	(a) must be accompanied by a copy of the determination to which it relates, together with a copy of any access arrangement forming part of the determination, and	19 20 21
	(b) must be filed in the Land and Environment Court within 14 days after a copy of the determination was served on the applicant.	22 23
(3)	An application for review may not be made:	24
	(a) during the period of 14 days within which an application may be made to an arbitrator under section 127 (1), or	25 26
	(b) if such an application is made, until the arbitrator has made a final determination with respect to the application.	27 28
(4)	The applicant must cause a copy of the application to be served on each of the other parties to the determination to which the application relates.	29 30
(5)	Subject to any order of the Land and Environment Court, an application for review of a determination operates to stay the effect of any related access arrangement in relation to a party to the arrangement from the time when a copy of the arrangement has been served on the party until the decision of the Land and Environment Court on the review.	31 32 33 34 35
(6)	In reviewing a determination under this section, the Land and Environment Court has the functions of an arbitrator under this Division in addition to its other functions.	36 37 38

(7)	A review of a determination is to be by way of rehearing, and fresh material or material in addition to, or in substitution for, the material considered on the making of the determination by the arbitrator may be given on the review and taken into consideration by the Land and Environment Court.	1 2 3 4 5
(8)	The decision of the Land and Environment Court on a review of a determination is final and is to be given effect to as if it were the determination of an arbitrator.	6 7 8
<b>131</b>	<b>Costs of arbitration</b>	9
(1)	Each party to arbitration proceedings under this Division is to bear his or her own costs in relation to the hearing.	10 11
(2)	The arbitrator's costs in relation to the proceedings hearing are to be borne by the holder of the greenhouse gas authority.	12 13
<b>132</b>	<b>Parties may withdraw from arbitration</b>	14
(1)	At any time before the conclusion of a hearing before an arbitrator, the parties to the hearing may terminate the hearing by notice in writing, signed by all of them, served on the arbitrator.	15 16 17
(2)	This section does not limit the liability of the holder of a greenhouse gas authority to bear the arbitrator's costs in relation to the hearing.	18 19
<b>133</b>	<b>Protection of arbitrator from liability</b>	20
	No proceedings lie against an arbitrator for or with respect to:	21
(a)	any determination made by the arbitrator, or	22
(b)	any publication made by the arbitrator, or	23
(c)	any other act, matter or thing done by the arbitrator,	24
	for the purposes of a hearing, so long as the determination, publication, act, matter or thing was made or done in good faith.	25 26
<b>Division 4</b>	<b>Variation of access arrangements and changes in parties</b>	27 28
<b>134</b>	<b>Variation of access arrangements</b>	29
(1)	An access arrangement may be varied or terminated:	30
(a)	in accordance with the terms of the arrangement, or	31
(b)	by agreement of all of the parties to the arrangement.	32

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(2)	An access arrangement may also be varied or terminated:	1
(a)	in the case of an arrangement determined by an arbitrator:	2
(i)	by the arbitrator who determined the arrangement on an application made with the consent of all the parties to the arrangement, or	3 4 5
(ii)	by the Land and Environment Court on an application made by any of the parties to the arrangement, or	6 7
(b)	in the case of an arrangement determined by the Land and Environment Court, by the Land and Environment Court on an application made by any of the parties to the arrangement.	8 9 10
<b>135</b>	<b>Change in landowners</b>	11
(1)	An access arrangement to which two or more owners are parties does not terminate merely because one or more (but not all) of them cease to be an owner of any or all of the land.	12 13 14
(2)	An access arrangement to which one or more owners are parties does not terminate merely because some other person becomes, together with them, an owner of any or all of the land after the arrangement was agreed or determined.	15 16 17 18
(3)	An access arrangement does not run with the land, and accordingly a person does not (except as provided by this section) become a party to the access arrangement merely because the person becomes an owner of any or all of the land after the access arrangement was agreed or determined.	19 20 21 22 23
	<b>Note.</b> Consequently, an access arrangement will terminate in relation to any land if all of the parties to the arrangement cease to be owners of the land.	24 25
(4)	If, after an access arrangement has taken effect:	26
(a)	a person becomes an owner of any or all of the land to which the arrangement applies in addition to another owner, and	27 28
(b)	the other owner continues to be a party to the arrangement, the arrangement (except in relation to compensation) applies to the new owner as if the new owner were a party to the arrangement, but only if the new owner is given a copy of the arrangement.	29 30 31 32
(5)	If the new owner objects to the access arrangement within 28 days after being given a copy of the arrangement, the arrangement ceases to apply to the new owner when whichever of the following first happens:	33 34 35
(a)	the new owner agrees to an access arrangement with the holder of the greenhouse gas authority concerned in accordance with Division 2,	36 37 38

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(b)	an arbitrator determines an access arrangement in relation to the new owner in accordance with Division 3,	1 2
(c)	at the end of the period of 60 days after the new owner objects, an access arrangement has not been so agreed or determined.	3 4
(6)	Despite subsection (5):	5
(a)	if an arbitrator is appointed to determine an access arrangement under Division 3, or	6 7
(b)	an application for review of the arbitrator's determination is made under section 130,	8 9
	the arbitrator or the Land and Environment Court (as the case requires) may continue the existing access arrangement (with or without variation) until the determination of the arbitration or review.	10 11 12

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<b>Part 9</b>	<b>Security deposits</b>	1
<b>136</b>	<b>Definitions</b>	2
	In this Part:	3
	<i>bank</i> includes any authorised deposit-taking institution.	4
	<i>holder</i> , in relation to a greenhouse gas authority that has ceased to have effect, means the person who was the holder of the authority immediately before it ceased to have effect.	5 6 7
	<i>obligation</i> , in relation to a greenhouse gas authority, means:	8
	(a) any obligation under the conditions imposed on the authority, and	9
	(b) any obligation to pay an arbitrator's costs in relation to a hearing conducted under Division 3 of Part 8, and	10 11
	(c) any obligation to pay compensation under Part 11 (otherwise than pursuant to an access arrangement agreed under Division 2 of Part 8),	12 13 14
	but does not include any obligation with respect to the payment of royalty under Part 10.	15 16
	<i>security deposit condition</i> means a condition requiring the provision and maintenance of a security deposit that is imposed on a greenhouse gas authority under section 137.	17 18 19
<b>137</b>	<b>Security deposit conditions</b>	20
	(1) The Minister may impose a condition on a greenhouse gas authority requiring the holder of the authority:	21 22
	(a) to provide and maintain a security deposit, or	23
	(b) if the holder is a body corporate, to ensure that a related corporation provides and maintains a security deposit,	24 25
	to secure funding for the fulfilment of the obligations under the authority or the taking of action specified in a direction under Division 1 of Part 12.	26 27 28
	(2) A security deposit condition may be varied so as to change the required amount of the deposit (whether the deposit was provided by the holder of the authority or by another person) or any other requirement of the condition.	29 30 31 32
<b>138</b>	<b>Content of security deposit condition</b>	33
	(1) A security deposit condition may include requirements with respect to any one or more of the following matters:	34 35
	(a) the amount of the deposit,	36
	(b) the form of the deposit,	37

(c)	the date by which the deposit, or any instalment of the deposit, is to be provided,	1 2
(d)	the manner in which the deposit is to be provided and maintained,	3
(e)	the provision of information or other material to the Director-General that demonstrates that the condition is being complied with,	4 5 6
(f)	the provision of progress reports on work (and associated costs and expenses) for which the deposit is intended to provide security,	7 8 9
(g)	the independent auditing of any such work, costs and expenses,	10
(h)	the circumstances in which the requirement to maintain the deposit lapses.	11 12
(2)	A security deposit condition may require the holder of the greenhouse gas authority to cause a security deposit that has been provided and maintained in relation to another greenhouse gas authority to be extended to the firstmentioned authority.	13 14 15 16
(3)	A security deposit condition may require one security deposit to be provided and maintained in respect of a number of greenhouse gas authorities held by one person or by a person and a related corporation.	17 18 19
(4)	Nothing in this section limits the matters that may be included in a security deposit condition.	20 21
<b>139</b>	<b>Form and amount of security deposit</b>	22
(1)	A security deposit may be in (but is not limited to) any of the following forms:	23 24
(a)	a bank guarantee,	25
(b)	cash,	26
(c)	a bond,	27
(d)	another form that the Director-General considers appropriate and specifies in the security deposit condition.	28 29
(2)	The amount of the security deposit is to be determined having regard to any guidelines prepared by the Director-General for the purposes of this Part and any of the following that are relevant:	30 31 32
(a)	the estimated cost of closing any injection sites,	33
(b)	the estimated cost of maintaining and operating any permanent monitoring plant,	34 35
(c)	the estimated cost of any rehabilitation of land that is required,	36
(d)	the estimated cost of fulfilling any other obligations under the greenhouse gas authority concerned.	37 38

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(3)	The regulations may make provision for or with respect to the administration of securities received by the Minister under a security deposit.	1 2 3
<b>140</b>	<b>Claim on and use of security deposit</b>	4
(1)	The Minister may make a claim on or realise a security deposit provided under a security deposit condition of a greenhouse gas authority if:	5 6
(a)	the authority is cancelled or otherwise ceases to have effect and an obligation under the former authority remains unfulfilled, or	7 8
(b)	the holder of the authority contravenes the terms of a direction under Division 1 of Part 12 in relation to the authority or to activities carried out under, or purportedly under, the authority.	9 10 11
(2)	Before the Minister makes a claim on or realises a security deposit, written notice of the Minister's intention to do so must be served on the holder of the greenhouse gas authority.	12 13 14
(3)	The Minister may use money obtained under a security deposit:	15
(a)	in the circumstances referred to in subsection (1) (a), to recover or fund the expenditure incurred by the Crown in causing any obligation under the former authority to be fulfilled, or	16 17 18
(b)	in the circumstances referred to in subsection (1) (b), to recover or fund the expenditure incurred by the Crown in causing the action specified in the direction under Division 1 of Part 12 to be taken.	19 20 21 22
(4)	The Minister may invest money obtained under a security deposit in interest-bearing deposits in a bank.	23 24
(5)	Money obtained under a security deposit and used under subsection (3) is taken, for all purposes, to be forfeited to the Crown when it is so used.	25 26
(6)	The functions of the Minister under this section may be exercised in relation to the contravention by the holder of a greenhouse gas authority of the terms of a direction under Division 1 of Part 12 without the need for a finding by a court or tribunal that there has been such a contravention.	27 28 29 30 31
(7)	Action taken under this section in respect of a greenhouse gas authority is not affected by, and does not affect, any other action that has been taken under this Act in respect of the authority.	32 33 34

<b>141</b>	<b>Lapsing of security deposit requirement and return of unused money</b>	1
(1)	The requirement to maintain a security deposit lapses:	2
(a)	in accordance with the terms of the security deposit condition, or	3
(b)	if the security deposit condition does not deal with the lapsing of the requirement, when the Minister has determined that no further circumstances can arise in which the Minister would be authorised to make a claim on or realise the deposit.	4 5 6 7
(2)	If practicable, the Minister must give written notice to the holder of the greenhouse gas authority concerned of any determination referred to in subsection (1) (b).	8 9 10
(3)	Any money obtained under a security deposit that is not used under section 140 is to be paid (together with any accumulated interest) to the person or body that provided the deposit.	11 12 13



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<b>Part 10 Royalty</b>	1
<b>142 Liability to pay royalty</b>	2
The holder of an injection lease is liable to pay royalty to the Minister on the quantity of greenhouse gases injected into the leased reservoir.	3 4
<b>143 Rate of royalty</b>	5
(1) Royalty is payable at the rate prescribed by the regulations.	6
(2) The quantity of greenhouse gases injected into a leased reservoir is to be calculated (by mass or by volume) in the manner prescribed by the regulations.	7 8 9
<b>144 Returns</b>	10
(1) The holder of an injection lease is to furnish to the Minister returns in such form, at such intervals, in respect of such periods and containing such information, as may be prescribed by the regulations.	11 12 13
(2) The Minister may authorise the holder of an injection lease to furnish to the Minister returns in a different form, at different intervals or in respect of different periods from the form, intervals or periods so prescribed.	14 15 16 17
<b>145 Payment of royalty</b>	18
(1) Royalty payable to the Minister under this Act is payable at such times, and in respect of such periods, as may be specified in or determined in accordance with the regulations.	19 20 21
(2) If an amount of royalty payable to the Minister is not paid:	22
(a) by the time that it becomes payable in accordance with the regulations, or	23 24
(b) within 28 days after a demand for its payment is made by the Minister,	25 26
interest is, if the Minister so directs, to be added to the amount due at such rate as the Minister determines.	27 28
(3) The regulations may make provision for or with respect to the manner in which royalty payable to the Minister under this Act is to be paid and, in particular, may require that payment of any royalty referred to in the regulations is to accompany a return referred to in section 144.	29 30 31 32
(4) Any royalty, or interest on royalty, that remains unpaid is recoverable in any court of competent jurisdiction as a debt due to the Crown.	33 34

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**Part 11 Compensation** 1

**Division 1 Compensation under greenhouse gas authorities** 2

**146 Definitions** 3

In this Division and Division 3: 4

*compensable loss* means loss caused, or likely to be caused, by: 5

- (a) damage to the surface of land, to crops, trees, grasses or other 6  
vegetation (including fruit and vegetables) or to buildings, 7  
structures or works, being damage which has been caused by or 8  
which may arise from the activities carried out under a 9  
greenhouse gas authority, or 10
- (b) deprivation of the possession or of the use of the surface of land 11  
or any part of the surface, or 12
- (c) severance of land from other land of the owner, or 13
- (d) surface rights of way and easements, or 14
- (e) destruction or loss of, or injury to, disturbance of or interference 15  
with, stock, or 16
- (f) damage consequential on any matter referred to in 17  
paragraphs (a)–(e). 18

*owner* includes any person identified in a register or record kept by the 19  
Registrar-General as having an interest in the land, whether or not the 20  
person is referred to in paragraph (g) of the definition of *owner* in 21  
section 9 (1). 22

**147 Compensation arising under authority** 23

- (1) On the granting of a greenhouse gas authority, an owner of any land 24  
(whether or not subject to the authority) becomes entitled to 25  
compensation for any compensable loss suffered, or likely to be 26  
suffered, by the owner as a result of the exercise of the rights conferred 27  
by the authority or by an access arrangement in respect of the authority. 28
- (2) The holder, or proposed holder, of a greenhouse gas authority may 29  
agree with an owner as to the amount of compensation payable, but an 30  
agreement reached is not valid unless it is in writing, signed by or on 31  
behalf of the parties to the agreement. 32
- (3) Such of the provisions of an access arrangement as relate to 33  
compensation have effect as an agreement for the purposes of this 34  
section. 35

**Note.** Access arrangements determined by an arbitrator will, and access 36  
arrangements agreed on by the parties may, include provisions with respect to 37  
compensation. 38

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(4)	If no such agreement is reached, the compensation payable under this section is to be determined by the Land and Environment Court on the application of either the holder of the greenhouse gas authority or the owner of the land.	1 2 3 4
<b>148</b>	<b>Continuation of pre-existing agreements on granting of assessment lease</b>	5 6
(1)	If, immediately before the grant of an assessment lease:	7
(a)	any part of the assessment lease area:	8
(i)	was, or was in, a prospecting area, and	9
(ii)	was the subject of a valid agreement referred to in section 147 (3) (an <i>existing agreement</i> ), and	10 11
(b)	the holder of the assessment lease:	12
(i)	was the holder of the relevant prospecting licence immediately before the grant of the assessment lease, or	13 14
(ii)	is the assignee of the rights under the existing agreement, a valid agreement is taken, for the purposes of section 147, to have been entered into in relation to that part.	15 16 17
(2)	Subsection (1) ceases to apply to a part of an assessment lease area if a subsequent valid agreement is entered into, or the Land and Environment Court makes an assessment of compensation payable, in relation to that part.	18 19 20 21
(3)	In this section:	22
(a)	a reference to a prospecting licence or assessment lease extends to any associated supplementary authority, and	23 24
(b)	a reference to a prospecting area or assessment lease area extends to the supplementary area of any associated supplementary authority.	25 26 27
<b>149</b>	<b>Continuation of pre-existing agreements on granting of injection lease</b>	28
(1)	If, immediately before the grant of an injection lease:	29
(a)	any part of the injection lease area:	30
(i)	was, or was in, a prospecting area or assessment lease area, and	31 32
(ii)	was the subject of a valid agreement referred to in section 147 (3) (an <i>existing agreement</i> ), and	33 34
(b)	the holder of the injection lease:	35
(i)	was the holder of the relevant prospecting licence or assessment lease immediately before the grant of the injection lease, or	36 37 38

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(ii)	is the assignee of the rights under the existing agreement, the existing agreement is taken, for the purposes of section 147, to be a valid agreement in relation to that part.	1 2 3
(2)	Subsection (1) ceases to apply to a part of the injection lease area if a subsequent valid agreement is entered into, or the Land and Environment Court makes an assessment of compensation payable, in relation to that part.	4 5 6 7
(3)	In this section:	8
(a)	a reference to a prospecting licence, assessment lease or injection lease extends to any associated supplementary authority, and	9 10
(b)	a reference to a prospecting area, assessment lease area or injection lease area extends to the supplementary area of any associated supplementary authority.	11 12 13
<b>150</b>	<b>Compensation payable in relation to injection sites and monitoring sites</b>	14
	In addition to any compensation payable under section 147, an owner of land on which an injection site or monitoring site is located is entitled to compensation for any compensable loss suffered, or likely to be suffered, by the owner as a result of the exercise of the rights conferred by the authority in respect of that site or by a right of way arising under section 44 in respect of that site.	15 16 17 18 19 20
<b>Division 2</b>	<b>Compensation under environmental assessment permits</b>	21 22
<b>151</b>	<b>Definitions</b>	23
	In this Division and Division 3:	24
	<b>compensable loss</b> means loss caused, or likely to be caused, by:	25
(a)	interference with the use of land, or	26
(b)	damage to land, to any crops, trees, grasses or other vegetation on the land or to any buildings, structures and works on the land, or	27 28
(c)	damage consequential on any matter referred to in paragraph (a) or (b).	29 30
	<b>owner</b> includes any person identified in a register or record kept by the Registrar-General as having an interest in the land, whether or not the person is referred to in paragraph (g) of the definition of <b>owner</b> in section 9 (1).	31 32 33 34

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<b>152</b>	<b>Compensation arising under environmental assessment permit</b>	1
(1)	If the holder of an environmental assessment permit enters any land under the authority of the permit, the owner of the land becomes entitled to compensation from the holder of the permit for any compensable loss suffered by the owner as a result of the exercise of the rights conferred by the permit.	2 3 4 5 6
(2)	The holder of an environmental assessment permit may agree with an owner as to the amount of compensation payable, but an agreement reached is not valid unless it is in writing, signed by or on behalf of the parties to the agreement.	7 8 9 10
(3)	If no such agreement is reached, the compensation payable under this section is to be determined by the Land and Environment Court on the application of either the holder of the environmental assessment permit or the owner of the land.	11 12 13 14
(4)	Nothing in this section affects any remedy available to any person whose lands are entered pursuant to a power conferred by or under Division 2 of Part 12.	15 16 17
<b>Division 3</b>	<b>Compensation assessment procedures</b>	18
<b>153</b>	<b>Procedure for making assessment</b>	19
(1)	Any assessment of compensation made by the Land and Environment Court under this Part:	20 21
(a)	must be made in the manner prescribed by the regulations, and	22
(b)	must not be made until notice in the approved form:	23
(i)	has been published in appropriate newspapers, or	24
(ii)	has been served on each person who appears to the Court to be interested in the assessment, and	25 26
(c)	must not exceed the market value of the land and the buildings, structures and works situated on the land.	27 28
(2)	In making an assessment of compensation, the Land and Environment Court:	29 30
(a)	may make the assessment at any time and at any place, and	31
(b)	may make the assessment in the absence of any person who appears to be interested in the assessment, if the Court is satisfied that the person has been notified in accordance with subsection (1) (b) (ii), and	32 33 34 35
(c)	may adjourn the hearing of the matter to any time and any place, subject to such terms as to costs or otherwise as the Court thinks fit.	36 37 38

(3)	Any compensation agreed on or determined under Subdivision M or P of Division 3 or Division 5 of Part 2 of the <i>Native Title Act 1993</i> of the Commonwealth for essentially the same act as an act in respect of which compensation is to be assessed under this Division must be taken into account in the assessment of compensation for the act under this Division.	1 2 3 4 5 6
<b>154</b>	<b>Additional assessment</b>	7
(1)	If, after an assessment of compensation has been made, it is proved to the satisfaction of the Land and Environment Court that further compensable loss has been caused, or is likely to be caused, in respect of the land to which the assessment relates, or to other land, the Court must, on the application of any of the parties concerned, assess that loss and order that the amount so assessed be paid by the holder of the greenhouse gas authority to which the assessment relates, within the time and to the persons specified in the order.	8 9 10 11 12 13 14 15
(2)	If it is proved to the satisfaction of the Land and Environment Court:	16
(a)	that an access arrangement does not make provision for or with respect to compensation, and	17 18
(b)	that compensable loss has been caused, or is likely to be caused, in respect of the land to which the arrangement relates,	19 20
	the Court must, on the application of any of the parties concerned, assess that loss and order that the amount so assessed be paid by the holder of the greenhouse gas authority to which the assessment relates, within the time and to the persons specified in the order.	21 22 23 24
(3)	If it is proved to the satisfaction of the Land and Environment Court:	25
(a)	that the whole of the amount assessed by or in accordance with an access arrangement determined by an arbitrator under Division 3 of Part 8 has been paid in accordance with the arrangement, and	26 27 28 29
(b)	that further compensable loss has been caused, or is likely to be caused, in respect of the land to which the assessment relates or to other land,	30 31 32
	the Court must, on the application of any of the parties concerned, assess that loss and order that the amount so assessed be paid by the holder of the greenhouse gas authority to which the assessment relates, within the time and to the persons specified in the order.	33 34 35 36
(4)	The Land and Environment Court's decision on an application under this section has the same effect as an assessment of compensation.	37 38

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- (5) In making an assessment of compensation, the Land and Environment Court must have regard to:
- (a) any previous compensation agreement between the parties under this Part, and
  - (b) any current or previous access arrangement between the parties that has been determined, or is taken to have been determined, by an arbitrator under Division 3 of Part 8, and
  - (c) any previous assessment of compensation payable to the owner, with respect to the land to which the current assessment relates.
- 155 Directions to furnish names and addresses of interested persons**
- (1) If the Land and Environment Court considers that an owner of any land may be entitled to compensation under this Part, the Court may, by instrument in writing served on the holder of the greenhouse gas authority concerned, direct the holder to notify the Court of the name and address of the owner.
  - (2) An instrument served under this section must specify a date on or before which compliance with the direction contained in the instrument is required.

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**Part 12 Powers of enforcement** 1

**Division 1 Powers of Director-General** 2

**156 Directions generally** 3

(1) The Director-General may, by order in writing served on the holder of a greenhouse gas authority, direct the holder to do any one or more of the following: 4  
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(a) to give effect to a condition of a greenhouse gas authority (except a condition requiring payment of royalty or provision or maintenance of a security deposit), 7  
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(b) to address any adverse impact that activities carried out under, or purportedly carried out under, a greenhouse gas authority have had on public health and safety or on the environment, 10  
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(c) to address a risk of there being such an impact, 13

(d) to conserve the environment, protect it from harm as a result of activities under the authority or to prevent, control or mitigate any such harm, 14  
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(e) to rehabilitate any land or water that is or may be affected by activities under the authority. 17  
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(2) The order may require the holder of the greenhouse gas authority to carry out or stop carrying out particular activities, carry out activities in a particular manner or achieve specified outcomes, within such period as is specified in the order. 19  
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(3) In this section: 23

(a) a reference to a greenhouse gas authority extends to a greenhouse gas authority that is no longer in force, and 24  
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(b) a reference to the holder of a greenhouse gas authority extends, in relation to a greenhouse gas authority that is no longer in force, to the person who was the holder of that authority immediately before it ceased to be in force. 26  
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**157 Directions regarding serious situations** 30

(1) On receiving a notice under section 47 from the holder of an injection lease, or if otherwise satisfied that a serious situation has arisen in connection with an injection lease, the Director-General may, by order in writing served on the holder, direct the holder to take such action, or to refrain from taking such action, as is specified in the direction. 31  
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(2)	Without limiting subsection (1), an order under that subsection may include one or more of the following:	1 2
(a)	a direction to inject greenhouse gases into the leased reservoir at specified locations,	3 4
(b)	a direction to stop or suspend the injection of greenhouse gases into the leased reservoir, either generally or at specified locations,	5 6
(c)	a direction to inject greenhouse gases into the leased reservoir in a specified manner.	7 8
 <b>158 Directions to suspend operations</b>		 9
(1)	The Director-General may, by order in writing served on the holder of a greenhouse gas authority (a <i>suspension order</i> ), direct the holder to suspend (by such time, and for such period, as is specified in the order) all or any activities under the authority if the Director-General considers that there has been a contravention of:	10 11 12 13 14
(a)	a direction under section 156 or 157 in relation to the authority, or	15
(b)	a condition of the authority (including a condition requiring the payment of royalty or provision or maintenance of a security deposit), or	16 17 18
(c)	the terms of an access arrangement in relation to the authority, or	19
(d)	the terms of an agreement or assessment under Part 11 concerning the payment of compensation in relation to the authority.	20 21 22
(2)	Before making a suspension order, the Director-General:	23
(a)	must cause written notice of the proposed suspension order and the grounds for it to be served on the holder of the authority, and	24 25
(b)	must give the holder a reasonable opportunity to make representations with respect to the proposed suspension order, and	26 27 28
(c)	must take any such representations into consideration.	29
(3)	The suspension order takes effect on the date on which it is served on the holder of the authority.	30 31
(4)	The suspension of the authority does not affect any liability incurred by the holder of the authority before the suspension order took effect.	32 33
(5)	The holder of a greenhouse gas authority is not entitled to compensation merely because of the suspension of operations under the authority in accordance with a suspension order.	34 35 36

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<b>159</b>	<b>Director-General may step in if direction not complied with</b>	1
(1)	If the holder of a greenhouse gas authority fails to comply with a direction under this Division in relation to any action that it requires to be taken, the Director-General may take whatever action is necessary to give effect to the terms of the direction.	2 3 4 5
(2)	Any expense incurred by the Director-General in taking action under subsection (1) may be recovered in a court of competent jurisdiction as a debt due to the Crown from the holder of the greenhouse gas authority.	6 7 8
<b>Division 2</b>	<b>Powers of inspectors</b>	9
<b>160</b>	<b>Purposes for which powers under Division may be exercised</b>	10
	Powers may be exercised under this Division for the following purposes:	11 12
(a)	for determining whether there has been compliance with or a contravention of this Act or the regulations or any greenhouse gas authority, direction, notice or order issued or made under this Act,	13 14 15 16
(b)	for obtaining information or records for purposes connected with the administration of this Act,	17 18
(c)	generally for administering this Act.	19
<b>161</b>	<b>Powers to enter premises</b>	20
(1)	An inspector may at any time enter:	21
(a)	any premises at which the inspector reasonably suspects that any prospecting work, injection work or monitoring work has been, is being or is about to be carried out, and	22 23 24
(b)	any premises that the inspector reasonably suspects have been, are being or are likely to be affected by prospecting work, injection work or monitoring work, and	25 26 27
(c)	any premises where the inspector reasonably suspects that documents that relate to any work or activities referred to in paragraph (a) or (b) are kept, and	28 29 30
(d)	any premises where any plant, vehicle or thing referred to in section 164 is located.	31 32
(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.	33 34
(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.	35 36 37

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(4)	Entry may be effected to any premises with the authority of a search warrant under section 162.	1 2
(5)	Entry may not be effected to any part of premises used only for residential purposes except with:	3 4
	(a) the permission of the occupier, or	5
	(b) the authority of a search warrant under section 162.	6
<b>162</b>	<b>Search warrants</b>	7
(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 suspects on reasonable grounds that:	8 9 10 11
	(a) a provision of this Act or the regulations is being or has been contravened at any premises, or	12 13
	(b) there is in or on any premises any matter or thing that is connected with an offence against this Act or the regulations.	14 15
(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:	16 17 18 19
	(a) to enter the premises, and	20
	(b) to exercise any function of an inspector under this Division.	21
(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.	22 23 24
(4)	In this section:	25
	<b><i>matter or thing</i></b> connected with an offence means:	26
	(a) a matter or thing with respect to which the offence has been committed, or	27 28
	(b) a matter or thing that will afford evidence of the commission of an offence, or	29 30
	(c) a matter or thing that was used, or is intended to be used, for the purpose of committing the offence.	31 32
	<b><i>offence</i></b> includes an offence that there are reasonable grounds for suspecting has been, or is to be, committed.	33 34

<b>163 Powers exercisable in entered premises</b>	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 Division, 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) take and remove samples,	7
(b) make such examinations, inquiries and tests as the inspector considers necessary,	8 9
(c) take such photographs, films, audio, video and other recordings as the inspector considers necessary,	10 11
(d) examine and inspect any records,	12
(e) take extracts from, or a copy of, any records,	13
(f) seize anything that the inspector has reasonable grounds for suspecting is connected with an offence against this Act or the regulations,	14 15 16
(g) for the purposes of paragraph (f), 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,	17 18 19
(h) do any other thing the inspector is empowered to do under this Division.	20 21
(3) The power to seize anything connected with an offence includes a power to seize:	22 23
(a) a thing with respect to which the offence has been committed, and	24 25
(b) a thing that will afford evidence of the commission of the offence, and	26 27
(c) a thing that was used for the purpose of committing the offence.	28
<b>164 Powers to inspect and test plant, vehicles etc</b>	29
(1) For the purposes of this Division, an inspector may inspect and test any plant, vehicle or other thing of any description.	30 31
(2) The inspector may, for the purposes of any such inspection or testing:	32
(a) enter the plant, vehicle or thing, and	33
(b) operate the plant, vehicle or thing, and	34
(c) inspect or test any substance found in or on, or in a container that is in or on, the plant, vehicle or thing, and	35 36
(d) take a sample of any such substance for testing.	37

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<b>165</b>	<b>Inspectors may be accompanied by assistants</b>	1
	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 Division if the inspector is of the opinion that the person is capable of providing assistance to the inspector in the exercise of those functions.	2 3 4 5
<b>166</b>	<b>Care to be taken</b>	6
	(1) In the exercise of a power of entering or searching premises under this Division, an inspector must do as little damage as possible.	7 8
	(2) The Crown is to compensate all interested parties for any damage caused by an inspector, or any person accompanying an inspector, in exercising a power under this Division unless the occupier obstructed or hindered the inspector in the exercise of that power.	9 10 11 12
<b>167</b>	<b>Owners and occupiers to render assistance</b>	13
	For the purpose of enabling an inspector to exercise the powers conferred by this Division, the Director-General may, by order in writing served on the owner or occupier of the premises, require the owner or occupier to provide such reasonable assistance and facilities as are specified in the order within such time, and in such manner, as is so specified.	14 15 16 17 18 19
<b>168</b>	<b>Power to require provision of information and records</b>	20
	(1) An inspector may, by order in writing served on a person, require the person to furnish to the inspector such information or records (or both) as are specified in the order in connection with any matter relating to the administration of this Act.	21 22 23 24
	(2) The order 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.	25 26 27
	(3) If a record required to be furnished under the order is in electronic, mechanical or other form, the order requires the record to be furnished in written form, unless the order otherwise provides.	28 29 30
	(4) The order 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.	31 32 33
	(5) The inspector to whom a record is furnished under the order may take copies of the record.	34 35

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Clause 169      Greenhouse Gas Storage Bill 2010

Part 12          Powers of enforcement

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**169    Revocation or variation of orders**

An order made by an inspector under this Division may be revoked or varied by the Director-General, by the inspector who gave the order or by any other inspector.

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<b>Part 13 Offences</b>	1
<b>Division 1 Indictable offences</b>	2
<b>170 Interference or damage to injection plant or monitoring plant</b>	3
A person who interferes with or damages any injection plant or monitoring plant located on an injection site or monitoring site is guilty of an offence.	4 5 6
Maximum penalty:	7
(a) 2,500 penalty units for an offence committed by a corporation, or	8
(b) 500 penalty units or imprisonment for 5 years, or both, for an offence committed by a natural person,	9 10
and, in the case of a continuing offence, a further penalty of 50 penalty units for each day that the offence continues.	11 12
<b>171 Interference with injection work or monitoring work</b>	13
A person who interferes with any injection or monitoring work that is being carried on at an injection site or monitoring site is guilty of an offence.	14 15 16
Maximum penalty:	17
(a) 2,500 penalty units for an offence committed by a corporation, or	18
(b) 500 penalty units or imprisonment for 5 years, or both, for an offence committed by a natural person,	19 20
and, in the case of a continuing offence, a further penalty of 50 penalty units for each day that the offence continues.	21 22
<b>172 Failure to report serious situation</b>	23
(1) A person by whom a notice is required to be given under section 47 is guilty of an offence if, without reasonable excuse, the person fails to give such notice.	24 25 26
(2) A person to whom a direction is given under section 157 is guilty of an offence if, without reasonable excuse, the person fails to comply with the requirements of the direction.	27 28 29
Maximum penalty for an offence against this section:	30
(a) 10,000 penalty units for an offence committed by a corporation, or	31 32
(b) 2,000 penalty units or imprisonment for 7 years, or both, for an offence committed by a natural person,	33 34
and, in the case of a continuing offence, a further penalty of 200 penalty units for each day that the offence continues.	35 36

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<b>Division 2</b>	<b>Summary offences</b>	1
<b>173</b>	<b>Unauthorised prospecting work</b>	2
	A person who carries out prospecting work on any land, otherwise than pursuant to a greenhouse gas authority that is in force in respect of that land, is guilty of an offence.	3 4 5
	Maximum penalty:	6
	(a) 1,000 penalty units for an offence committed by a corporation, or	7
	(b) 200 penalty units or imprisonment for 2 years, or both, for an offence committed by a natural person,	8 9
	and, in the case of a continuing offence, a further penalty of 20 penalty units for each day that the offence continues.	10 11
<b>174</b>	<b>Contravention of condition of authority</b>	12
(1)	The holder of a greenhouse gas authority is guilty of an offence if any condition of the authority is contravened.	13 14
	Maximum penalty:	15
	(a) 1,000 penalty units for an offence committed by a corporation, or	16
	(b) 200 penalty units for an offence committed by a natural person,	17
	and, in the case of a continuing offence, a further penalty of:	18
	(c) 100 penalty units for an offence committed by a corporation, or	19
	(d) 20 penalty units for an offence committed by a natural person,	20
	for each day that the offence continues.	21
(2)	In any proceedings for an offence against this section, it is a defence if the holder satisfies the court that:	22 23
	(a) the contravention of the condition was by, or caused by, another person, and	24 25
	(b) the other person was not associated with the holder at the time the condition was contravened, and	26 27
	(c) the holder took all reasonable steps to prevent the contravention of the condition.	28 29
(3)	A person is associated with the holder for the purposes of subsection (2) (b) (but without limiting any other circumstances of association) if the person is an employee, agent, licensee, contractor or subcontractor of the holder.	30 31 32 33
(4)	In any proceedings for an offence against this section, it is a defence if the defendant satisfies the court that the conduct constituting the contravention was reasonably necessary in order for the defendant to comply with:	34 35 36 37



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(a)	some other condition of a greenhouse gas authority, or	1
(b)	an order or direction (of which the Director-General was given notice before the acts or omissions occurred) issued under:	2
(i)	the <i>Environmental Planning and Assessment Act 1979</i> , or	3
(ii)	the <i>Mine Health and Safety Act 2004</i> , or	4
(iii)	the <i>Occupational Health and Safety Act 2000</i> , or	5
(iv)	the <i>Protection of the Environment Operations Act 1997</i> , or	6
(c)	a direction under this Act.	7
<b>175</b>	<b>Prospecting work etc not carried out in accordance with access arrangement</b>	<b>9</b>
	The holder of a greenhouse gas authority must not carry out prospecting work on any land otherwise than in accordance with an access arrangement.	10
	Maximum penalty:	11
(a)	500 penalty units for an offence committed by a corporation, or	12
(b)	100 penalty units for an offence committed by a natural person, and, in the case of a continuing offence, a further penalty of 10 penalty units for each day that the offence continues.	13
<b>176</b>	<b>Failure to pay royalty</b>	<b>14</b>
	A person who fails to pay royalty as required by Part 10 is guilty of an offence.	15
	Maximum penalty:	16
(a)	1,000 penalty units in the case of an offence committed by a corporation, or	17
(b)	200 penalty units or imprisonment for 12 months, or both, in the case of an offence committed by a natural person, and, in the case of a continuing offence, a further penalty of 20 penalty units for each day that the offence continues.	18
<b>177</b>	<b>Failure to comply with directions</b>	<b>19</b>
	A person to whom a direction is given under this Act (other than a direction under section 157) is guilty of an offence if, without reasonable excuse, the person fails to comply with the requirements of the direction.	20
	Maximum penalty:	21
(a)	1,000 penalty units for an offence committed by a corporation, or	22
(b)	200 penalty units for an offence committed by a natural person,	23
	and, in the case of a continuing offence, a further penalty of 20 penalty units for each day that the offence continues.	24
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(a)	1,000 penalty units for an offence committed by a corporation, or	35
(b)	200 penalty units for an offence committed by a natural person,	36

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and, in the case of a continuing offence, a further penalty of 20 penalty units for each day that the offence continues. 1  
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**Note.** Failure to comply with a direction under section 157 constitutes an indictable offence under section 172 (2). 3  
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**178 Offences regarding mandatory audits** 5

(1) A person who provides information to an auditor in connection with a mandatory audit, knowing the information to be false or misleading in a material respect, is guilty of an offence. 6  
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(2) The holder of a greenhouse gas authority who fails to provide information to an auditor in connection with a mandatory audit being carried out in relation to the authority, knowing the information to be materially relevant to the audit, is guilty of an offence. 9  
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(3) An auditor who includes information in an audit report produced to the Director-General in connection with a mandatory audit, knowing the information to be false or misleading in a material respect, is guilty of an offence. 13  
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(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. 17  
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(5) The holder of a greenhouse gas authority who: 21

(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 22  
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(b) fails to produce during that period any such documentation to the Director-General on request, 27  
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is guilty of an offence. 29

Maximum penalty for an offence against this section: 30

(a) 1,000 penalty units for an offence committed by a corporation, or 31

(b) 200 penalty units for an offence committed by a natural person. 32

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<b>179</b>	<b>Failure to comply with orders by inspectors</b>	1
(1)	A person on whom an order is served under section 168 is guilty of an offence if, without reasonable excuse, the person fails to comply with the requirements of the order.	2
	Maximum penalty:	3
	(a) 1,000 penalty units for an offence committed by a corporation, or	4
	(b) 200 penalty units for an offence committed by a natural person, and, in the case of a continuing offence, a further penalty of 20 penalty units for each day that the offence continues.	5
(2)	A person is not guilty of an offence of failing to comply with a requirement of the order to furnish information or records unless the person was warned on that occasion that a failure to comply is an offence.	6
(3)	A person is not excused from a requirement of the order to furnish information or records on the ground that the information or record might incriminate the person.	7
<b>180</b>	<b>Obstruction of inspectors</b>	8
	A person must not, without reasonable excuse, obstruct, hinder or resist an inspector while the inspector is exercising a function under this Act or the regulations.	9
	Maximum penalty: 200 penalty units.	10
<b>181</b>	<b>Impersonation of inspectors</b>	11
	A person who impersonates an inspector is guilty of an offence.	12
	Maximum penalty: 200 penalty units.	13
<b>182</b>	<b>Obstruction of holder of authority</b>	14
	A person must not, without reasonable excuse, prevent the holder of a greenhouse gas authority from doing anything that the holder is authorised by this Act to do.	15
	Maximum penalty: 200 penalty units.	16
<b>183</b>	<b>Provision of false or misleading information</b>	17
(1)	A person must not:	18
(a)	in or in connection with an application under this Act, or	19

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- (b) in purported compliance with any requirement under this Act (including a condition of a greenhouse gas authority), furnish information that the person knows to be false or misleading in a material particular. Maximum penalty: 200 penalty units. 1  
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- (2) This section does not limit the operation of Part 5A of the *Crimes Act 1900*. 5  
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<b>Part 14</b>	<b>Legal proceedings</b>	1
<b>Division 1</b>	<b>Legal proceedings generally</b>	2
<b>184</b>	<b>Proceedings for offences</b>	3
(1)	Proceedings for an offence arising under Division 1 of Part 13 are to be dealt with on indictment.	4 5
	<b>Note.</b> Chapter 5 of the <i>Criminal Procedure Act 1986</i> enables indictable offences to be dealt with summarily following an election by the prosecutor or defendant.	6 7
(2)	Proceedings for an offence against this Act or the regulations (other than an offence arising under Division 1 of Part 13) are to be disposed of summarily:	8 9 10
	(a) by the Local Court, or	11
	(b) by the Land and Environment Court in its summary jurisdiction.	12
(3)	Proceedings for an offence against this Act or the regulations may be commenced at any time within, but not later than, 3 years after the date on which the offence is alleged to have been committed.	13 14 15
(4)	Proceedings for an offence against this Act or the regulations may also be commenced at any time within, but not later than, 3 years after the date on which evidence of the alleged offence first came to the attention of any relevant Departmental officer.	16 17 18 19
(5)	If subsection (4) is relied on for the purpose of commencing proceedings for an offence, the process by which the proceedings are commenced must contain particulars of the date on which evidence of the offence first came to the attention of any relevant Departmental officer and need not contain particulars of the date on which the offence was committed.	20 21 22 23 24 25
(6)	The date on which evidence first came to the attention of any relevant Departmental officer is the date specified in the process by which the proceedings are commenced, unless the contrary is established.	26 27 28
(7)	Subsections (3)–(6) do not apply to proceedings for an offence arising under Division 1 of Part 13 unless the offence is being dealt with summarily.	29 30 31
(8)	The maximum monetary penalty that may be imposed by the Local Court in proceedings for an offence against this Act or the regulations is:	32 33 34
	(a) the lesser of the following:	35
	(i) 200 penalty units,	36
	(ii) the maximum monetary penalty specified in respect of the offence, and	37 38

(b)	in the case of a continuing offence, 10 per cent of the further monetary penalty specified in respect of the offence for each day the offence continues.	1 2 3
(9)	The maximum penalty that may be imposed by the Land and Environment Court in proceedings for an offence against this Act or the regulations is the maximum penalty specified in respect of the offence.	4 5 6
(10)	In this section, <i>evidence</i> of an offence means evidence of any conduct constituting the offence.	7 8
<b>185</b>	<b>Considerations in imposing penalty for “serious situation” offences</b>	9
(1)	In imposing a penalty for an offence against section 172, the court is to take into consideration the following (so far as they are relevant):	10 11
(a)	the extent of the harm caused or likely to be caused to the environment by the commission of the offence,	12 13
(b)	the practical measures that may be taken to prevent, control, abate or mitigate that harm,	14 15
(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,	16 17 18
(d)	the extent to which the person who committed the offence had control over the causes that gave rise to the offence,	19 20
(e)	whether, in committing the offence, the person was complying with orders from an employer or supervising employee.	21 22
(2)	The court may take into consideration other matters that it considers relevant.	23 24
<b>186</b>	<b>Offences by corporations</b>	25
(1)	If a corporation contravenes, whether by act or omission, any provision of this Act or the regulations, each person who is a director of the corporation or who is concerned in the management of the corporation is taken to have contravened the same provision if the person knowingly authorised or permitted the contravention.	26 27 28 29 30
(2)	A person may be proceeded against and convicted under a provision pursuant to subsection (1) whether or not the corporation has been proceeded against or has been convicted under the provision.	31 32 33
(3)	Nothing in this section affects any liability imposed on a corporation for an offence committed by the corporation under this Act or the regulations.	34 35 36

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<b>187</b>	<b>Defence of reasonable excuse</b>	1
	In any proceedings for an offence against this Act or the regulations, the burden of establishing a reasonable excuse lies on the defendant.	2 3
<b>188</b>	<b>Self-incriminating information</b>	4
	A person is not excused from providing information or producing a document pursuant to a requirement under this Act on the ground that to do so may tend to incriminate the person, but any information so furnished or document so produced is not admissible in evidence against the person in any criminal proceedings other than proceedings for an offence under section 183 or under Part 5A of the <i>Crimes Act 1900</i> .	5 6 7 8 9 10 11
<b>189</b>	<b>Penalty notices for certain offences</b>	12
(1)	In this section:	13
	<i>penalty notice</i> means a notice to the effect that, if the person served with the notice does not wish to have an alleged offence dealt with by a court, the person may pay, in accordance with the notice, the penalty specified in the notice.	14 15 16 17
	<i>penalty notice offence</i> means an offence against this Act or the regulations that is declared by the regulations to be a penalty notice offence.	18 19 20
(2)	A Departmental officer may serve a penalty notice on a person who appears to have committed a penalty notice offence.	21 22
(3)	The amount of the penalty to be specified in a penalty notice is the amount prescribed by the regulations for the alleged offence, being an amount not exceeding the maximum penalty which could be imposed for the offence by a court.	23 24 25 26
(4)	A penalty notice may be served personally or by post.	27
(5)	If the amount of the penalty prescribed by the regulations for an alleged offence is paid under this section, no person is liable to any further proceedings for the alleged offence.	28 29 30
(6)	Payment of a penalty under this section is not to be regarded as an admission of liability for the purposes of, nor is in any way to affect or prejudice, any civil claim, action or proceeding arising out of the same occurrence.	31 32 33 34
(7)	The Minister may withdraw a penalty notice at any time within 28 days after the date on which it was served and, in that event:	35 36
(a)	the amount payable under the notice ceases to be payable, and	37

(b)	any amount that has been paid under the notice is repayable to the person by whom it was paid, and	1 2
(c)	further proceedings for the offence in respect of which the notice was served may be taken against any person (including the person on whom the notice was served) as if the notice had never been served.	3 4 5 6
(8)	This section does not limit the operation of any other provision of this or any other Act or law in relation to proceedings that may be taken in respect of offences.	7 8 9
<b>190</b>	<b>Continuing offences</b>	10
(1)	A person who is guilty of an offence arising from the contravention of a requirement imposed by or under this Act or the regulations:	11 12
(a)	remains liable to comply with the requirement until it is complied with, even if the time for compliance has passed, and	13 14
(b)	is guilty of a continuing offence for each day the contravention continues.	15 16
(2)	If the requirement arises under a direction under this Act or the regulations, this section ceases to apply if the direction is revoked.	17 18
<b>191</b>	<b>Legal proceedings do not affect, and are unaffected by, other action</b>	19
	The prosecution of a person for an offence against this Act or the regulations, or the issue of a penalty notice in respect of such an offence, does not affect, and is unaffected by, any other action taken under this Act in relation to the conduct giving rise to the offence.	20 21 22 23
<b>192</b>	<b>Evidentiary certificates</b>	24
(1)	A certificate that is issued by the Director-General and that states that, on a date or during a period specified in the certificate:	25 26
(a)	a specified person was, or was not, the holder of a specified greenhouse gas authority, or	27 28
(b)	specified land was, or was not, the subject of a specified greenhouse gas authority, or	29 30
(c)	the conditions of a specified greenhouse gas authority were, or were not, as so specified, or	31 32
(d)	an amount of royalty or interest so specified was payable under Part 10 by a person so specified, or	33 34
(e)	a specified person was, or was not, a Departmental officer, or	35
(f)	a specified person was, or was not, an inspector, or	36



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(g) specified matters were, or were not, recorded in the Register of Greenhouse Gas Authorities or the Register of Interests or were, or were not, recorded in specified terms, or	1 2 3
(h) information required to be furnished to the Director-General pursuant to this Act was, or was not, received, is admissible in any legal proceedings and is evidence of the fact or facts so stated.	4 5 6 7
(2) For the purposes of this section, a document purporting to be a certificate under this section is, unless the contrary is proved, to be taken to be such a certificate.	8 9 10
<b>Division 2 Appeals and injunctions</b>	11
<b>193 Appeals</b>	12
(1) The following appeals lie to the Land and Environment Court against decisions made by the Minister:	13 14
(a) an appeal by an applicant for a greenhouse gas authority against a decision refusing to grant the authority,	15 16
(b) an appeal by the holder of a greenhouse gas authority against a decision refusing to renew the authority or to approve its transfer,	17 18
(c) an appeal by the holder of a greenhouse gas authority against a decision imposing a condition on, or varying a condition of, the authority,	19 20 21
(d) an appeal by the holder of an injection lease against a decision not to issue a site closure certificate in relation to an injection site in the injection lease area,	22 23 24
(e) an appeal by the holder of a greenhouse gas authority against a decision cancelling the authority (otherwise than on the application of the holder),	25 26 27
(f) an appeal by a person to whom a direction has been given under Division 1 of Part 12 against the decision to give the direction,	28 29
(g) an appeal by a person who has suffered damage from the exercise of a power of entry under Division 2 of Part 12 against a decision as to the person's entitlement to compensation.	30 31 32
(2) An appeal is to be made in accordance with rules of court, but may not be made more than 28 days after the date on which the decision was made.	33 34 35
(3) A person who does not lodge an appeal within the 28-day period may nevertheless lodge an appeal under this section, but the Land and Environment Court is not to hear and dispose of the matter unless	36 37 38

	satisfied that there is good cause for the person's failure to lodge the appeal within that period.	1 2
(4)	The lodging of an appeal does not operate to stay action on the decision appealed against, except to the extent that the Land and Environment Court otherwise directs.	3 4 5
<b>194</b>	<b>Injunctions to comply with directions under Division 1 of Part 12</b>	6
	On the application of the Minister, the Land and Environment Court may grant an injunction directing any person to whom a direction has been given under Division 1 of Part 12 to comply with the direction.	7 8 9
<b>195</b>	<b>Orders to restrain breaches of this Act</b>	10
(1)	Any person may bring proceedings in the Land and Environment Court for an order to remedy or restrain a breach of this Act or the regulations.	11 12
(2)	Any such proceedings may be brought whether or not proceedings have been instituted for an offence against this Act or the regulations.	13 14
(3)	Any such proceedings may be brought whether or not any right of the person has been or may be infringed by or as a consequence of the breach.	15 16 17
(4)	Any such proceedings may be brought by a person on the person's own behalf or on behalf of another person (with his or her consent), or of a body corporate or unincorporate (with the consent of its committee or other controlling body), having like or common interests in those proceedings.	18 19 20 21 22
(5)	Any person on whose behalf proceedings are brought is entitled to contribute to or provide for the payment of the legal costs and expenses incurred by the person bringing the proceedings.	23 24 25
(6)	If the Land and Environment Court is satisfied that a breach has been committed or that a breach will, unless restrained by the order of the Court, be committed, it may make such orders as it thinks fit to remedy or restrain the breach.	26 27 28 29
(7)	In this section, <i>breach</i> includes a threatened or apprehended breach.	30

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<b>Division 3</b>	<b>Supplementary orders in connection with offences</b>	1
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<b>196</b>	<b>Definitions</b>	3
	In this Division:	4
	<i>costs</i> includes expenses.	5
	<i>court</i> , in relation to an offender, means the court that has found the offender guilty of the offence referred to in the definition of <i>offender</i> .	6
	<i>offence</i> means an offence against this Act or the regulations.	7
	<i>offender</i> means a person whom a court has found guilty of an offence, whether or not the person has been convicted of the offence.	8
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<b>197</b>	<b>Court orders generally</b>	11
	(1) One or more orders may be made under this Division against an offender.	12
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	(2) Action may be made under this Division in addition to any other action that may be taken under this Act in relation to the offence.	14
		15
<b>198</b>	<b>Court orders regarding costs of investigation</b>	16
	If it appears to the court that the Crown or a public authority has, during the investigation of the offence, reasonably incurred costs:	17
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	(a) in taking any sample or conducting any inspection, test, measurement or analysis, or	19
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	(b) in transporting, storing or disposing of evidence,	21
	the court may order the offender to pay to the Crown or public authority the costs so incurred in such amount as is fixed by the order.	22
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<b>199</b>	<b>Court orders regarding environmental damage</b>	24
	If, when it finds the offender guilty of the offence, it appears to the court that:	25
		26
	(a) the Crown or a public authority has incurred costs in connection with:	27
		28
	(i) the prevention, control, abatement or mitigation of any harm to the environment caused by the commission of the offence, or	29
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	(ii) making good any resulting environmental damage, or	32
	(b) the Crown, a public authority or any other person:	33
	(i) has suffered loss of or damage to property, or	34

	(ii) has incurred costs in preventing or mitigating, or in attempting to prevent or mitigate, any such loss or damage, because of the commission of the offence,	1 2 3
	the court may order the offender to pay to the Crown, public authority or person the costs so incurred, or compensation for the loss or damage so suffered, in such amount as is fixed by the order.	4 5 6
<b>200</b>	<b>Subsequent recovery of costs and compensation for environmental damage</b>	7 8
	(1) If, after a court has found the offender guilty of the offence:	9
	(a) the Crown or a public authority incurs costs in connection with:	10
	(i) the prevention, control, abatement or mitigation of any harm to the environment caused by the commission of the offence, or	11 12 13
	(ii) making good any resulting environmental damage, or	14
	(b) the Crown, a public authority or any other person:	15
	(i) suffers loss of or damage to property, or	16
	(ii) incurs costs in preventing or mitigating, or in attempting to prevent or mitigate, any such loss or damage, because of the commission of the offence,	17 18 19
	the Land and Environment Court may, on the application of the Crown, public authority or person, order the offender to pay to the Crown, public authority or person the costs so incurred, or compensation for the loss or damage so suffered, in such amount as is fixed by the order.	20 21 22 23
	(2) The Land and Environment Court may make such an order whether or not it was the court that found the offender guilty of the offence.	24 25
<b>201</b>	<b>Enforcement of court orders</b>	26
	(1) An order made by the Land and Environment Court under section 198, 199 or 200 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> .	27 28 29
	(2) An order made by the Local Court under section 198 or 199 is enforceable as if it were an order made by the Court when sitting in its General Division within the meaning of the <i>Local Court Act 2007</i> .	30 31 32
	(3) The Local Court may not make an order under section 198 or 199 for the payment of an amount that exceeds its jurisdictional limit when sitting in its General Division within the meaning of the <i>Local Court Act 2007</i> .	33 34 35 36

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<b>202</b>	<b>Court orders regarding other monetary benefits</b>	1
(1)	The Land and Environment 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.	2 3 4 5 6
(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.	7 8
(3)	In this section, <i>monetary benefits</i> includes financial or economic benefits.	9 10
	<b>Note.</b> As with any other monetary penalty, an additional penalty imposed under this section is recoverable under the <i>Fines Act 1996</i> .	11 12
<b>203</b>	<b>Additional court orders</b>	13
(1)	The court may do any one or more of the following:	14
(a)	it may order the offender to take specified action to publicise, or notify specified persons or classes of persons of:	15 16
(i)	the offence (including the circumstances of the offence) and its consequences, and	17 18
(ii)	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),	19 20 21 22
(b)	it may 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,	23 24 25
(c)	it may order the offender to establish, for employees or contractors of the offender, a training course of a kind specified by the court,	26 27 28
(d)	it may order the offender to pay any royalty that is due and payable by the offender under this Act.	29 30
(2)	In addition to any order it may make under subsection (1), the Land and Environment Court may do any one or more of the following:	31 32
(a)	it may order the offender to carry out a specified project for the rehabilitation of any land that has been detrimentally affected because of the commission of the offence,	33 34 35
(b)	it may order the offender to carry out an audit of activities carried on by the offender,	36 37
(c)	it may order the offender, in proceedings to which the Director-General is a party:	38 39

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- (i) to carry out a specified work or program for the restoration or enhancement of the environment, and 1  
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  - (ii) to provide to the Director-General and maintain a security deposit, in such form and amount, and on such terms, as are specified by the court. 3  
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- (3) The court may, in an order under this section, fix a period for compliance with the order and impose any other requirements the court considers necessary or expedient for enforcement of the order. 6  
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- (4) If the offender contravenes an order under subsection (1) (a), 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: 9  
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  - (a) the original contravention, its environmental and other consequences, and any other penalties imposed on the offender, and 13  
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  - (b) the contravention of the order. 16
- (5) The reasonable cost incurred by a person in taking any action referred to in subsection (4) is recoverable, in a court of competent jurisdiction, as a debt due to the person from the offender. 17  
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- (6) Sections 140 and 141 apply with respect to a security deposit provided under an order referred to in subsection (2) (c) (ii) as if it were provided under a security deposit condition. 20  
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## Part 15 Administration

<b>Part 15 Administration</b>	1
<b>204 Establishment of Greenhouse Gas Safety Fund</b>	2
(1) There is to be established in the Special Deposits Account a fund called the Greenhouse Gas Safety Fund.	3 4
(2) The Fund is to be administered by the Director-General.	5
(3) There are to be paid into the Fund:	6
(a) all contributions paid to the Director-General in accordance with a condition imposed on an injection licence by section 38, and	7 8
(b) all amounts appropriated by Parliament for the purposes of the Fund, and	9 10
(c) all proceeds from the investment of money in the Fund, and	11
(d) all other money required to be paid into the Fund by or under this or any other Act or the regulations under this Act.	12 13
(4) The following is to be paid out of the Fund:	14
(a) all amounts that are required to meet any expenditure incurred by the Department in monitoring greenhouse gases that are stored in approved reservoirs,	15 16 17
(b) all amounts that are required to meet any expenditure incurred by the Department in maintaining and operating monitoring plant that has become vested in the Ministerial Corporation pursuant to section 53,	18 19 20 21
(c) all amounts that are required to meet any liability incurred by the Crown under section 54 (1) (b),	22 23
(d) all amounts that are required to meet any expenditure incurred by the Director-General in taking action under section 159,	24 25
(e) all amounts that are required to meet any expenditure incurred by the Ministerial Corporation in acquiring land pursuant to section 211,	26 27 28
(f) all amounts that are required to meet any expenditure incurred by the Crown in administering the Fund,	29 30
(g) all other amounts directed or authorised to be paid from the Fund by this Act or the regulations.	31 32
(5) The Director-General may, on behalf of the Department, invest money in the Fund:	33 34
(a) in such manner as may be authorised by the <i>Public Authorities (Financial Arrangements) Act 1987</i> , or	35 36

(b)	if that Act does not confer power on the Department to invest the money, in any other manner approved by the Treasurer.	1 2
(6)	The assets of the Fund may not be applied for the purpose of enabling any payment as a dividend to the credit of the Consolidated Fund nor can they be applied for any purpose by any other Act.	3 4 5
<b>205</b>	<b>Arbitration Panel</b>	6
(1)	There is to be an Arbitration Panel.	7
(2)	The Arbitration Panel is to consist of one or more members appointed by the Minister after consultation with the Minister for Aboriginal Affairs and the Minister for Primary Industries.	8 9 10
(3)	The conditions on which a member of the Arbitration Panel holds office (including conditions relating to remuneration and travelling and subsistence allowances) are to be as determined by the Minister.	11 12 13
<b>206</b>	<b>Expert advisory panels</b>	14
(1)	The Minister may appoint expert advisory panels for the purpose of this Act.	15 16
(2)	An expert advisory panel is to consist of such persons as, in the opinion of the Minister, have the qualifications and expertise appropriate to the matters proposed to be referred to it.	17 18 19
(3)	The conditions on which a member of an expert advisory panel holds office (including conditions relating to remuneration and travelling and subsistence allowances) are to be as determined by the Minister.	20 21 22
(4)	An expert advisory panel has the function of investigating, and reporting to the Minister on, such of the following matters as are referred to it for investigation and report:	23 24 25
(a)	any proposal by the Minister to declare a geological formation to be an approved reservoir,	26 27
(b)	any proposal by the Minister to issue invitations for applications for greenhouse gas authorities,	28 29
(c)	any applications received by the Minister for the granting, renewal or transfer of greenhouse gas authorities,	30 31
(d)	any site plan, operational plan or site closure plan proposed or approved in relation to an injection lease,	32 33
(e)	any proposal by the Minister in relation to a serious situation that has arisen, whether or not notice of the situation has been given under section 47,	34 35 36
(f)	any proposal by the Minister to amend an injection lease in relation to the location of any injection site or monitoring site,	37 38



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(g)	any matter relating to the closing of an injection site,	1
(h)	any other matter that the Minister considers appropriate to refer to the panel for investigation and report.	2 3
(5)	The regulations may make provision for or with respect to the procedure to be followed by an expert advisory panel.	4 5
<b>207</b>	<b>Appointment of inspectors</b>	6
(1)	The Director-General may appoint any Departmental officer as an inspector for the purposes of this Act.	7 8
(2)	An appointment may (but need not) be subject to conditions, limitations or restrictions or may be for limited purposes only.	9 10
(3)	If an appointment is subject to conditions, limitations or restrictions or is for limited purposes only, nothing in this Act authorises or requires the inspector to act in contravention of any such condition, limitation or restriction or for any other purpose.	11 12 13 14
(4)	Each inspector is to be provided with a card identifying him or her as an inspector.	15 16
(5)	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 identity card to the person.	17 18 19 20
<b>208</b>	<b>Delegation of functions</b>	21
(1)	The Minister may delegate any function exercisable by the Minister under this Act (except this power of delegation) to the Director-General, to any Departmental officer or to any other person belonging to a class of persons prescribed by the regulations.	22 23 24 25
(2)	The Director-General may delegate any function exercisable by the Director-General under this Act (except this power of delegation and any function delegated to the Director-General by the Minister) to any Departmental officer or to any other person belonging to a class of persons prescribed by the regulations.	26 27 28 29 30
(3)	For the purposes of this section, a reference to a function under this Act includes a reference to a function under the regulations or under the conditions of a greenhouse gas authority.	31 32 33

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<b>209</b>	<b>Resolution of disputes between public authorities</b>	1
(1)	Any dispute arising between two or more public authorities as to the exercise of their functions under this Act is to be resolved:	2 3
(a)	by agreement between the Ministers responsible for them, or	4
(b)	if the dispute is between Ministers, by the Premier.	5
(2)	Each public authority must comply with any directions arising out of the resolution of the dispute under this section.	6 7
<b>210</b>	<b>Constitution of Ministerial Corporation</b>	8
(1)	There is constituted by this Act a corporation with the corporate name “Greenhouse Gas Storage Ministerial Corporation”.	9 10
(2)	The affairs of the Ministerial Corporation are to be managed by the Minister.	11 12
(3)	Any act, matter or thing done in the name of, or on behalf of, the Ministerial Corporation by the Minister, or with the authority of the Minister, is taken to have been done by the Ministerial Corporation.	13 14 15
(4)	The Ministerial Corporation is, for the purposes of any Act, a statutory body representing the Crown.	16 17
<b>211</b>	<b>Acquisition of land</b>	18
(1)	The Ministerial Corporation may acquire land for the purposes of this Act by agreement, or by compulsory process in accordance with the <i>Land Acquisition (Just Terms Compensation) Act 1991</i> .	19 20 21
(2)	Without limiting subsection (1), the Ministerial Corporation may acquire:	22 23
(a)	land on which any permanent monitoring plant is situated, and	24
(b)	easements to facilitate access to any such land.	25
(3)	For the purposes of the <i>Public Works Act 1912</i> , any such acquisition is taken to be for an authorised work, and the Ministerial Corporation is, in relation to that work, taken to be the Constructing Authority.	26 27 28
<b>212</b>	<b>Preservation of records</b>	29
(1)	All records received by the Director-General under section 39 or 51 must be kept permanently, and must not be disposed of.	30 31
(2)	Section 28 of the <i>State Records Act 1998</i> does not apply to any record received by the Director-General under section 39 or 51.	32 33
	<b>Note.</b> Consequently, the records remain “in use” for the purposes of that Act, and therefore the State Records Authority does not become entitled to their control after 25 years (as would otherwise be the case).	34 35 36

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(3)	On the recommendation of an expert advisory panel, the Director-General may, by order in writing, exclude specified records, or specified classes of records, from the operation of this section.	1 2 3
<b>213</b>	<b>Administration of Act in relation to native title</b>	4
(1)	For the purpose of administering this Act in relation to land in respect of which native title exists, any native title holder of the land is taken to have the same rights under this Act as an owner of the fee simple in the land.	5 6 7 8
(2)	If compensation is payable under section 24MD of the <i>Native Title Act 1993</i> of the Commonwealth in respect of an act attributable to the Crown involving the grant or renewal of a greenhouse gas authority, the holder of the authority at the time of the grant or renewal is declared, in accordance with section 24MD (4) (b) (i) of that Act, to be liable to pay the compensation.	9 10 11 12 13 14
<b>214</b>	<b>Administration of Act in accordance with principles of ecologically sustainable development</b>	15 16
	In the administration of this Act, regard is to be had to the principles of ecologically sustainable development referred to in section 6 (2) of the <i>Protection of the Environment Administration Act 1991</i> .	17 18 19
<b>215</b>	<b>Annual report of Department</b>	20
	The annual report prepared for the Department under the <i>Annual Reports (Departments) Act 1985</i> is to include a report on the Minister's work and activities under this Act for the period to which that report relates, and may also include the annual report prepared for the Ministerial Corporation under the <i>Annual Reports (Statutory Bodies) Act 1984</i> .	21 22 23 24 25 26

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<b>Part 16</b>	<b>Miscellaneous</b>	1
<b>216</b>	<b>Act binds Crown</b>	2
	This Act binds the Crown in right of New South Wales and, in so far as the legislative power of Parliament permits, the Crown in all its other capacities.	3 4 5
<b>217</b>	<b>Fees and charges</b>	6
(1)	The Minister may impose fees and charges for the purposes of this Act.	7
(2)	The Minister may waive, reduce or remit any such fee or charge in a particular case or class of cases if the Minister is of the opinion that the circumstances warrant it.	8 9 10
(3)	Any fee or charge that is imposed by the Minister under this Act, and that remains unpaid, is recoverable in any court of competent jurisdiction as a debt due to the Crown.	11 12 13
(4)	A fee or charge imposed by the Minister under this Act in relation to a greenhouse gas authority may be recovered from the holder of the authority who incurred the fee or charge or from the holder of the authority for the time being.	14 15 16 17
<b>218</b>	<b>Payment of compensation by Crown</b>	18
	Any amount that, under this Act, the Crown is liable to pay by way of compensation is to be paid out of money appropriated by Parliament.	19 20
	<b>Note.</b> See section 204 which enables money in the Greenhouse Gas Safety Fund to be used to pay compensation for which the Ministerial Corporation becomes liable as a consequence of acquiring land under section 211.	21 22 23
<b>219</b>	<b>Service of documents</b>	24
(1)	A document may be served on a person:	25
(a)	personally, or	26
(b)	by leaving it at, or by sending it by post to, the person's residential address or, in the case of a corporation, the address of the corporation's registered office, or	27 28 29
(c)	if it is impracticable for the document to be served on an owner of land in the manner referred to in paragraph (a) or (b), by affixing the document in a conspicuous position on the land.	30 31 32
(2)	In the case of land that is owned or occupied by more than one person or of a greenhouse gas authority that is held by more than one person, service of a document on any one of them, or on any person duly appointed by them for the purpose of accepting service of documents, is taken to be service on all of them.	33 34 35 36 37

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(3)	This section does not limit any other manner in which a document may be served.	1 2
<b>220</b>	<b>Requirements for newspaper publication</b>	3
	A requirement of this Act that an order or notice be published in an appropriate newspaper is taken to be a requirement that it be published in a newspaper circulating throughout the State and:	4 5 6
	(a) in a newspaper circulating throughout the area it affects, or	7
	(b) in as many newspapers circulating throughout the various parts of that area as are necessary to ensure that it reaches all parts of the area.	8 9 10
<b>221</b>	<b>Protection from personal liability</b>	11
	The conduct of any of the following persons:	12
	(a) the Minister, the Director-General or a Departmental officer,	13
	(b) any member of an expert advisory panel,	14
	(c) any person acting under the direction of a person referred to in paragraph (a) or (b),	15 16
	does not subject any such person, personally, to any action, liability, claim or demand if the act or omission that constitutes that conduct was done, or omitted to be done, in good faith for the purpose of executing this Act.	17 18 19 20
<b>222</b>	<b>General immunity of owners</b>	21
	The owner of land in relation to which any other person (other than another owner of the same land) is authorised to exercise any power or right:	22 23 24
	(a) by or under this Act or the regulations, or	25
	(b) by any greenhouse gas authority,	26
	is not subject to any action, liability, claim or demand arising as a consequence of that other person's conduct in the exercise, or purported exercise, of any such power or right.	27 28 29
<b>223</b>	<b>Application of Protection of the Environment Operations Act 1997</b>	30
	For the purposes of the <i>Protection of the Environment Operations Act 1997</i> :	31 32
	(a) greenhouse gases are not waste while they are being dealt with by the holder of an injection lease, and	33 34
	(b) the injection of greenhouse gases into an approved reservoir by the holder of an injection lease is not a scheduled activity, and	35 36

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Clause 224 Greenhouse Gas Storage Bill 2010

Part 16 Miscellaneous

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(c)	the injection of greenhouse gases into an approved reservoir by the holder of an injection lease does not constitute the pollution of land,	1 2 3
	so long as the greenhouse gases are being dealt with or injected, as the case may be, in accordance with the terms and conditions of the lease.	4 5
	<b>Note.</b> If an approved reservoir contains water, the injection of greenhouse gases into the reservoir may constitute pollution of water within the meaning of the <i>Protection of the Environment Operations Act 1997</i> and therefore require an environment protection licence under that Act.	6 7 8 9
<b>224</b>	<b>Application of Personal Property Securities Act 2009 (Cth)</b>	10
	A greenhouse gas authority is declared not to be personal property for the purposes of the <i>Personal Property Securities Act 2009</i> of the Commonwealth.	11 12 13
	<b>Note.</b> The <i>Personal Property Securities Act 2009</i> of the Commonwealth does not apply in relation to a right, licence or authority granted by or under a law of a State that is declared by the law not to be personal property for the purposes of that Act.	14 15 16 17
<b>225</b>	<b>Regulations</b>	18
(1)	The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.	19 20 21 22
(2)	Without limiting subsection (1), the regulations may make provision for or with respect to the following matters:	23 24
(a)	the accreditation of auditors for the purposes of Division 5 of Part 5, and the carrying out of audits by auditors,	25 26
(b)	the programs of work and site rehabilitation that are required in connection with prospecting licences, assessment leases and associated supplementary authorities,	27 28 29
(c)	the site plans, operational plans and site closure plans that are required in connection with injection leases.	30 31
(3)	A regulation may create an offence punishable by a penalty not exceeding:	32 33
(a)	100 penalty units, in the case of an offence committed by a corporation, or	34 35
(b)	20 penalty units, in the case of an offence committed by an individual.	36 37
(4)	A regulation may apply, adopt or incorporate any publication as in force from time to time.	38 39

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**226 Review of Act**

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|  | 1           |
| (1) The Minister is to review this Act to determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing those objectives. | 2<br>3<br>4 |
| (2) The review is to be undertaken as soon as possible after the period of 5 years from the date of assent to this Act.  | 5<br>6      |
| (3) A report on the outcome of the review is to be tabled in each House of Parliament within 12 months after the end of the period of 5 years.   | 7<br>8      |

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<b>Schedule 1</b>	<b>Amendment of Acts</b>	1
<b>1.1</b>	<b>Criminal Procedure Act 1986 No 209</b>	2
	<b>Schedule 1 Indictable offences triable summarily</b>	3
	Insert after item 25 in Table 1:	4
<b>25A</b>	<b>Greenhouse Gas Storage Act 2010</b>	5
	An offence arising under Division 1 of Part 13 of the <i>Greenhouse Gas Storage Act 2010</i> .	6 7
<b>1.2</b>	<b>Environmental Planning and Assessment Act 1979 No 203</b>	8
	<b>Section 75V Approvals etc legislation that must be applied consistently</b>	9
	Insert after section 75V (1) (a):	10
	(a1) an injection lease under the <i>Greenhouse Gas Storage Act 2010</i> ,	11 12
<b>1.3</b>	<b>Fines Act 1996 No 99</b>	13
	<b>Schedule 1 Statutory provisions under which penalty notices issued</b>	14
	Insert in alphabetical order:	15
	<i>Greenhouse Gas Storage Act 2010</i> , section 189	16
<b>1.4</b>	<b>Land and Environment Court Act 1979 No 204</b>	17
<b>[1]</b>	<b>Section 17 Class 1—environmental planning and protection appeals</b>	18
	Insert after section 17 (b):	19
	(ba) appeals under section 193 of the <i>Greenhouse Gas Storage Act 2010</i> ,	20 21
<b>[2]</b>	<b>Section 20 Class 4—environmental planning and protection and development contract civil enforcement</b>	22 23
	Insert after section 20 (1) (ck):	24
	(cl) proceedings under section 194 or 195 of the <i>Greenhouse Gas Storage Act 2010</i> ,	25 26
<b>[3]</b>	<b>Section 20 (3) (a)</b>	27
	Insert in alphabetical order of Acts:	28
	<i>Greenhouse Gas Storage Act 2010</i> ,	29



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<b>[4] Section 21 Class 5—environmental planning and protection summary enforcement</b>	1
	2
Insert after section 21 (da):	3
(db) proceedings under section 184 or 200 of the <i>Greenhouse Gas Storage Act 2010</i> ,	4
	5
<b>[5] Section 21C Class 8—mining matters</b>	6
Omit “or the <i>Petroleum (Onshore) Act 1991</i> ” from section 21C (1).	7
Insert instead “, the <i>Petroleum (Onshore) Act 1991</i> , sections 44 and 45 of the <i>Greenhouse Gas Storage Act 2010</i> or Parts 8 and 11 of that Act”.	8
	9
<b>[6] Section 21C (2)</b>	10
Omit “either of those Acts”.	11
Insert instead “any Act referred to in subsection (1)”.	12
<b>1.5 Law Enforcement (Powers and Responsibilities) Act 2002 No 103</b>	13
	14
<b>Schedule 2 Search warrants under other Acts</b>	15
Insert in alphabetical order:	16
<i>Greenhouse Gas Storage Act 2010</i> , section 162	17
<b>1.6 Mine Health and Safety Act 2004 No 74</b>	18
<b>[1] Section 3 Definitions</b>	19
Insert after paragraph (b) of the definition of <i>mine holder</i> in section 3 (1):	20
(b1) in relation to land subject to a greenhouse gas authority or research permit under the <i>Greenhouse Gas Storage Act 2010</i> —the person who holds the authority or permit, or	21
	22
	23
<b>[2] Section 6 Application of Act</b>	24
Insert after section 6 (1) (g):	25
(g1) any place where prospecting work, injection work or monitoring work is carried out pursuant to the <i>Greenhouse Gas Storage Act 2010</i> ,	26
	27
	28
<b>[3] Section 68 Duty to give notice of drilling operations</b>	29
Insert “or in the course of carrying out prospecting work, injection work or monitoring work pursuant to the <i>Greenhouse Gas Storage Act 2010</i> ,” after “quarry products,” in section 68 (4).	30
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<b>[4] Section 166 Regulations: specific miscellaneous powers</b>	1
Insert at the end of the section:	2
(2) The regulations may prescribe modifications to this Act in its application to any place where prospecting work, injection work or monitoring work is carried out pursuant to the <i>Greenhouse Gas Storage Act 2010</i> .	3 4 5 6
<b>1.7 National Parks and Wildlife Act 1974 No 80</b>	7
<b>[1] Section 39 Existing interests</b>	8
Insert “the <i>Greenhouse Gas Storage Act 2010</i> ,” after “authority, lease or licence under” in section 39 (4).	9 10
<b>[2] Section 41 Mining</b>	11
Insert after section 41 (1):	12
(1A) It is unlawful to carry out prospecting work, injection work or monitoring work (within the meaning of the <i>Greenhouse Gas Storage Act 2010</i> ) in a national park or historic site, except as expressly authorised by an Act of Parliament.	13 14 15 16
<b>[3] Section 41 (2)</b>	17
Insert “ <i>Greenhouse Gas Storage Act 2010</i> , the” after “The”.	18
<b>[4] Section 47H Existing interests</b>	19
Insert “the <i>Greenhouse Gas Storage Act 2010</i> ,” after “authority, lease or licence under” in section 47H (4).	20 21
<b>[5] Section 47J Provisions relating to mining</b>	22
Insert at the end of section 47J (1) (c):	23
, or	24
(d) any injection lease under the <i>Greenhouse Gas Storage Act 2010</i> .	25 26
<b>[6] Section 47J (2) and (4)</b>	27
Insert “the <i>Greenhouse Gas Storage Act 2010</i> ,” before “the <i>Mining Act 1992</i> ” wherever occurring.	28 29

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<b>[7] Section 47MA Reservation of land in state conservation area as national park or nature reserve</b>	1
	2
Insert “the <i>Greenhouse Gas Storage Act 2010</i> ,” after “authority, lease, licence or permit under” in section 47MA (3).	3
	4