



Queensland

Resources Safety and Health Queensland Bill 2019



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2019

A Bill

for

An Act to establish a statutory body called Resources Safety and Health Queensland to regulate safety and health in the resources sector, establish an employing office, provide for the Commissioner for Resources Safety and Health, and to amend this Act, the *Coal Mining Safety and Health Act 1999*, the *Explosives Act 1999*, the *Mining and Quarrying Safety and Health Act 1999*, the *Petroleum and Gas (Production and Safety) Act 2004*, the *Public Service Act 2008*, the *Statutory Bodies Financial Arrangements Regulation 2019* and the *Work Health and Safety Act 2011* for particular purposes

[s 1]

The Parliament of Queensland enacts—	1
Part 1 Preliminary	2
1 Short title	3
This Act may be cited as the <i>Resources Safety and Health Queensland Act 2019</i> .	4 5
2 Commencement	6
This Act, other than sections 120 and 122, commences on a day to be fixed by proclamation.	7 8
3 Definitions	9
The dictionary in schedule 1 defines particular words used in this Act.	10 11
4 Main purposes	12
The main purposes of this Act are—	13
(a) to establish an independent statutory body called Resources Safety and Health Queensland to regulate safety and health in the resources sector; and	14 15 16
(b) to establish the Resources Safety and Health Queensland employing office; and	17 18
(c) to provide for the Commissioner for Resources Safety and Health.	19 20

Part 2	Resources Safety and Health Queensland	1 2
Division 1	Establishment	3
5	Establishment of RSHQ	4
	Resources Safety and Health Queensland (<i>RSHQ</i>) is established.	5 6
6	Legal status	7
	RSHQ—	8
	(a) is a body corporate; and	9
	(b) may sue and be sued in its corporate name.	10
7	Membership	11
	RSHQ consists of—	12
	(a) the CEO; and	13
	(b) the organisational unit under the control of the CEO.	14
8	RSHQ represents the State	15
	(1) RSHQ represents the State.	16
	(2) Without limiting subsection (1), RSHQ has the privileges and immunities of the State.	17 18
9	Application of other Acts	19
	(1) RSHQ is—	20
	(a) a unit of public administration under the <i>Crime and Corruption Act 2001</i> ; and	21 22
	(b) a statutory body under—	23

[s 10]

- (i) the *Financial Accountability Act 2009*; and 1
- (ii) the *Statutory Bodies Financial Arrangements Act 1982*. 2
3
- (2) The *Statutory Bodies Financial Arrangements Act 1982*, part 4
2B sets out the way that Act affects RSHQ's powers. 5

Division 2 Functions and powers 6

10 Functions 7

- (1) The main function of RSHQ is to administer the Resources Safety Acts and to further their purposes. 8
9
- (2) Without limiting subsection (1), RSHQ has the following functions— 10
11
 - (a) protecting the safety and health of persons in the resources industry; 12
13
 - (b) regulating safety and health in the resources industry; 14
 - (c) monitoring compliance with, and the effectiveness of, the Resources Safety Acts; 15
16
 - (d) carrying out commercial activities incidental to RSHQ's main function. 17
18
- (3) RSHQ also has the functions given to it under this Act or another Act. 19
20

11 Powers 21

- (1) RSHQ has all the powers of an individual and may, for example— 22
23
 - (a) enter into contracts or agreements; and 24
 - (b) deal in land or other property; and 25
 - (c) appoint agents and attorneys; and 26
 - (d) engage consultants or contractors; and 27

	(e) establish funds and accounts with any financial institution in Australia; and	1 2
	(f) charge an entity a fee for services or facilities it supplies; and	3 4
	(g) do anything else necessary or convenient to be done in the performance of RSHQ's functions.	5 6
	(2) RSHQ also has the powers given to it under this Act or another Act.	7 8
12	Performing functions and exercising powers inside and outside Queensland	9 10
	RSHQ may perform its functions, or exercise its powers, inside or outside Queensland.	11 12
13	Ministerial direction	13
	(1) The Minister may give a written direction to RSHQ about the performance of RSHQ's functions under this Act or the exercise of RSHQ's powers under this Act if the Minister is satisfied it is necessary to give the direction in the public interest.	14 15 16 17 18
	(2) Without limiting subsection (1), the direction may be to give reports and information to the Minister.	19 20
	(3) RSHQ must—	21
	(a) comply with a direction given under subsection (1); and	22
	(b) publish a copy of the direction on a Queensland government website.	23 24
	(4) To remove any doubt, it is declared that a direction under subsection (1) must not be about the performance of RSHQ's functions under a Resources Safety Act or the exercise of RSHQ's powers under a Resources Safety Act.	25 26 27 28

[s 14]

Division 3	Chief executive officer	1
14	Appointment	2
(1)	The Governor in Council must appoint a chief executive officer of RSHQ (the <i>CEO</i>).	3 4
(2)	The CEO is appointed under this Act and not the <i>Public Service Act 2008</i> .	5 6
15	Disqualification as CEO	7
	A person is disqualified from being appointed, or continuing as, the CEO if the person—	8 9
(a)	has a conviction, other than a spent conviction, for an indictable offence; or	10 11
(b)	is an insolvent under administration; or	12
(c)	is disqualified from managing corporations because of the Corporations Act, part 2D.6; or	13 14
(d)	contravenes section 21 or 22.	15
16	Criminal history report	16
(1)	To decide if a person is disqualified from becoming or continuing as the CEO, the Minister may ask the commissioner of the police service for—	17 18 19
(a)	a written report about the criminal history of the person; and	20 21
(b)	a brief description of the circumstances of a conviction mentioned in the criminal history.	22 23
(2)	However, the Minister may make the request only if the person has given the Minister written consent for the request.	24 25
(3)	The commissioner of the police service must comply with the request.	26 27

-
- (4) However, the duty to comply applies only to information in the possession of the commissioner of the police service or to which the commissioner of the police service has access.
- (5) The Minister must ensure the report is destroyed as soon as practicable after it is no longer needed for the purpose for which it was requested.
- 17 Term**
- (1) The CEO holds office for the term stated in the CEO's instrument of appointment.
- (2) The stated term must not be more than 5 years.
- (3) The CEO may be reappointed.
- 18 Remuneration and conditions**
- (1) The CEO is to be paid the remuneration and other allowances decided by the Governor in Council.
- (2) The remuneration must not be reduced during the CEO's term of office without the CEO's written consent.
- (3) The CEO holds office on the terms and conditions, not provided for by this Act, that are decided by the Governor in Council.
- 19 Removal by Governor in Council**
- The Governor in Council may, on the Minister's recommendation, remove the CEO from office if the Minister is satisfied the CEO—
- (a) has engaged in—
- (i) inappropriate or improper conduct in an official capacity; or
- (ii) inappropriate or improper conduct in a private capacity that reflects seriously and adversely on the office; or

[s 20]

	(b) has become incapable of performing the CEO's functions; or	1 2
	(c) has neglected the CEO's duties or performed the CEO's functions incompetently.	3 4
20	Vacancy in office	5
	The office of the CEO becomes vacant if the CEO—	6
	(a) completes a term of office and is not reappointed; or	7
	(b) resigns office by signed notice given to the Minister; or	8
	(c) becomes disqualified under section 15 from continuing as CEO; or	9 10
	(d) is removed under section 19 as CEO.	11
21	CEO not to engage in other paid employment	12
	The CEO must not, without the Minister's prior written approval—	13 14
	(a) engage in paid employment outside the responsibilities of the office of the CEO; or	15 16
	(b) actively take part in the activities of a business, or in the management of a corporation carrying on a business, outside the responsibilities of the office of the CEO.	17 18 19
22	Conflicts of interest	20
	If the CEO has an interest that conflicts, or may conflict, with the discharge of the CEO's responsibilities, the CEO—	21 22
	(a) must disclose the nature of the interest and conflict to the Minister as soon as practicable after the relevant facts come to the CEO's knowledge; and	23 24 25
	(b) must not take action or further action concerning a matter that is, or may be, affected by the conflict unless authorised by the Minister.	26 27 28

23	Functions	1
	(1) The CEO has the following functions—	2
	(a) ensuring the effective and efficient administration and operation of RSHQ and the performance of its functions; and	3 4 5
	(b) managing the organisational unit under the control of the CEO.	6 7
	(2) The CEO also has the functions given to the CEO under this Act or another Act.	8 9
24	Powers	10
	(1) The CEO has the power to do anything necessary or convenient to be done for the performance of the CEO's functions.	11 12 13
	(2) The CEO also has the powers given to the CEO under this Act or another Act.	14 15
25	Delegation	16
	(1) The CEO may delegate the CEO's functions under this Act to an appropriately qualified person.	17 18
	(2) In this section—	19
	<i>functions</i> includes powers.	20
26	Acting CEO	21
	(1) The Minister may appoint a person to act as CEO—	22
	(a) during a vacancy in the office; or	23
	(b) during any period, or during all periods, when the CEO is absent from duty or from the State or is, for another reason, unable to perform the duties of the office.	24 25 26
	(2) The acting CEO is appointed under this Act and not the <i>Public Service Act 2008</i> .	27 28

[s 27]

27	Preservation of rights	1
(1)	This section applies if a public service officer is appointed as the CEO.	2 3
(2)	The person keeps all rights accrued or accruing to the person as a public service officer as if service as the CEO were a continuation of service as a public service officer.	4 5 6
(3)	Without limiting subsection (2), the person's appointment does not—	7 8
(a)	prejudice the person's existing or accruing rights to superannuation or recreation, sick, long service or other leave; or	9 10 11
(b)	interrupt continuity of service, except that the employee is not entitled to claim the benefit of a right or entitlement more than once in relation to the same period of service; or	12 13 14 15
(c)	entitle the person to a payment or other benefit because the person is no longer a public service officer.	16 17
(4)	At the completion of the person's term of office under section 20(a) or resignation as the CEO under section 20(b)—	18 19
(a)	the person has the right to be appointed to an office in the public service at a salary level no less than the current salary level of an office equivalent to the office the person held before being appointed as the CEO; and	20 21 22 23
(b)	the person's service as the CEO is taken to be service of a like nature in the public service for deciding the person's rights as an officer of the public service.	24 25 26

Division 4	Other matters	27
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28	Annual report	28
(1)	RSHQ must include in its annual report prepared under the <i>Financial Accountability Act 2009</i> , section 63—	29 30

-
- (a) details of the functions performed by RSHQ during the year; and 1
2
 - (b) information about how efficiently and effectively RSHQ has performed its functions, including, for example, identifying key achievements and financial and non-financial performance; and 3
4
5
6
 - (c) details of— 7
 - (i) any interest disclosed by the CEO under section 22(a); and 8
9
 - (ii) any action authorised by the Minister under section 22(b); and 10
11
 - (d) details of— 12
 - (i) each direction given by the Minister under section 13 during the financial year to which the report relates; and 13
14
15
 - (ii) action taken by RSHQ because of the direction. 16
 - (2) The report must not be prepared in a way that discloses confidential information. 17
18

Part 3 Employing office 19

Division 1 Establishment 20

29 Establishment of employing office 21

- (1) The Resources Safety and Health Queensland employing office (the *employing office*) is established. 22
23
- (2) The employing office consists of— 24
 - (a) the executive officer; and 25
 - (b) the staff of the employing office. 26
- (3) The employing office is a separate entity from RSHQ. 27

[s 30]

30	Employing office represents the State	1
(1)	The employing office represents the State.	2
(2)	Without limiting subsection (1), the employing office has the status, privileges and immunities of the State.	3 4
31	Application of other Acts	5
(1)	The employing office is—	6
(a)	a unit of public administration under the <i>Crime and Corruption Act 2001</i> ; and	7 8
(b)	a statutory body under—	9
(i)	the <i>Financial Accountability Act 2009</i> ; and	10
(ii)	the <i>Statutory Bodies Financial Arrangements Act 1982</i> .	11 12
(2)	For applying the <i>Financial Accountability Act 2009</i> to the employing office as a statutory body—	13 14
(a)	the executive officer is taken to be the chairperson of the employing office; and	15 16
(b)	the <i>Financial Accountability Act 2009</i> is taken to require the executive officer to consider the annual financial statements and the auditor-general's report as soon as practicable after they are received by the employing office; and	17 18 19 20 21
(c)	the <i>Financial Accountability Act 2009</i> is taken to require the executive officer to consider any observations, suggestions or comments given to the executive officer by the auditor-general as soon as practicable after the executive officer receives them.	22 23 24 25 26
32	Functions	27
(1)	The main functions of the employing office are—	28

(a)	entering into, for the State, a work performance arrangement with RSHQ under which employees of the employing office perform work for RSHQ; and	1 2 3
(b)	employing, for the State, staff to perform work for RSHQ under the work performance arrangement; and	4 5
(c)	doing anything incidental to the discharge of the functions mentioned in paragraphs (a) and (b).	6 7
(2)	Also, the employing office has any other function conferred on the employing office under this Act or another Act.	8 9
(3)	This section does not limit the employing office's power to enter into and give effect to a work performance arrangement with a government entity other than RSHQ.	10 11 12
33	Powers	13
(1)	The employing office has the power to do anything necessary or convenient to be done for the performance of the employing office's functions.	14 15 16
(2)	The employing office also has the powers given to it under this Act or another Act.	17 18
34	Staff	19
	The staff of the employing office are to be employed under the <i>Public Service Act 2008</i> .	20 21
Division 2	Executive officer	22
35	Appointment	23
(1)	There is to be an executive officer of the employing office.	24
(2)	The executive officer is to be appointed by the Governor in Council.	25 26
(3)	The executive officer is appointed under this Act and not the <i>Public Service Act 2008</i> .	27 28

[s 36]

36	Disqualification as executive officer	1
	A person is disqualified from being appointed, or continuing as, the executive officer if the person—	2 3
	(a) has a conviction, other than a spent conviction, for an indictable offence; or	4 5
	(b) is an insolvent under administration; or	6
	(c) is disqualified from managing corporations because of the Corporations Act, part 2D.6; or	7 8
	(d) contravenes section 41 or 42.	9
37	Term	10
	(1) The executive officer holds office for the term stated in the executive officer's instrument of appointment.	11 12
	(2) The stated term must not be more than 5 years.	13
	(3) The executive officer may be reappointed.	14
38	Remuneration and conditions	15
	(1) The executive officer is to be paid the remuneration and other allowances decided by the Governor in Council.	16 17
	(2) The remuneration must not be reduced during the executive officer's term of office without the executive officer's written consent.	18 19 20
	(3) The executive officer holds office on the terms and conditions, not provided for by this Act, that are decided by the Governor in Council.	21 22 23
39	Removal by Governor in Council	24
	The Governor in Council may, on the Minister's recommendation, remove the executive officer from office if the Minister is satisfied the executive officer—	25 26 27
	(a) has engaged in—	28

	(i) inappropriate or improper conduct in an official capacity; or	1 2
	(ii) inappropriate or improper conduct in a private capacity that reflects seriously and adversely on the office; or	3 4 5
	(b) has become incapable of performing the executive officer's functions; or	6 7
	(c) has neglected the executive officer's duties or performed the executive officer's functions incompetently.	8 9
40	Vacancy in office	10
	The office of the executive officer becomes vacant if the executive officer—	11 12
	(a) completes a term of office and is not reappointed; or	13
	(b) resigns office by signed notice given to the Minister; or	14
	(c) becomes disqualified under section 36 from continuing as executive officer; or	15 16
	(d) is removed under section 39 as executive officer.	17
41	Executive officer not to engage in other paid employment	18
	The executive officer must not, without the Minister's prior written approval—	19 20
	(a) engage in paid employment outside the responsibilities of the office of the executive officer; or	21 22
	(b) actively take part in the activities of a business, or in the management of a corporation carrying on a business.	23 24
42	Conflicts of interest	25
	If the executive officer has an interest that conflicts, or may conflict, with the discharge of the executive officer's responsibilities, the executive officer—	26 27 28

[s 43]

- (a) must disclose the nature of the interest and conflict to the Minister as soon as practicable after the relevant facts come to the executive officer's knowledge; and 1
2
3
- (b) must not take action or further action concerning a matter that is, or may be, affected by the conflict unless authorised by the Minister. 4
5
6
- 43 Functions** 7
- (1) The executive officer has the function of ensuring the effective and efficient administration and operation of the employing office and the performance of its functions. 8
9
10
- (2) The executive officer also has the functions given to the executive officer under this Act or another Act. 11
12
- 44 Powers** 13
- (1) The executive officer has the power to do anything necessary or convenient to be done for the performance of the executive officer's functions. 14
15
16
- (2) The executive officer also has the powers given to the executive officer under this Act or another Act. 17
18
- 45 Delegation** 19
- (1) The executive officer may delegate the executive officer's functions under this Act to another appropriately qualified officer of the employing office. 20
21
22
- (2) In this section— 23
functions includes powers. 24
- 46 Acting executive officer** 25
- (1) The Minister may appoint a person to act as executive officer— 26
27
- (a) during a vacancy in the office; or 28

-
- (b) during any period, or during all periods, when the executive officer is absent from duty or from the State or is, for another reason, unable to perform the duties of the office.
- (2) The acting executive officer is appointed under this Act and not the *Public Service Act 2008*.

47 Preservation of rights

- (1) This section applies if a public service officer is appointed as the executive officer.
- (2) The person keeps all rights accrued or accruing to the person as a public service officer as if service as the executive officer were a continuation of service as a public service officer.
- (3) Without limiting subsection (2), the person's appointment does not—
- (a) prejudice the person's existing or accruing rights to superannuation or recreation, sick, long service or other leave; or
 - (b) interrupt continuity of service, except that the employee is not entitled to claim the benefit of a right or entitlement more than once in relation to the same period of service; or
 - (c) entitle the person to a payment or other benefit because the person is no longer a public service officer.
- (4) At the completion of the person's term of office under section 40(a) or resignation as the executive officer under section 40(b)—
- (a) the person has the right to be appointed to an office in the public service at a salary level no less than the current salary level of an office equivalent to the office the person held before being appointed as the executive officer; and
 - (b) the person's service as the executive officer is taken to be service of a like nature in the public service for

[s 48]

	deciding the person’s rights as an officer of the public service.	1 2
Part 4	Commissioner for Resources Safety and Health	3 4
48	Appointment	5
	(1) The Governor in Council must appoint a Commissioner for Resources Safety and Health (the <i>commissioner</i>).	6 7
	(2) The commissioner is appointed under this Act and not the <i>Public Service Act 2008</i> .	8 9
49	Qualifications for appointment	10
	To be appointed as the commissioner, a person must have—	11
	(a) a professional qualification relevant to the resources industry, and professional experience in safety and health in the resources sector; or	12 13 14
	(b) professional experience in senior operational positions relating to the management of safety and health in the resources sector, and demonstrated competence in the management of safety and health in the resources sector.	15 16 17 18
50	Disqualification as commissioner	19
	A person is disqualified from becoming, or continuing as, the commissioner if the person—	20 21
	(a) has a conviction, other than a spent conviction, for an indictable offence; or	22 23
	(b) is an insolvent under administration; or	24
	(c) is disqualified from managing corporations because of the Corporations Act, part 2D.6; or	25 26
	(d) contravenes section 56 or 57.	27

51	Criminal history report	1
(1)	To decide if a person is disqualified from becoming or continuing as the commissioner, the Minister may ask the commissioner of the police service for—	2 3 4
(a)	a written report about the criminal history of the person; and	5 6
(b)	a brief description of the circumstances of a conviction mentioned in the criminal history.	7 8
(2)	However, the Minister may make the request only if the person has given the Minister written consent for the request.	9 10
(3)	The commissioner of the police service must comply with the request.	11 12
(4)	However, the duty to comply applies only to information in the possession of the commissioner of the police service or to which the commissioner of the police service has access.	13 14 15
(5)	The Minister must ensure the report is destroyed as soon as practicable after it is no longer needed for the purpose for which it was requested.	16 17 18
52	Term	19
(1)	The commissioner holds office for the term stated in the commissioner's instrument of appointment.	20 21
(2)	The stated term must not be more than 5 years.	22
(3)	The commissioner may be reappointed.	23
53	Remuneration and conditions	24
(1)	The commissioner is to be paid the remuneration and other allowances decided by the Governor in Council.	25 26
(2)	The remuneration must not be reduced during the commissioner's term of office without the commissioner's written consent.	27 28 29

[s 54]

(3)	The commissioner holds office on the terms and conditions, not provided for by this Act, that are decided by the Governor in Council.	1 2 3
54	Removal by Governor in Council	4
	The Governor in Council may, on the Minister's recommendation, remove the commissioner from office if the Minister is satisfied the commissioner—	5 6 7
(a)	has engaged in—	8
(i)	inappropriate or improper conduct in an official capacity; or	9 10
(ii)	inappropriate or improper conduct in a private capacity that reflects seriously and adversely on the office; or	11 12 13
(b)	has become incapable of performing the commissioner's functions; or	14 15
(c)	has neglected the commissioner's duties or performed the commissioner's functions incompetently.	16 17
55	Vacancy in office	18
	The office of the commissioner becomes vacant if the commissioner—	19 20
(a)	completes a term of office and is not reappointed; or	21
(b)	resigns office by signed notice given to the Minister; or	22
(c)	becomes disqualified under section 50 from continuing as commissioner; or	23 24
(d)	is removed under section 54 as commissioner.	25
56	Commissioner not to engage in other paid employment	26
	The commissioner must not, without the Minister's prior written approval—	27 28

(a)	engage in paid employment outside the responsibilities of the office of the commissioner; or	1 2
(b)	actively take part in the activities of a business, or in the management of a corporation carrying on a business.	3 4
57	Conflicts of interest	5
	If the commissioner has an interest that conflicts, or may conflict, with the discharge of the commissioner's responsibilities, the commissioner—	6 7 8
(a)	must disclose the nature of the interest and conflict to the Minister as soon as practicable after the relevant facts come to the commissioner's knowledge; and	9 10 11
(b)	must not take action or further action concerning a matter that is, or may be, affected by the conflict unless authorised by the Minister.	12 13 14
58	Functions	15
(1)	The commissioner has the following functions—	16
(a)	advising the Minister on matters relating to safety and health in the resources sector;	17 18
(b)	responding to requests by the Minister for advice on particular matters, including, for example, the strategic direction of RSHQ;	19 20 21
(c)	fulfilling the following roles—	22
(i)	chairperson of the coal mining safety and health advisory committee;	23 24
(ii)	chairperson of the mining safety and health advisory committee;	25 26
(d)	engaging with representatives of the explosives sector, and petroleum and gas sector, about promoting and protecting the safety and health of persons who may be affected by the operation of those sectors;	27 28 29 30

[s 59]

- (e) monitoring, reviewing, and reporting to the Minister on the performance of RSHQ’s functions. 1
2
- (2) The commissioner also has the functions given to the commissioner under this Act or another Act. 3
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- (3) The commissioner must, in performing the commissioner’s functions, act independently, impartially and in the public interest. 5
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- 59 Powers** 8
- (1) The commissioner has the power to do anything necessary or convenient to be done for the performance of the commissioner’s functions. 9
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- (2) The commissioner also has the powers given to the commissioner under this Act or another Act. 12
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- 60 Acting commissioner** 14
- (1) The Minister may appoint a person to act as commissioner— 15
- (a) during a vacancy in the office; or 16
- (b) during any period, or during all periods, when the commissioner is absent from duty or from the State or is, for another reason, unable to perform the duties of the office. 17
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- (2) The acting commissioner is appointed under this Act and not the *Public Service Act 2008*. 21
22
- 61 Preservation of rights** 23
- (1) This section applies if a public service officer is appointed as the commissioner. 24
25
- (2) The person keeps all rights accrued or accruing to the person as a public service officer as if service as the commissioner were a continuation of service as a public service officer. 26
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- (3) Without limiting subsection (2), the person's appointment does not—
- (a) prejudice the person's existing or accruing rights to superannuation or recreation, sick, long service or other leave; or
 - (b) interrupt continuity of service, except that the employee is not entitled to claim the benefit of a right or entitlement more than once in relation to the same period of service; or
 - (c) entitle the person to a payment or other benefit because the person is no longer a public service officer.
- (4) At the completion of the person's term of office under section 55(a) or resignation as the commissioner under section 55(b)—
- (a) the person has the right to be appointed to an office in the public service at a salary level no less than the current salary level of an office equivalent to the office the person held before being appointed as the commissioner; and
 - (b) the person's service as the commissioner is taken to be service of a like nature in the public service for deciding the person's rights as an officer of the public service.

62 Staff services from government agency

- (1) The commissioner may, with the agreement of the chief executive of a government agency, arrange for the services of officers or employees of the agency to be made available to the commissioner.
- (2) An officer or employee whose services are made available under subsection (1)—
- (a) continues to be an officer or employee of the government agency; and
 - (b) continues to be employed or otherwise engaged by the government agency on the same terms and conditions

[s 63]

- applying to the officer or employee immediately before the services were made available; and 1
2
- (c) is subject to the direction of the commissioner only in relation to the services made available to the commissioner and for the performance of the commissioner's functions. 3
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- (3) Nothing in subsection (1) requires the chief executive of a government agency to enter into an arrangement mentioned in that subsection. 7
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9
- (4) In this section— 10
- chief executive* includes— 11
- (a) for RSHQ—the CEO; or 12
- (b) for the employing office—the executive officer. 13
- government agency* means— 14
- (a) a department or an administrative unit within a department; or 15
16
- (b) a government owned corporation or a subsidiary of a government owned corporation; or 17
18
- (c) an entity that is established under an Act and represents the State, including, for example, RSHQ or the employing office; or 19
20
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- (d) a local government. 22
- 63 Ministerial direction** 23
- (1) The Minister may give a written direction to the commissioner about the performance of the commissioner's functions or the exercise of the commissioner's powers if the Minister is satisfied it is necessary to give the direction in the public interest. 24
25
26
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- (2) Without limiting subsection (1), the direction may be to give reports and information to the Minister. 29
30
- (3) The direction can not be about the content of any advice or recommendation given by the commissioner. 31
32

(4) The commissioner must—	1
(a) comply with the direction; and	2
(b) publish a copy of the direction on a Queensland government website.	3 4
64 Annual report	5
(1) The commissioner must—	6
(a) prepare and give to the Minister a written report about the operations of the commissioner during each financial year; and	7 8 9
(b) as soon as practicable after it is given to the Minister, publish it on a Queensland government website.	10 11
(2) The report must be given within 4 months after the end of the financial year to which the report relates.	12 13
(3) The report must include—	14
(a) details of the functions performed by the commissioner during the year; and	15 16
(b) information about how efficiently and effectively the commissioner has performed the commissioner's functions, including, for example, identifying key achievements and financial and non-financial performance; and	17 18 19 20 21
(c) details of—	22
(i) any interest disclosed by the commissioner under section 57(a); and	23 24
(ii) any action authorised by the Minister under section 57(b); and	25 26
(d) details of—	27
(i) each direction given by the Minister under section 63 during the financial year to which the report relates; and	28 29 30

[s 65]

- (ii) action taken by the commissioner because of the direction. 1
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- (4) The report must not be prepared in a way that discloses confidential information. 3
4
- (5) The Minister must table a copy of the report in the Legislative Assembly within 14 sitting days after receiving it. 5
6
- 65 Annual budget** 7
- (1) The commissioner must, before each 31 March, prepare, in consultation with the CEO, a budget of estimated costs of the commissioner for the next financial year. 8
9
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- (2) The Minister must approve, or refuse to approve, a budget by each 31 May. 11
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- (3) However, a failure by the Minister to act under subsection (2) does not prevent the Minister approving, or refusing to approve, a budget at later time. 13
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- (4) A budget has no effect until it has been approved by the Minister on the recommendation of the commissioner and the CEO. 16
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- (5) During a financial year the commissioner may prepare, in consultation with the CEO, amendments to the budget for that year. 19
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- (6) An amendment of a budget has no effect until it has been approved by the Minister on the recommendation of the commissioner and the CEO. 22
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- (7) If the commissioner and the CEO differ about what should be recommended to the Minister for an approval under this section, the Minister may still give the approval. 25
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- (8) The commissioner may spend money in a financial year only under the budget for that year, unless the Minister otherwise approves. 28
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- (9) This section does not require the commissioner or the CEO to give the Minister any details that would, if given, prejudice a current investigation. 31
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Part 5	General	1
66	Disclosure of information	2
	A person must not disclose information concerning the personal affairs of a person or commercially sensitive information obtained by the person in the administration of this Act, unless the disclosure is made—	3 4 5 6
	(a) with the consent of the person from whom the information was obtained; or	7 8
	(b) in the administration of this Act; or	9
	(c) in a proceeding under this Act or a report of the proceeding; or	10 11
	(d) in a proceeding before a court in which the information is relevant to the issue before the court.	12 13
	Maximum penalty—100 penalty units.	14
67	CEO may disclose information to particular entities	15
	(1) The CEO may disclose anything that comes to the CEO's knowledge under this Act or a Resources Safety Act to a prescribed entity if the CEO is satisfied the disclosure would assist in the performance of the prescribed entity's functions under an Act or another law.	16 17 18 19 20
	(2) Subsection (1) applies despite section 66 and the prescribed confidentiality provisions.	21 22
	(3) In this section—	23
	<i>prescribed confidentiality provision</i> means—	24
	(a) the <i>Coal Mining Safety and Health Act 1999</i> , section 275A; or	25 26
	(b) the <i>Explosives Act 1999</i> , section 132; or	27
	(c) the <i>Mining and Quarrying Safety and Health Act 1999</i> , section 255; or	28 29

[s 68]

(d)	the <i>Petroleum and Gas (Production and Safety) Act 2004</i> , chapter 6, part 5.	1 2
	<i>prescribed entity</i> means—	3
(a)	the chief executive of a department in which a Resource Act is administered; or	4 5
(b)	the WHS prosecutor; or	6
(c)	the director of public prosecutions.	7
	<i>Resource Act</i> see the <i>Mineral and Energy Resources (Common Provisions) Act 2014</i> .	8 9
68	Regulation-making power	10
	The Governor in Council may make regulations under this Act.	11 12
Part 6	Transfer notices	13
69	Definitions for part	14
	In this part—	15
	<i>instrument</i> means any document, and includes—	16
(a)	a written or oral agreement; and	17
(b)	an application; and	18
(c)	an accreditation, approval, certificate, entitlement, exemption, licence, manual, notice, permit, plan and any other authority.	19 20 21
	<i>right</i> includes power, privilege and immunity.	22
	<i>transfer notice</i> see section 70(1).	23

70 Minister may make transfer notice

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- (1) For the purpose of the establishment of RSHQ or the employing office, the Minister may, by gazette notice (a *transfer notice*), do any of the following—
 - (a) transfer a business, asset or liability of the State to RSHQ or the employing office;
 - (b) grant a lease, easement or other right from the State to RSHQ or the employing office;
 - (c) vary or extinguish a lease, easement or other right held by the State;
 - (d) in relation to a lease held under the *Land Act 1994*—
 - (i) transfer the lease; or
 - (ii) change a purpose for which the lease is issued; or
 - (iii) change a condition imposed on the lease; or
 - (iv) grant a sublease;
 - (e) in relation to a reserve under the *Land Act 1994*—
 - (i) change a community purpose for which the reserve is dedicated; or
 - (ii) remove a trustee of the reserve; or
 - (iii) appoint a trustee of the reserve, subject to conditions or without conditions;
 - (f) provide whether and, if so, the extent to which, RSHQ is the successor in law of the State;
 - (g) make provision for a legal proceeding that is being, or may be, taken by or against the State to be continued or taken by or against RSHQ or the employing office;
 - (h) make provision for or about the issue, transfer or application of an instrument to RSHQ or the employing office.
 - (2) A transfer notice may include conditions applying to something done or to be done under the notice.

[s 71]

- (3) If the Minister is satisfied it would be inappropriate for a particular matter to be stated in a transfer notice (for example, because of the size or nature of the matter), the Minister may provide for the matter by including a reference in the transfer notice to another document that is—
- (a) signed by the Minister; and
 - (b) kept available, at a place stated in the transfer notice, for inspection by the persons to whom the matter relates.
- (4) The transfer of a liability of the State under a transfer notice discharges the State from the liability, other than to the extent stated in the notice.
- (5) A transfer notice has effect despite any other law or instrument.
- (6) A transfer notice has effect on the day it is published in the gazette or a later day stated in it.
- (7) If a transfer notice makes provision for a matter under subsection (1)(h) in relation to an instrument, the responsible entity for the instrument must take the action necessary to register or record the effect of the transfer notice, including—
- (a) updating a register or other record; and
 - (b) amending, cancelling or issuing an instrument.
- (8) In this section—
- asset* includes a right.
- lease* includes any derivative under lease of the lease.
- responsible entity*, for an instrument, means the entity required or authorised by law to register or record matters in relation to the instrument.

71 Application of instruments 28

- (1) This section applies if a transfer notice provides for an instrument that applied to an entity (the *transferor*) to apply to another entity (the *transferee*) in place of the transferor. 29
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- (2) Without limiting the application of the transfer notice to the instrument—
- (a) any right, title, interest or liability of the transferor arising under or relating to the instrument is taken to be transferred from the transferor to the transferee; and
 - (b) if the instrument, including a benefit or right provided by the instrument, is given to, by or in favour of the transferor, the instrument is taken to have been given to, by or in favour of the transferee; and
 - (c) the transferee is taken to be a party to the instrument in place of the transferor; and
 - (d) a reference in the instrument to the transferor is, to the extent possible and if the context permits, taken to be a reference to the transferee; and
 - (e) if an application was made for the instrument in the name of the transferor, the application is taken to have been made in the name of the transferee; and
 - (f) if the instrument is an instrument under which an amount is or may become payable to or by the transferor, the instrument is taken to be an instrument under which the amount is or may become payable to or by the transferee, in the way the amount was or might have been payable to or by the transferor; and
 - (g) if the instrument is an instrument under which property, other than money, is or may become liable to be transferred, conveyed or assigned to or by the transferor, the instrument is taken to be an instrument under which the property is or may become liable to be transferred, conveyed or assigned to or by the transferee, in the way it was or might have been liable to be transferred, conveyed or assigned to or by the transferor.

[s 72]

Part 7	Amendment of Acts and subordinate legislation	1 2
Division 1	Amendment of this Act	3
72	Act amended	4
	This division amends this Act.	5
73	Amendment of long title	6
(1)	Long title, ‘, provide for’—	7
	<i>omit, insert—</i>	8
	and provide for	9
(2)	Long title, from ‘, and to amend’—	10
	<i>omit.</i>	11
Division 2	Amendment of Coal Mining Safety and Health Act 1999	12 13
74	Act amended	14
	This division amends the <i>Coal Mining Safety and Health Act 1999</i> .	15 16
	<i>Note—</i>	17
	See also the amendments in schedule 2.	18
75	Amendment of s 7 (How objects are to be achieved)	19
	Section 7(1)—	20
	<i>omit.</i>	21

76	Amendment of s 72 (Recognised standards)	1
	Section 72(3) and (4)—	2
	<i>omit, insert—</i>	3
	(3) The CEO must publish on a Queensland government website each recognised standard and any document applied, adopted or incorporated by the standard.	4 5 6 7
	(4) In this section—	8
	<i>Queensland government website</i> means a website with a URL that contains ‘qld.gov.au’, other than the website of a local government.	9 10 11
77	Omission of pt 5A (Commissioner for Mine Safety and Health)	12 13
	Part 5A—	14
	<i>omit.</i>	15
78	Amendment of s 76 (Functions of committee)	16
	(1) Section 76, heading, ‘Functions’—	17
	<i>omit, insert—</i>	18
	Primary function	19
	(2) Section 76(1), after ‘coal mines’—	20
	<i>insert—</i>	21
	and persons who may be affected by coal mining operations	22 23
	(3) Section 76(2), from ‘reviewing’—	24
	<i>omit, insert—</i>	25
	reviewing the effectiveness of the control of risk to any person from coal mining operations.	26 27
	(4) Section 76(3) and (4)—	28

[s 79]

<i>omit.</i>	1
79 Insertion of new s 76A	2
After section 76—	3
<i>insert—</i>	4
76A Other functions of committee	5
The committee also has the following functions—	6
(a) recognising, establishing and publishing the following competencies—	7 8
(i) the competencies accepted by the committee as qualifying a person to perform the tasks prescribed by regulation;	9 10 11 12
(ii) the safety and health competencies required to perform the duties of a person under this Act;	13 14 15
(b) developing a 5-year strategic plan for improving the safety and health of persons at coal mines and persons who may be affected by coal mining operations;	16 17 18 19
(c) periodically evaluating, and at least once each year updating, the 5-year strategic plan;	20 21 22
(d) developing action plans to achieve measurable targets set in the 5-year strategic plan;	23 24 25
(e) obtaining information from RSHQ to assess the fulfilment of the 5-year strategic plan and the action plans mentioned in paragraph (d);	26 27 28 29
(f) identifying and prioritising critical risks to the safety and health of persons at coal mines and persons who may be affected by coal mining operations;	30 31 32 33

	(g) providing advice to the coal mining industry about the risks mentioned in paragraph (f);	1 2
	(h) providing information to the Minister about the performance of RSHQ.	3 4
80	Amendment of s 250 (Proof of appointments and authority unnecessary)	5 6
	Section 250(1), ‘chief executive’—	7
	<i>omit, insert</i> —	8
	CEO, the WHS prosecutor	9
81	Amendment of s 251 (Proof of signatures unnecessary)	10
	Section 251, ‘chief executive’—	11
	<i>omit, insert</i> —	12
	CEO, the WHS prosecutor	13
82	Amendment of s 252 (Evidentiary aids)	14
	Section 252(5), definition <i>certificate</i> , ‘chief executive’—	15
	<i>omit, insert</i> —	16
	CEO, the WHS prosecutor	17
83	Amendment of s 255 (Proceedings for offences)	18
	(1) Section 255(5)—	19
	<i>omit, insert</i> —	20
	(5) A proceeding for an offence against this Act may only be taken by—	21 22
	(a) if the offence is a serious offence—the WHS prosecutor; or	23 24
	(b) otherwise—the CEO or the WHS prosecutor.	25 26

[s 83]

- (5A) However, the CEO may authorise in writing another appropriately qualified person to take a proceeding for an offence mentioned in subsection (5)(b). 1
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- (5B) An authorisation under subsection (6) may be general or limited to a particular proceeding or class of proceedings. 5
6
7
- (2) Section 255(6), ‘subsection (5)(c)’— 8
omit, insert— 9
subsection (6) 10
- (3) Section 255— 11
insert— 12
- (6A) In deciding whether to bring a prosecution for an offence under this Act, the WHS prosecutor must have regard to any guidelines issued under the *Director of Public Prosecutions Act 1984*, section 11. 13
14
15
16
17
- (4) Section 255(7)— 18
insert— 19
serious offence means— 20
- (a) an offence against section 34 if the contravention— 21
22
- (i) caused multiple deaths; or 23
- (ii) caused death or grievous bodily harm; or 24
25
- (iii) caused bodily harm; or 26
- (iv) involved exposure to a substance that is likely to cause death or grievous bodily harm; or 27
28
29
- (b) an offence prescribed by regulation for this paragraph. 30
31
- (5) Section 255(5A) to (7)— 32

<i>renumber</i> as section 255(6) to (10).	1
84 Replacement of s 256 (Recommendation to prosecute)	2
Section 256—	3
<i>omit, insert</i> —	4
256 WHS prosecutor may ask CEO for information	5
(1) The WHS prosecutor may ask the CEO for information relevant to the performance of a function of the WHS prosecutor under this Act.	6 7 8
(2) The CEO must take reasonable steps to provide the information.	9 10
(3) In this section— <i>information</i> includes a document.	11 12
256A CEO's duty to disclose information to WHS prosecutor	13 14
(1) This section applies in relation to a proceeding for an offence against this Act brought by the WHS prosecutor.	15 16 17
(2) The CEO has a duty to disclose to the WHS prosecutor all information relevant to the proceeding, including knowledge of a matter relevant to the proceeding, in the possession or control of the CEO.	18 19 20 21 22
(3) The duty continues until the proceeding is finally decided or otherwise ends.	23 24
(4) In this section— <i>information</i> includes a document.	25 26
256B Procedure if prosecution not brought	27
(1) This section applies if—	28

[s 84]

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|-----|---|----------------------------|
| (a) | a person reasonably considers that an act or omission constitutes a serious offence under section 255(10); and | 1
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| (b) | no prosecution has been brought in relation to the act or omission; and | 4
5 |
| (c) | at least 6 months but no more than 12 months has elapsed from when the act or omission happened. | 6
7
8 |
| (2) | The person may make a written request to the WHS prosecutor that a prosecution be brought in relation to the act or omission. | 9
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11 |
| (3) | Within 3 months after the WHS prosecutor receives the request, the WHS prosecutor must give the person, and any other person whom the person believes committed the serious offence, a notice in writing stating— | 12
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16 |
| (a) | whether the investigation of the act or omission is complete; and | 17
18 |
| (b) | if the investigation of the act or omission is complete, whether a prosecution has been or will be brought in relation to the act or omission; and | 19
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| (c) | if the advice under paragraph (b) is that a prosecution has not been or will not be brought—the reasons for not bringing the prosecution. | 23
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| (4) | Also, if the WHS prosecutor gives a notice under subsection (3)(b) that a prosecution has not been or will not be brought, the WHS prosecutor must— | 27
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| (a) | advise in the notice that the person may ask the WHS prosecutor to refer the matter to the director of public prosecutions for consideration; and | 31
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- (b) if the person asks the WHS prosecutor in writing to refer the matter to the director of public prosecutions—refer the matter to the director of public prosecutions for consideration within 1 month after the person makes the request. 1
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- (5) The director of public prosecutions must consider the matter and within 1 month after the matter is referred give the WHS prosecutor advice in writing stating whether the director considers a prosecution should be brought. 7
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- (6) The WHS prosecutor must give a copy of the advice under subsection (5) to— 12
13
- (a) the person who made the request under subsection (2); and 14
15
- (b) any other person whom the person mentioned in paragraph (a) believes committed the serious offence. 16
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- (7) If the WHS prosecutor declines to follow advice given under subsection (5) to bring proceedings, the WHS prosecutor must give written reasons for the decision to each person mentioned in subsection (6). 19
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- 85 Amendment of s 264 (Costs of investigation) 24**
- Section 264(1)— 25
- omit, insert— 26*
- (1) If a court convicts a person of an offence against this Act, the court may order the person to pay the reasonable costs incurred by RSHQ in investigating, and preparing for the prosecution of, the offence. 27
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[s 86]

86	Amendment of s 267A (Applying for injunction)	1
	Section 267A(1), ‘commissioner’—	2
	<i>omit, insert</i> —	3
	CEO	4
87	Amendment of s 275AC (Public statements)	5
(1)	Section 275AC(1) and (3), ‘chief executive, commissioner’—	6
	<i>omit, insert</i> —	7
	CEO	8
(2)	Section 275AC(1)(c), ‘chief executive’—	9
	<i>omit, insert</i> —	10
	CEO	11
88	Amendment of s 277 (Delegations)	12
(1)	Section 277, heading—	13
	<i>omit, insert</i> —	14
	277 Delegation by Minister or CEO	15
(2)	Section 277(1)—	16
	<i>omit, insert</i> —	17
	(1) The Minister or CEO (the <i>person</i>) may delegate the person’s functions and powers under this Act to an appropriately qualified person.	18 19 20
(3)	Section 277(3)—	21
	<i>omit.</i>	22
89	Amendment of s 282 (Regulation-making power)	23
(1)	Section 282(3), from ‘the department’s activities’—	24
	<i>omit, insert</i> —	25

	activities, carried out under this Act or another Act, relating to safety and health for coal mining operations.	1 2 3
(2)	Section 282(4)(g), ‘to the chief executive’— <i>omit.</i>	4 5
90	Insertion of new pt 20, div 8	6
	Part 20—	7
	<i>insert</i> —	8
	Division 8	9
	Transitional provisions for Resources Safety and Health Queensland Act 2019	10 11 12
	311 Definitions for division	13
	In this division—	14
	<i>corresponding provision</i> , for a provision of the pre-amended Act, means a provision of this Act that provides for the same, or substantially the same, matter as the provision of the pre-amended Act.	15 16 17 18 19
	<i>pre-amended Act</i> means this Act as in force before the commencement.	20 21
	312 Functions performed and powers exercised by chief executive	22 23
	A function performed, or power exercised, by the chief executive under a provision of the pre-amended Act, if the context permits, is taken to have been performed, or exercised, by the CEO under the corresponding provision.	24 25 26 27 28

[s 90]

313 References to chief executive	1
(1) This section applies if—	2
(a) a provision of the pre-amended Act mentioned the chief executive; and	3 4
(b) a corresponding provision mentions the CEO.	5 6
(2) In a document made under or relating to the provision of the pre-amended Act, if the context permits, a reference to the chief executive is taken to be a reference to the CEO.	7 8 9 10
314 Functions performed and powers exercised by Commissioner for Mine Safety and Health	11 12
(1) A function performed, or power exercised, by the Commissioner for Mine Safety and Health under a provision of the pre-amended Act, if the context permits, is taken to have been performed, or exercised, by the Commissioner for Resources Safety and Health under the corresponding provision.	13 14 15 16 17 18 19
(2) Subsection (1) is subject to section 316.	20
315 References to Commissioner for Mine Safety and Health	21 22
(1) This section applies if—	23
(a) a provision of the pre-amended Act mentioned the Commissioner for Mine Safety and Health; and	24 25 26
(b) a corresponding provision mentions the Commissioner for Resources Safety and Health.	27 28 29
(2) In a document made under or relating to the provision of the pre-amended Act, if the context permits, a reference to the Commissioner for	30 31 32

Mine Safety and Health is taken to be a reference 1
to the Commissioner for Resources Safety and 2
Health. 3

(3) Subsection (2) is subject to section 316. 4

316 Existing proceedings 5

(1) This section applies to the following proceedings 6
started before the commencement— 7

(a) a proceeding for an offence against the 8
pre-amended Act started by— 9

(i) the Commissioner for Mine Safety and 10
Health; or 11

(ii) the chief executive or another 12
appropriately qualified person with the 13
written authorisation of the chief 14
executive; 15

(b) a proceeding for an injunction, interim 16
injunction, or to rescind or vary an 17
injunction, under the pre-amended Act, 18
started by the Commissioner for Mine 19
Safety and Health; 20

(c) an appeal against a decision made on a 21
proceeding mentioned in paragraph (a) or 22
(b). 23

(2) If, immediately before the commencement, the 24
proceeding had not been finally dealt with, on the 25
commencement— 26

(a) if the proceeding was brought by the 27
Commissioner for Mine Safety and Health 28
and is in relation to a serious offence within 29
the meaning of section 255(10)—the WHS 30
prosecutor becomes a party to the 31
proceeding in place of the commissioner; 32
and 33

[s 90]

- (b) if the proceeding is a proceeding other than a proceeding mentioned in paragraph (a)— the CEO becomes a party to the proceeding in place of the person who started the proceeding. 1
2
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4
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- (3) For a proceeding mentioned in subsection (2)(b), on the commencement or at any time after the commencement, the CEO may authorise in writing another appropriately qualified person, including, for example, the WHS prosecutor, to become a party to the proceeding in place of the CEO. 6
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317 Costs of investigation 13

- (1) This section applies if a court convicts a person of an offence against this Act after the commencement. 14
15
16
- (2) The court may order the person to pay the reasonable costs of investigating the offence, including reasonable costs of preparing for the prosecution of the offence, whether the costs were incurred by the department or RSHQ, and whether the offence was committed before or after the commencement. 17
18
19
20
21
22
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318 References to department 24

- (1) This section applies if— 25
 - (a) a provision of the pre-amended Act mentioned the department; and 26
27
 - (b) a corresponding provision mentions RSHQ. 28
- (2) In a document made under or relating to the provision of the pre-amended Act, if the context permits, a reference to the department is taken to be a reference to RSHQ. 29
30
31
32

91	Amendment of sch 3 (Dictionary)	1
(1)	Schedule 3, definitions <i>chief executive</i> and <i>commissioner</i> —	2
	<i>omit.</i>	3
(2)	Schedule 3—	4
	<i>insert</i> —	5
	CEO means the chief executive officer of RSHQ.	6
	commissioner means the Commissioner for	7
	Resources Safety and Health appointed under the	8
	<i>Resources Safety and Health Queensland Act</i>	9
	<i>2019</i> , section 48.	10
	RSHQ means the statutory body called Resources	11
	Safety and Health Queensland established under	12
	the <i>Resources Safety and Health Queensland Act</i>	13
	<i>2019</i> , section 5.	14
	WHS prosecutor see the <i>Work Health and Safety</i>	15
	<i>Act 2011</i> , schedule 2, section 25.	16
(3)	Schedule 3, definition <i>official</i> , paragraph (b)—	17
	<i>omit, insert</i> —	18
	(b) the CEO; or	19
	(ba) the WHS prosecutor; or	20
(4)	Schedule 3, definition <i>official</i> , paragraphs (ba) to (k)—	21
	<i>renumber</i> as paragraphs (c) to (l).	22
Division 3	Amendment of Explosives Act 1999	23
92	Act amended	24
	This division amends the <i>Explosives Act 1999</i> .	25
	<i>Note</i> —	26
	See also the amendments in schedule 2.	27

[s 93]

93	Amendment of s 76 (Report of offences)	1
(1)	Section 76(d)—	2
	<i>omit, insert—</i>	3
	(d) the WHS prosecutor;	4
	(da) the CEO;	5
(2)	Section 76(f)—	6
	<i>omit.</i>	7
(3)	Section 76(da) and (e)—	8
	<i>renumber</i> as section 76(e) and (f).	9
94	Amendment of s 106A (Applying for injunction)	10
	Section 106A(1), ‘commissioner for mine safety and health’—	11
	<i>omit, insert—</i>	12
	CEO	13
		14
95	Amendment of s 118 (Proceeding for offence)	15
(1)	Section 118(1), from ‘ <i>Justices Act 1886</i> on’—	16
	<i>omit, insert—</i>	17
	<i>Justices Act 1886.</i>	18
(2)	Section 118—	19
	<i>insert—</i>	20
	(1A) A proceeding for an offence against this Act may only be taken on the complaint of—	21
		22
	(a) if the offence is a serious offence—the WHS prosecutor; or	23
		24
	(b) otherwise—the CEO or the WHS prosecutor.	25
		26
	(1B) However, the CEO may authorise in writing	27

another appropriately qualified person to take a proceeding for an offence mentioned in subsection (2)(b).	1 2 3
(1C) An authorisation under subsection (3) may be general or limited to a particular proceeding or class of proceedings.	4 5 6
(1D) In deciding whether to bring a prosecution for an offence under this Act, the WHS prosecutor must have regard to any guidelines issued under the <i>Director of Public Prosecutions Act 1984</i> , section 11.	7 8 9 10 11
(3) Section 118— <i>insert</i> —	12 13
(7) In this section— <i>serious offence</i> means—	14 15
(a) an offence against section 32 if the contravention—	16 17
(i) caused multiple deaths; or	18
(ii) caused death or grievous bodily harm; or	19 20
(iii) caused bodily harm; or	21
(iv) involved exposure to a substance that is likely to cause death or grievous bodily harm; or	22 23 24
(b) an offence prescribed by regulation for this paragraph.	25 26
(4) Section 118(1A) to (2)— <i>renumber</i> as section 118(2) to (6).	27 28
96 Insertion of new ss 118A–118C	29
After section 118—	30
<i>insert</i> —	31

[s 96]

118A WHS prosecutor may ask CEO for information	1 2
(1) The WHS prosecutor may ask the CEO for information relevant to the performance of a function of the WHS prosecutor under this Act.	3 4 5
(2) The CEO must take reasonable steps to provide the information.	6 7
(3) In this section— <i>information</i> includes a document.	8 9
118B CEO’s duty to disclose information to WHS prosecutor	10 11
(1) This section applies in relation to a proceeding for an offence against this Act brought by the WHS prosecutor.	12 13 14
(2) The CEO has a duty to disclose to the WHS prosecutor all information relevant to the proceeding, including knowledge of a matter relevant to the proceeding, in the possession or control of the CEO.	15 16 17 18 19
(3) The duty continues until the proceeding is finally decided or otherwise ends.	20 21
(4) In this section— <i>information</i> includes a document.	22 23
118C Procedure if prosecution not brought	24
(1) This section applies if—	25
(a) a person reasonably considers that an act or omission constitutes a serious offence under section 118(7); and	26 27 28
(b) no prosecution has been brought in relation to the act or omission; and	29 30

-
- (c) at least 6 months but no more than 12 months has elapsed from when the act or omission happened.
- (2) The person may make a written request to the WHS prosecutor that a prosecution be brought in relation to the act or omission.
- (3) Within 3 months after the WHS prosecutor receives the request, the WHS prosecutor must give the person, and any other person whom the person believes committed the serious offence, a notice in writing stating—
- (a) whether the investigation of the act or omission is complete; and
- (b) if the investigation of the act or omission is complete, whether a prosecution has been or will be brought in relation to the act or omission; and
- (c) if the advice under paragraph (b) is that a prosecution has not been or will not be brought—the reasons for not bringing the prosecution.
- (4) Also, if the WHS prosecutor gives a notice under subsection (3)(b) that a prosecution has not been or will not be brought, the WHS prosecutor must—
- (a) advise in the notice that the person may ask the WHS prosecutor to refer the matter to the director of public prosecutions for consideration; and
- (b) if the person asks the WHS prosecutor in writing to refer the matter to the director of public prosecutions—refer the matter to the director of public prosecutions for consideration within 1 month after the person makes the request.
- (5) The director of public prosecutions must consider
-

[s 97]

	the matter and within 1 month after the matter is referred give the WHS prosecutor advice in writing stating whether the director considers a prosecution should be brought.	1 2 3 4
(6)	The WHS prosecutor must give a copy of the advice under subsection (5) to—	5 6
(a)	the person who made the request under subsection (2); and	7 8
(b)	any other person whom the person mentioned in paragraph (a) believes committed the serious offence.	9 10 11
(7)	If the WHS prosecutor declines to follow advice given under subsection (5) to bring proceedings, the WHS prosecutor must give written reasons for the decision to each person mentioned in subsection (6).	12 13 14 15 16
97	Amendment of s 126C (Public statements)	17
(1)	Section 126C(1)(b), ‘chief executive’— <i>omit, insert—</i> CEO	18 19 20
(2)	Section 126C(1)(c)— <i>omit.</i>	21 22
(3)	Section 126C(1)(d)— <i>renumber</i> as section 126C(1)(c).	23 24
98	Replacement of s 129 (Delegation by chief executive)	25
	Section 129— <i>omit, insert—</i> 129 Delegation by CEO	26 27 28
(1)	The CEO may delegate the CEO’s functions	29

	under this Act to an appropriately qualified person.	1 2	
	(2) In this section— <i>functions</i> includes powers.	3 4	
99	Amendment of s 133 (Evidentiary provision)	5	
	(1) Section 133(3), from ‘commissioner’ to ‘chief executive’— <i>omit, insert—</i> CEO, the WHS prosecutor	6 7 8	
	(2) Section 133(4)(f), ‘to the chief inspector’— <i>omit.</i>	9 10	
100	Amendment of s 135 (Regulation-making power)	11	
	(1) Section 135(3), from ‘the department’s activities’— <i>omit, insert—</i> activities, carried out under this Act or another Act, relating to safety and health for explosives.	12 13 14 15	
	(2) Section 135(4)(g), ‘to the chief executive’— <i>omit.</i>	16 17	
101	Insertion of new pt 10, div 7	18	
	Part 10— <i>insert—</i>	19 20	
	Division 7	Transitional provisions for Resources Safety and Health Queensland Act 2019	21 22 23 24

[s 101]

154 Definitions for division	1
In this division—	2
<i>corresponding provision</i> , for a provision of the	3
pre-amended Act, means a provision of this Act	4
that provides for the same, or substantially the	5
same, matter as the provision of the pre-amended	6
Act.	7
<i>pre-amended Act</i> means this Act as in force	8
before the commencement.	9
155 Functions performed and powers exercised by	10
 chief executive	11
A function performed, or power exercised, by the	12
chief executive under a provision of the	13
pre-amended Act, if the context permits, is taken	14
to have been performed, or exercised, by the CEO	15
under the corresponding provision.	16
156 References to chief executive	17
(1) This section applies if—	18
(a) a provision of the pre-amended Act	19
mentioned the chief executive; and	20
(b) a corresponding provision mentions the	21
CEO.	22
(2) In a document made under or relating to the	23
provision of the pre-amended Act, if the context	24
permits, a reference to the chief executive is taken	25
to be a reference to the CEO.	26
157 Existing proceedings	27
(1) This section applies to the following proceedings	28
started before the commencement—	29

-
- (a) a proceeding for an offence against this Act started by—
- (i) the Commissioner for Mine Safety and Health; or
 - (ii) the chief executive or another appropriately qualified person with the written authorisation of the chief executive;
- (b) a proceeding for an injunction, interim injunction, or to rescind or vary an injunction, under the pre-amended Act, started by the Commissioner for Mine Safety and Health;
- (c) an appeal against a decision made on a proceeding mentioned in paragraph (a) or (b).
- (2) If, immediately before the commencement, the proceeding had not been finally dealt with, on the commencement—
- (a) if the proceeding was brought by the Commissioner for Mine Safety and Health and is in relation to a serious offence within the meaning of section 118(7)—the WHS prosecutor becomes a party to the proceeding in place of the commissioner; and
 - (b) if the proceeding is a proceeding other than a proceeding mentioned in paragraph (a)—the CEO becomes a party to the proceeding in place of the person who started the proceeding.
- (3) For a proceeding mentioned in subsection (2)(b), on the commencement or at any time after the commencement, the CEO may authorise in writing another appropriately qualified person, including, for example, the WHS prosecutor, to

[s 102]

become a party to the proceeding in place of the CEO.	1 2
158 Costs of investigation	3
(1) This section applies if a court convicts a person of an offence against this Act after the commencement.	4 5 6
(2) The court may order the person to pay the reasonable costs of investigating the offence, including reasonable costs of preparing for the prosecution of the offence, whether the costs were incurred by the department or RSHQ, and whether the offence was committed before or after the commencement.	7 8 9 10 11 12 13
159 References to department	14
(1) This section applies if—	15
(a) a provision of the pre-amended Act mentioned the department; and	16 17
(b) a corresponding provision mentions RSHQ.	18
(2) In a document made under or relating to the provision of the pre-amended Act, if the context permits, a reference to the department is taken to be a reference to RSHQ.	19 20 21 22
102 Amendment of sch 2 (Dictionary)	23
(1) Schedule 2, definition <i>commissioner for mine safety and health</i> —	24 25
<i>omit.</i>	26
(2) Schedule 2—	27
<i>insert</i> —	28
CEO means the chief executive officer of RSHQ.	29

	<i>RSHQ</i> means the statutory body called Resources Safety and Health Queensland established under the <i>Resources Safety and Health Queensland Act 2019</i> , section 5.	1 2 3 4
	<i>WHS prosecutor</i> see the <i>Work Health and Safety Act 2011</i> , schedule 2, section 25.	5 6
(3)	Schedule 2, definition <i>official</i> , paragraphs (b) and (c)— <i>omit, insert—</i>	7 8
	(b) the CEO; or	9
	(c) the WHS prosecutor; or	10
Division 4	Amendment of Mining and Quarrying Safety and Health Act 1999	11 12 13
103	Act amended	14
	This division amends the <i>Mining and Quarrying Safety and Health Act 1999</i> .	15 16
	<i>Note—</i>	17
	See also the amendments in schedule 2.	18
104	Amendment of s 63 (Guidelines)	19
	Section 63(3) and (4)—	20
	<i>omit, insert—</i>	21
	(3) The CEO must publish on a Queensland government website each guideline and any document applied, adopted or incorporated by the guideline.	22 23 24 25
	(4) In this section—	26
	<i>Queensland government website</i> means a website with a URL that contains ‘qld.gov.au’,	27 28

[s 105]

other than the website of a local government.	1
105 Amendment of s 67 (Functions of committee)	2
(1) Section 67, heading, ‘Functions’—	3
<i>omit, insert—</i>	4
Primary function	5
(2) Section 67(1), after ‘mines’—	6
<i>insert—</i>	7
and persons who may be affected by mining operations	8 9
(3) Section 67(2), from ‘reviewing’—	10
<i>omit, insert—</i>	11
reviewing the effectiveness of the control of risk to any person from mining operations.	12 13
(4) Section 67(3) and (4)—	14
<i>omit.</i>	15
106 Insertion of new s 67A	16
After section 67—	17
<i>insert—</i>	18
67A Other functions of committee	19
The committee also has the following functions—	20
(a) recognising, establishing and publishing the following competencies—	21 22
(i) the competencies accepted by the committee as qualifying a person to perform the tasks prescribed by regulation;	23 24 25 26

(ii) the safety and health competencies required to perform the duties of a person under this Act;	1 2 3
(b) developing a 5-year strategic plan for improving the safety and health of persons at mines and persons who may be affected by mining operations;	4 5 6 7
(c) periodically evaluating, and at least once each year updating, the 5-year strategic plan;	8 9 10
(d) developing action plans to achieve measurable targets set in the 5-year strategic plan;	11 12 13
(e) obtaining information from RSHQ to assess the fulfilment of the 5-year strategic plan and the action plans mentioned in paragraph (d);	14 15 16 17
(f) identifying and prioritising critical risks to the safety and health of persons at mines and persons who may be affected by mining operations;	18 19 20 21
(g) providing advice to the mining industry about the risks mentioned in paragraph (f);	22 23
(h) providing information to the Minister about the performance of RSHQ.	24 25
107 Replacement of s 126 (Further functions of inspectors)	26
Section 126—	27
<i>omit, insert—</i>	28
126 Further function of inspectors	29
Inspectors also have the function of advising the chief inspector on safety and health at mines.	30 31

[s 108]

108	Amendment of s 229 (Proof of appointments and authority unnecessary)	1
	Section 229(1), ‘chief executive’—	2
	<i>omit, insert</i> —	3
	CEO, the WHS prosecutor	4
109	Amendment of s 230 (Proof of signatures unnecessary)	5
	Section 230, ‘chief executive’—	6
	<i>omit, insert</i> —	7
	CEO, the WHS prosecutor	8
110	Amendment of s 231 (Evidentiary aids)	9
	Section 231(5), definition <i>certificate</i> , ‘chief executive’—	10
	<i>omit, insert</i> —	11
	CEO, the WHS prosecutor	12
111	Amendment of s 234 (Proceedings for offences)	13
	(1) Section 234(5)—	14
	<i>omit, insert</i> —	15
	(5) A proceeding for an offence against this Act may only be taken by—	16
	(a) if the offence is a serious offence—the WHS prosecutor; or	17
	(b) otherwise—the CEO or the WHS prosecutor.	18
	(5A) However, the CEO may authorise in writing another appropriately qualified person to take a proceeding for an offence mentioned in subsection (5)(b).	19
	(5B) An authorisation under subsection (6) may be	20
		21
		22
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		24
		25
		26
		27

general or limited to a particular proceeding or class of proceedings.	1 2
(2) Section 234(6), ‘subsection (5)(c)’—	3
<i>omit, insert</i> —	4
subsection (6)	5
(3) Section 234—	6
<i>insert</i> —	7
(6A) In deciding whether to bring a prosecution for an offence under this Act, the WHS prosecutor must have regard to any guidelines issued under the <i>Director of Public Prosecutions Act 1984</i> , section 11.	8 9 10 11 12
(4) Section 234(7)—	13
<i>insert</i> —	14
<i>serious offence</i> means—	15
(a) an offence against section 31 if the contravention—	16 17
(i) caused multiple deaths; or	18
(ii) caused death or grievous bodily harm; or	19 20
(iii) caused bodily harm; or	21
(iv) involved exposure to a substance that is likely to cause death or grievous bodily harm; or	22 23 24
(b) an offence prescribed by regulation for this paragraph.	25 26
(5) Section 234(5A) to (7)—	27
<i>renumber</i> as section 234(6) to (10).	28
112 Replacement of s 235 (Recommendation to prosecute)	29
Section 235—	30

[s 112]

<i>omit, insert—</i>	1
235 WHS prosecutor may ask CEO for information	2
(1) The WHS prosecutor may ask the CEO for information relevant to the performance of a function of the WHS prosecutor under this Act.	3 4 5
(2) The CEO must take reasonable steps to provide the information.	6 7
(3) In this section— <i>information</i> includes a document.	8 9
235A CEO's duty to disclose information to WHS prosecutor	10 11
(1) This section applies in relation to a proceeding for an offence against this Act brought by the WHS prosecutor.	12 13 14
(2) The CEO has a duty to disclose to the WHS prosecutor all information relevant to the proceeding, including knowledge of a matter relevant to the proceeding, in the possession or control of the CEO.	15 16 17 18 19
(3) The duty continues until the proceeding is finally decided or otherwise ends.	20 21
(4) In this section— <i>information</i> includes a document.	22 23
235B Procedure if prosecution not brought	24
(1) This section applies if—	25
(a) a person reasonably considers that an act or omission constitutes a serious offence under section 234(10); and	26 27 28
(b) no prosecution has been brought in relation to the act or omission; and	29 30

-
- (c) at least 6 months but no more than 12 months has elapsed from when the act or omission happened.
- (2) The person may make a written request to the WHS prosecutor that a prosecution be brought in relation to the act or omission.
- (3) Within 3 months after the WHS prosecutor receives the request, the WHS prosecutor must give the person, and any other person whom the person believes committed the serious offence, a notice in writing stating—
- (a) whether the investigation of the act or omission is complete; and
- (b) if the investigation of the act or omission is complete, whether a prosecution has been or will be brought in relation to the act or omission; and
- (c) if the advice under paragraph (b) is that a prosecution has not been or will not be brought—the reasons for not bringing the prosecution.
- (4) Also, if the WHS prosecutor gives a notice under subsection (3)(b) that a prosecution has not been or will not be brought, the WHS prosecutor must—
- (a) advise in the notice that the person may ask the WHS prosecutor to refer the matter to the director of public prosecutions for consideration; and
- (b) if the person asks the WHS prosecutor in writing to refer the matter to the director of public prosecutions—refer the matter to the director of public prosecutions for consideration within 1 month after the person makes the request.
- (5) The director of public prosecutions must consider

[s 113]

the matter and within 1 month after the matter is referred give the WHS prosecutor advice in writing stating whether the director considers a prosecution should be brought.	1 2 3 4
(6) The WHS prosecutor must give a copy of the advice under subsection (5) to—	5 6
(a) the person who made the request under subsection (2); and	7 8
(b) any other person whom the person mentioned in paragraph (a) believes committed the serious offence.	9 10 11
(7) If the WHS prosecutor declines to follow advice given under subsection (5) to bring proceedings, the WHS prosecutor must give written reasons for the decision to each person mentioned in subsection (6).	12 13 14 15 16
113 Amendment of s 243 (Costs of investigation)	17
Section 243(1)—	18
<i>omit, insert—</i>	19
(1) If a court convicts a person of an offence against this Act, the court may order the person to pay the reasonable costs incurred by RSHQ in investigating, and preparing for the prosecution of, the offence.	20 21 22 23 24
114 Amendment of s 246A (Applying for injunction)	25
Section 246A(1), ‘commissioner’—	26
<i>omit, insert—</i>	27
CEO	28

115	Amendment of s 254C (Public statements)	1
	(1) Section 254C(1) and (3), ‘chief executive, commissioner’—	2
	<i>omit, insert—</i>	3
	CEO	4
	(2) Section 254C(1)(c), ‘chief executive’—	5
	<i>omit, insert—</i>	6
	CEO	7
116	Replacement of s 257 (Delegations)	8
	Section 257—	9
	<i>omit, insert—</i>	10
	257 Delegation by Minister or CEO	11
	(1) The Minister or CEO (the <i>person</i>) may delegate	12
	the person’s functions under this Act to an	13
	appropriately qualified person.	14
	(2) In this section—	15
	<i>functions</i> includes powers.	16
117	Amendment of s 262 (Regulation-making power)	17
	(1) Section 262(5), from ‘the department’s activities’—	18
	<i>omit, insert—</i>	19
	activities, carried out under this Act or another	20
	Act, relating to safety and health for operations.	21
	(2) Section 262(6)(g), ‘to the chief executive’—	22
	<i>omit.</i>	23
118	Insertion of new pt 20, div 6	24
	Part 20—	25
	<i>insert—</i>	26

[s 118]

Division 6	Transitional provisions for Resources Safety and Health Queensland Act 2019	1 2 3 4
286	Definitions for division	5
	In this division—	6
	<i>corresponding provision</i> , for a provision of the pre-amended Act, means a provision of this Act that provides for the same, or substantially the same, matter as the provision of the pre-amended Act.	7 8 9 10 11
	<i>pre-amended</i> Act means this Act as in force before the commencement.	12 13
287	Functions performed and powers exercised by chief executive	14 15
	A function performed, or power exercised, by the chief executive under a provision of the pre-amended Act, if the context permits, is taken to have been performed, or exercised, by the CEO under the corresponding provision.	16 17 18 19 20
288	References to chief executive	21
	(1) This section applies if—	22
	(a) a provision of the pre-amended Act mentioned the chief executive; and	23 24
	(b) a corresponding provision mentions the CEO.	25 26
	(2) In a document made under or relating to the provision of the pre-amended Act, if the context permits, a reference to the chief executive is taken to be a reference to the CEO.	27 28 29 30

289 Functions performed and powers exercised by Commissioner for Mine Safety and Health	1 2
(1) A function performed, or power exercised, by the Commissioner for Mine Safety and Health under a provision of the pre-amended Act, if the context permits, is taken to have been performed, or exercised, by the Commissioner for Resources Safety and Health under the corresponding provision.	3 4 5 6 7 8 9
(2) Subsection (1) is subject to section 291.	10
290 References to Commissioner for Mine Safety and Health	11 12
(1) This section applies if—	13
(a) a provision of the pre-amended Act mentioned the Commissioner for Mine Safety and Health; and	14 15 16
(b) a corresponding provision mentions the Commissioner for Resources Safety and Health.	17 18 19
(2) In a document made under or relating to the provision of the pre-amended Act, if the context permits, a reference to the Commissioner for Mine Safety and Health is taken to be a reference to the Commissioner for Resources Safety and Health.	20 21 22 23 24 25
(3) Subsection (2) is subject to section 291.	26
291 Existing proceedings	27
(1) This section applies to the following proceedings started before the commencement—	28 29
(a) a proceeding for an offence against this Act started by—	30 31

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- (i) the Commissioner for Mine Safety and Health; or
 - (ii) the chief executive or another appropriately qualified person with the written authorisation of the chief executive;
 - (b) a proceeding for an injunction, interim injunction, or to rescind or vary an injunction, under the pre-amended Act, started by the Commissioner for Mine Safety and Health;
 - (c) an appeal against a decision made on a proceeding mentioned in paragraph (a) or (b).
- (2) If, immediately before the commencement, the proceeding had not been finally dealt with, on the commencement—
- (a) if the proceeding was brought by the Commissioner for Mine Safety and Health and is in relation to a serious offence within the meaning of section 234(10)—the WHS prosecutor becomes a party to the proceeding in place of the commissioner; and
 - (b) if the proceeding is a proceeding other than a proceeding mentioned in paragraph (a)—the CEO becomes a party to the proceeding in place of the person who started the proceeding.
- (3) For a proceeding mentioned in subsection (2)(b), on the commencement or at any time after the commencement, the CEO may authorise in writing another appropriately qualified person, including, for example, the WHS prosecutor, to become a party to the proceeding in place of the CEO.

292 Costs of investigation	1
(1) This section applies if a court convicts a person of an offence against this Act after the commencement.	2 3 4
(2) The court may order the person to pay the reasonable costs of investigating the offence, including reasonable costs of preparing for the prosecution of the offence, whether the costs were incurred by the department or RSHQ, and whether the offence was committed before or after the commencement.	5 6 7 8 9 10 11
293 References to department	12
(1) This section applies if—	13
(a) a provision of the pre-amended Act mentioned the department; and	14 15
(b) a corresponding provision mentions RSHQ.	16
(2) In a document made under or relating to the provision of the pre-amended Act, if the context permits, a reference to the department is taken to be a reference to RSHQ.	17 18 19 20
119 Amendment of sch 2 (Dictionary)	21
(1) Schedule 2, definitions <i>chief executive</i> and <i>commissioner</i> — <i>omit.</i>	22 23
(2) Schedule 2— <i>insert—</i>	24 25
<i>CEO</i> means the chief executive officer of RSHQ.	26
<i>commissioner</i> means the Commissioner for Resources Safety and Health appointed under the <i>Resources Safety and Health Queensland Act 2019</i> , section 48.	27 28 29 30

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	<i>RSHQ</i> means the statutory body called Resources Safety and Health Queensland established under the <i>Resources Safety and Health Queensland Act 2019</i> , section 5.	1 2 3 4
	<i>WHS prosecutor</i> see the <i>Work Health and Safety Act 2011</i> , schedule 2, section 25.	5 6
(3)	Schedule 2, definition <i>official</i> , paragraph (b)— <i>omit, insert—</i>	7 8
	(b) the CEO; or	9
	(ba) the WHS prosecutor; or	10
(4)	Schedule 2, definition <i>official</i> , paragraphs (ba) to (j)— <i>renumber</i> as paragraphs (c) to (k).	11 12
Division 5	Amendment of Petroleum and Gas (Production and Safety) Act 2004	13 14
120	Act amended	15
	This division amends the <i>Petroleum and Gas (Production and Safety) Act 2004</i> .	16 17
	<i>Note—</i>	18
	See also the amendments in schedule 2.	19
121	Amendment of s 734AC (Access to register)	20
	Section 734AC(1)(a)(i), ‘the department’s’— <i>omit, insert—</i>	21 22
	RSHQ’s	23
122	Amendment of s 813 (False or misleading documents or statements)	24 25
(1)	Section 813(2) and (3), ‘an authorised officer’—	26

<i>omit, insert—</i>	1
an inspector or authorised officer	2
(2) Section 813(5)(a), ‘the authorised officer’—	3
<i>omit, insert—</i>	4
the inspector or authorised officer	5
123 Amendment of s 817 (Who may apply for internal review)	6
(1) Section 817(2)—	7
<i>insert—</i>	8
(ba) if the original decision to which the application relates was made by the CEO— the CEO; or	9 10 11
(2) Section 817(2)(ba) to (c)—	12
<i>renumber</i> as section 817(2)(c) to (d).	13
124 Amendment of s 834 (Other evidentiary aids)	14
Section 834(2), definition <i>certificate</i> , after ‘chief executive,’—	15 16
<i>insert—</i>	17
the CEO, the WHS prosecutor,	18
125 Amendment of s 837 (Offences under Act are summary)	19
(1) Section 837(2)—	20
<i>omit, insert—</i>	21
(2) A proceeding for an offence against a provision of chapter 7, 8, 9 or 10 may only be taken by—	22 23
(a) if the offence is a serious offence—the WHS prosecutor; or	24 25
(b) otherwise—the CEO or the WHS prosecutor.	26 27

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- (2A) However, the CEO may authorise in writing another appropriately qualified person to take a proceeding for an offence mentioned in subsection (2)(b). 1
2
3
4
- (2B) An authorisation under subsection (3) may be general or limited to a particular proceeding or class of proceedings. 5
6
7
- (2) Section 837(3), ‘subsection (2)(c)’— 8
omit, insert— 9
subsection (3) 10
- (3) Section 837— 11
insert— 12
- (7) In deciding whether to bring a prosecution for an offence under this Act, the WHS prosecutor must have regard to any guidelines issued under the *Director of Public Prosecutions Act 1984*, section 11. 13
14
15
16
17
- (8) In this section— 18
serious offence means— 19
- (a) an offence against chapter 9 if the act or omission that constitutes the offence caused any of the following circumstances— 20
21
22
- (i) the death of, or grievous bodily harm to, more than 1 person; 23
24
- (ii) the death of, or grievous bodily harm to, only 1 person; 25
26
- (iii) the exposure of anyone to a substance likely to cause death or grievous bodily harm; 27
28
29
- (iv) bodily harm; or 30
- (b) an offence prescribed by regulation for this paragraph. 31
32

(4) Section 837(2A) to (4)—	1
<i>renumber</i> as section 837(3) to (6).	2
126 Insertion of new ss 837A–837C	3
After section 837—	4
<i>insert</i> —	5
837A WHS prosecutor may ask CEO for information	6
	7
(1) The WHS prosecutor may ask the CEO for information relevant to the performance of a function of the WHS prosecutor under this Act.	8
	9
	10
(2) The CEO must take reasonable steps to provide the information.	11
	12
(3) In this section—	13
<i>information</i> includes a document.	14
837B CEO’s duty to disclose information to WHS prosecutor	15
	16
(1) This section applies in relation to a proceeding for an offence against this Act brought by the WHS prosecutor.	17
	18
	19
(2) The CEO has a duty to disclose to the WHS prosecutor all information relevant to the proceeding, including knowledge of a matter relevant to the proceeding, in the possession or control of the CEO.	20
	21
	22
	23
	24
(3) The duty continues until the proceeding is finally decided or otherwise ends.	25
	26
(4) In this section—	27
<i>information</i> includes a document.	28

837C Procedure if prosecution not brought	1
(1) This section applies if—	2
(a) a person reasonably considers that an act or omission constitutes a serious offence under section 837(8); and	3 4 5
(b) no prosecution has been brought in relation to the act or omission; and	6 7
(c) at least 6 months but no more than 12 months has elapsed from when the act or omission happened.	8 9 10
(2) The person may make a written request to the WHS prosecutor that a prosecution be brought in relation to the act or omission.	11 12 13
(3) Within 3 months after the WHS prosecutor receives the request, the WHS prosecutor must give the person, and any other person whom the person believes committed the serious offence, a notice in writing stating—	14 15 16 17 18
(a) whether the investigation of the act or omission is complete; and	19 20
(b) if the investigation of the act or omission is complete, whether a prosecution has been or will be brought in relation to the act or omission; and	21 22 23 24
(c) if the advice under paragraph (b) is that a prosecution has not been or will not be brought—the reasons for not bringing the prosecution.	25 26 27 28
(4) Also, if the WHS prosecutor gives a notice under subsection (3)(b) that a prosecution has not been or will not be brought, the WHS prosecutor must—	29 30 31 32
(a) advise in the notice that the person may ask the WHS prosecutor to refer the matter to	33 34

the director of public prosecutions for consideration; and	1 2
(b) if the person asks the WHS prosecutor in writing to refer the matter to the director of public prosecutions—refer the matter to the director of public prosecutions for consideration within 1 month after the person makes the request.	3 4 5 6 7 8
(5) The director of public prosecutions must consider the matter and within 1 month after the matter is referred give the WHS prosecutor advice in writing stating whether the director considers a prosecution should be brought.	9 10 11 12 13
(6) The WHS prosecutor must give a copy of the advice under subsection (5) to—	14 15
(a) the person who made the request under subsection (2); and	16 17
(b) any other person whom the person mentioned in paragraph (a) believes committed the serious offence.	18 19 20
(7) If the WHS prosecutor declines to follow advice given under subsection (5) to bring proceedings, the WHS prosecutor must give written reasons for the decision to each person mentioned in subsection (6).	21 22 23 24 25
127 Amendment of s 841A (Applying for injunction)	26
Section 841A(1), ‘commissioner’—	27
<i>omit, insert—</i>	28
CEO	29
128 Amendment of s 851A (Public statements)	30
Section 851A(1) and (3), ‘commissioner’—	31

[s 129]

<i>omit, insert—</i>	1
CEO	2
129 Amendment of s 857 (Delegation by Minister, chief executive or chief inspector)	3
	4
(1) Section 857, heading, after ‘chief executive’—	5
<i>insert—</i>	6
, CEO	7
(2) Section 857, from ‘under this Act’—	8
<i>omit, insert—</i>	9
under this Act to an appropriately qualified person.	10
	11
130 Insertion of new ch 15, pt 26	12
Chapter 15—	13
<i>insert—</i>	14
Part 26 Transitional provisions for Resources Safety and Health Queensland Act 2019	15
	16
	17
	18
1008 Definitions for part	19
In this part—	20
<i>corresponding provision</i> , for a provision of the pre-amended Act, means a provision of this Act that provides for the same, or substantially the same, matter as the provision of the pre-amended Act.	21
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	23
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	25
<i>pre-amended Act</i> means this Act as in force before the commencement.	26
	27

1009 Functions performed and powers exercised by chief executive	1 2
A function performed, or power exercised, by the chief executive under a provision of the pre-amended Act, if the context permits, is taken to have been performed, or exercised, by the CEO under the corresponding provision.	3 4 5 6 7
1010 References to chief executive	8
(1) This section applies if—	9
(a) a provision of the pre-amended Act mentioned the chief executive; and	10 11
(b) a corresponding provision mentions the CEO.	12 13
(2) In a document made under or relating to the provision of the pre-amended Act, if the context permits, a reference to the chief executive is taken to be a reference to the CEO.	14 15 16 17
1011 Existing proceedings	18
(1) This section applies to the following proceedings started before the commencement—	19 20
(a) a proceeding for an offence against this Act started by—	21 22
(i) the Commissioner for Mine Safety and Health; or	23 24
(ii) the chief executive or another appropriately qualified person with the written authorisation of the chief executive;	25 26 27 28
(b) a proceeding for an injunction, interim injunction, or to rescind or vary an injunction, under the pre-amended Act,	29 30 31

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- started by the Commissioner for Mine Safety and Health; 1
2
- (c) an appeal against a decision made on a proceeding mentioned in paragraph (a) or (b). 3
4
5
- (2) If, immediately before the commencement, the proceeding had not been finally dealt with, on the commencement— 6
7
8
- (a) if the proceeding was brought by the Commissioner for Mine Safety and Health and is in relation to a serious offence within the meaning of section 837(8)—the WHS prosecutor becomes a party to the proceeding in place of the commissioner; and 9
10
11
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15
- (b) if the proceeding is a proceeding other than a proceeding mentioned in paragraph (a)—the CEO becomes a party to the proceeding in place of the person who started the proceeding. 16
17
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20
- (3) For a proceeding mentioned in subsection (2)(b), on the commencement or at any time after the commencement, the CEO may authorise in writing another appropriately qualified person, including, for example, the WHS prosecutor, to become a party to the proceeding in place of the CEO. 21
22
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27
- 1012 References to department** 28
- (1) This section applies if— 29
- (a) a provision of the pre-amended Act mentioned the department; and 30
31
- (b) a corresponding provision mentions RSHQ. 32
- (2) In a document made under or relating to the provision of the pre-amended Act, if the context 33
34

	permits, a reference to the department is taken to be a reference to RSHQ.	1 2
131	Amendment of sch 2 (Dictionary)	3
	(1) Schedule 2, definition <i>commissioner</i> — <i>omit.</i>	4 5
	(2) Schedule 2— <i>insert</i> — <i>CEO</i> means the chief executive officer of RSHQ. <i>RSHQ</i> means the statutory body called Resources Safety and Health Queensland established under the <i>Resources Safety and Health Queensland Act 2019</i> , section 5. <i>WHS prosecutor</i> see the <i>Work Health and Safety Act 2011</i> , schedule 2, section 25.	6 7 8 9 10 11 12 13 14
	(3) Schedule 2, definition <i>official</i> , after ‘chief executive,’ <i>insert</i> — the CEO, the WHS prosecutor,	15 16 17
Division 6	Amendment of Public Service Act 2008	18 19
132	Act amended This division amends the <i>Public Service Act 2008</i> .	20 21
133	Amendment of sch 1 (Public service offices and their heads) Schedule 1— <i>insert</i> —	22 23 24 25

[s 134]

Resources Safety and Health executive officer of the Resources
Queensland employing office under Safety and Health Queensland
the *Resources Safety and Health* employing office under the
Queensland Act 2019 *Resources Safety and Health*
Queensland Act 2019

Division 7	Amendment of Statutory Bodies Financial Arrangements Regulation 2019	1 2 3
134	Regulation amended	4
	This division amends the <i>Statutory Bodies Financial Arrangements Regulation 2019</i> .	5 6
135	Amendment of sch 4 (Statutory bodies allocated category 2 investment power)	7 8
	Schedule 4—	9
	<i>insert—</i>	10
	<i>Resources Safety and Health Queensland Act 2019</i>	Resources Safety and Health Queensland
Division 8	Amendment of Work Health and Safety Act 2011	11 12
136	Act amended	13
	This division amends the <i>Work Health and Safety Act 2011</i> .	14
137	Amendment of sch 1 (Application of Act)	15
	(1) Schedule 1, part 2, division 1, section 2—	16

<i>insert—</i>	1
(4A) This section is subject to schedule 2, part 4, division 2.	2 3
(2) Schedule 1, part 2, division 1, section 2(4A) and (5)— <i>renumber</i> as section 2(5) and (6).	4 5
138 Amendment of sch 2 (The regulator and local tripartite consultation arrangements and other local arrangements)	6 7 8
(1) Schedule 2, section 27(c), ‘this or another Act’— <i>omit, insert—</i>	9 10
this Act or another Act	11
(2) Schedule 2, sections 28(1) and 30, after ‘this Act’— <i>insert—</i>	12 13
or another Act	14
Division 9 Minor and consequential amendments	15 16
139 Acts amended	17
Schedule 2 amends the Acts it mentions.	18

Schedule 1	Dictionary	1
	section 3	2
<i>CEO</i>	see section 14(1).	3
<i>coal mining safety and health advisory committee</i>	means the coal mining safety and health advisory committee under the <i>Coal Mining Safety and Health Act 1999</i> .	4 5 6
<i>commissioner</i>	see section 48(1).	7
<i>criminal history</i>	, of a person, means the person’s criminal history as defined under the <i>Criminal Law (Rehabilitation of Offenders) Act 1986</i> , other than spent convictions.	8 9 10
<i>employing office</i>	see section 29(1).	11
<i>executive officer</i>	means the executive officer of the employing office appointed under section 35(1).	12 13
<i>mining safety and health advisory committee</i>	means the mining safety and health advisory committee under the <i>Mining and Quarrying Safety and Health Act 1999</i> .	14 15 16
<i>insolvent under administration</i>	see the <i>Corporations Act 2001</i> (Cwlth), section 9.	17 18
<i>instrument</i>	, for part 6, see section 69.	19
<i>Queensland government website</i>	means a website with a URL that contains ‘qld.gov.au’, other than the website of a local government.	20 21 22
<i>Resources Safety Act</i>	means—	23
(a)	the <i>Coal Mining Safety and Health Act 1999</i> ; or	24
(b)	the <i>Explosives Act 1999</i> ; or	25
(c)	the <i>Mining and Quarrying Safety and Health Act 1999</i> ; or	26 27
(d)	the <i>Petroleum and Gas (Production and Safety) Act 2004</i> .	28 29
<i>right</i>	, for part 6, see section 69.	30

<i>RSHQ</i> see section 5.	1
<i>spent conviction</i> means a conviction—	2
(a) for which the rehabilitation period under the <i>Criminal Law (Rehabilitation of Offenders) Act 1986</i> has expired under that Act; and	3 4 5
(b) that is not revived as prescribed by section 11 of that Act.	6 7
<i>transfer notice</i> , for part 6, see section 69.	8

Schedule 2 Acts amended 1

section 139 2

Coal Mining Safety and Health Act 1999 3

1 Particular references to chief executive— 4

Each of the following provisions is amended by omitting
'chief executive' and inserting 'CEO'— 5
6

- section 70(4) 7
- section 122(1) 8
- section 123 9
- section 125 10
- section 126 11
- section 127 12
- section 127A 13
- section 129A 14
- section 129B 15
- section 129C(1) and (2) 16
- section 129D(h) 17
- section 130(1) 18
- section 131 19
- section 196(c) 20
- part 10A, heading 21
- section 197B 22
- section 197C 23
- section 197D 24

•	section 205	1
•	part 14, division 1, heading	2
•	section 236A(a)	3
•	section 238(1)(b)(ii)	4
•	section 240(3) and (5), definition <i>original decision-maker</i>	5 6
•	section 260	7
•	section 265(1)	8
•	section 267F(2)	9
•	section 267G	10
•	section 267H	11
•	section 267I(1), (2) and (3)	12
•	section 267J(2)	13
•	section 275A(3)	14
•	section 279	15
•	section 280(1) and (4)	16
•	schedule 2, part 2, item 27	17
2	Sections 70(5), 197D(4)(a), 236A and 238(1)(b)(ii), ‘chief executive’s’—	18 19
	<i>omit, insert—</i>	20
	CEO’s	21
3	Section 185(e), ‘section 76’—	22
	<i>omit, insert—</i>	23
	section 76A(a)	24
4	Sections 205 and 280, headings, ‘Chief executive’—	25
	<i>omit, insert—</i>	26

	CEO	1
5	Section 205, ‘officers and employees of the department’—	2
	<i>omit, insert—</i>	3
	RSHQ	4
		5
	Explosives Act 1999	6
1	Particular references to chief executive—	7
	Each of the following provisions is amended by omitting ‘chief executive’ and inserting ‘CEO’—	8
	• section 78	9
	• section 79(1) and (3)	10
	• section 80A	11
	• section 82(2)(c)	12
	• schedule 2, definition <i>chief inspector</i>	13
		14
2	Section 78, heading, ‘Chief executive’—	15
	<i>omit, insert—</i>	16
	CEO	17
	Mining and Quarrying Safety and Health Act 1999	18
1	Particular references to chief executive—	19
	Each of the following provisions is amended by omitting ‘chief executive’ and inserting ‘CEO’—	20
		21

• section 61(4)	1
• section 119(1)	2
• section 120	3
• section 122	4
• section 123	5
• section 124	6
• section 124A	7
• section 126A	8
• section 126B	9
• section 126C(1) and (2)	10
• section 126D(h)	11
• section 127(1)	12
• section 128	13
• section 183(c)	14
• part 10A, heading	15
• section 187	16
• section 188	17
• section 189	18
• section 202	19
• part 13, division 1, heading	20
• section 216A(a)	21
• section 218(1)(b)(ii)	22
• section 220(3) and (5), definition <i>original decision-maker</i>	23 24
• section 239	25
• section 244(1)	26
• section 246F(2)	27
• section 246G	28

Schedule 2

	• section 246H	1
	• section 246I(1), (2) and (3)	2
	• section 246J(2)	3
	• section 255(3)	4
	• section 259	5
	• section 260(1) and (4)	6
2	Sections 61(5), 189(4)(a), 216A and 218(1)(b)(ii), ‘chief executive’s’—	7
	<i>omit, insert—</i>	8
	CEO’s	9
3	Section 180(e), ‘section 67’—	10
	<i>omit, insert—</i>	11
	section 67A(a)	12
4	Sections 202 and 260, headings, ‘Chief executive’—	13
	<i>omit, insert—</i>	14
	CEO	15
5	Section 202, ‘officers and employees of the department’—	16
	<i>omit, insert—</i>	17
	RSHQ	18
		19
		20

Petroleum and Gas (Production and Safety) Act 2004	1
1 Particular references to chief executive—	2
Each of the following provisions is amended by omitting ‘chief executive’ and inserting ‘CEO’—	3 4
• section 735	5
• section 737(4), definition <i>signed notice</i> , paragraphs (a) and (c)	6 7
• section 738(1)	8
• section 741	9
• section 742	10
• section 773(1) and (3)	11
• section 774(2) and (3)	12

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