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Petroleum (Submerged Lands) Act 1982

Version current from 1 January 2013 to date (accessed 16 October 2018 at 17:19)



Petroleum (Submerged Lands) Act 1982

An Act to make provision with respect to the exploration for and the exploitation of the petroleum resources, and certain other resources, of certain submerged lands adjacent to the coast of the State of Tasmania and to provide for related matters

[Royal Assent 30 June 1982]

Whereas in accordance with international law, Australia as a coastal State has sovereign rights over the continental shelf beyond the limits of Australian territorial waters for the purpose of exploring it and exploiting its natural resources:

And whereas Australia is a party to the Convention of the Continental Shelf signed at Geneva on 29th April 1958 in which those rights are defined:

And whereas by the Seas and Submerged Lands Act 1973 of the Commonwealth it is declared and enacted that the sovereignty in respect of the territorial sea of Australia and in respect of the air space over it and in respect of its sea-bed and subsoil, and the sovereignty in respect of certain internal waters of Australia and in respect of the air space over those waters and in respect of the sea-bed and subsoil beneath those waters, is vested in and exercisable by the Crown in right of the Commonwealth:

And whereas the Parliaments of the States and the Legislative Assembly of the Northern Territory have certain legislative powers in respect of the sea-bed and subsoil referred to in the last preceding paragraph and the Parliament of the Commonwealth has vested in the Crown in right of each of the States and the Crown in right of the Northern Territory certain proprietary rights in respect of that sea-bed and subsoil:

And whereas it has been agreed between the Commonwealth, the States and the Northern Territory that, in place of the scheme provided for by an Agreement between the Commonwealth and the States dated 16th October 1967 –

(A) legislation of the Parliament of the Commonwealth in respect of the exploration for and the exploitation of the petroleum resources of submerged lands should be limited to the resources of lands beneath waters that are beyond the outer limits of the territorial sea adjacent to the States and the Northern Territory (being outer limits based, unless and until otherwise agreed, on the breadth of that sea being 3 nautical miles), and the States and the Northern Territory should share in the administration of that legislation;

(B) legislation of the Parliament of each State should apply in respect of the exploration for and the exploitation of the petroleum resources of such part of the submerged lands in an area adjacent to the State as is on the landward side of the waters referred to in paragraph (a) ;

(C) legislation of the Legislative Assembly of the Northern Territory should apply in respect of the exploration for and the exploitation of the petroleum resources of such part of the submerged lands in an area adjacent to the Northern Territory as is on the landward side of the waters referred to in paragraph (a) ; and

(D) the Commonwealth, the States and the Northern Territory should endeavour to maintain, as far as practicable, common principles, rules, and practices in the regulation and control of the exploration for and the exploitation of the petroleum resources of all the submerged lands referred to above that are on the seaward side of the inner limits of the territorial sea of Australia;

Be it therefore enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

PART I - Preliminary

Division 1 - Interpretation, application, and construction of Act

1. Short title

This Act may be cited as the Petroleum (Submerged Lands) Act 1982 .

2. Commencement

(1) This Act shall commence on the day on which the Petroleum (Submerged Lands) Amendment Act 1980 of the Commonwealth comes into operation.

(2) The Minister shall as soon as is practicable after the commencement of this Act cause notice of the commencement to be published in the *Gazette*.

3. Interpretation

(1) In this Act, except in so far as the subject-matter indicates or requires –

access authority means an access authority granted and in force under Part III ;

adjacent area means, subject to subsection (2) , so much of the area the boundary of which is described in Schedule 2 as is part of the territorial sea of Australia, including the territorial sea adjacent to any island forming part of Tasmania and, subject to subsection (3) , includes an area which –

(a) is within the area the boundary of which is described in Schedule 2 ;

(b) is seaward of the coastline of Tasmania at mean low water and landward of the inner limit of the territorial sea of Australia; and

(c) was, immediately before the commencement of this Act, the subject of an exploration permit for petroleum subsisting under the Commonwealth Act ;

application for a primary licence means an application under section 39 (1) or (2) or 39A (1) or (2) ;

application for a secondary licence means an application under section 39 (3) or 39A (3) ;

the applied provisions means the provisions (other than the provisions of this Act) which apply within the adjacent area by virtue of the Coastal and Other Waters (Application of State Laws) Act 1982 ;

approved means approved by the Minister;

block means a block constituted as provided by section 16 ;

Commonwealth Act means –

(a) the Petroleum (Submerged Lands) Act 1967 of the Commonwealth, as amended from time to time; or;

(b) if the Petroleum (Submerged Lands) Act 1967 of the Commonwealth is repealed and re-enacted, with or without modification, the Act of the Commonwealth that re-enacts it, as amended from time to time;

the Commonwealth Minister means the Minister of the Crown in right of the Commonwealth for the time being administering the Commonwealth Act;

construct includes "place";

the Convention means the Convention entitled "Convention on the Continental Shelf" signed at Geneva on 29th April 1958, being the Convention a copy of which in the English language is set out in Schedule 1 ;

corresponding law means an Act of a State other than Tasmania or a law in force in a Territory of the Commonwealth giving effect to the agreement between the Governments of the Commonwealth, the

States, and the Northern Territory referred to in the preamble to this Act;

document includes any map, book, record, or writing;

good oil-field practice means all those things that are generally accepted as good and safe in the carrying on of exploration for petroleum, or in operations for the recovery of petroleum, as the case may be;

graticular section means a section referred to in section 16 ;

inspector means a person appointed and holding office, or deemed to hold office, under section 125 ;

interstate Minister means the Minister of the Crown in right of a State (other than Tasmania) or of the Northern Territory who is for the time being authorised under the law of that State or Territory to perform the functions of a Designated Authority under the Commonwealth Act;

the Joint Authority means the Commonwealth-Tasmania Offshore Petroleum Joint Authority established by the Commonwealth Act ;

lease means a retention lease under Part III ;

lease area means the area constituted by the blocks that are the subject of a lease;

lessee means the registered holder of a lease;

licence means a production licence for petroleum granted and in force under Part III ;

licence area means the area constituted by the blocks that are the subject of a licence;

licensee means the registered holder of a licence;

listed OHS laws has the meaning given in section 150C ;

location means a block or blocks in respect of which a declaration under section 36 is in force;

Minister means the Minister for the time being administering the Mineral Resources Development Act 1995 ;

natural resources has the same meaning as in the Convention;

OHS inspector means an OHS inspector appointed under the Commonwealth Act;

partly cancelled means –

(a) in relation to a permit or licence – cancelled as to one or more but not all of the blocks the subject of the permit or licence; and

(b) in relation to a pipeline licence – cancelled as to a part of the pipeline the subject of the licence;

partly determined, in relation to a permit or lease, means determined as to one or more but not all of the blocks the subject of the permit or lease;

permit means an exploration permit for petroleum granted and in force under Part III ;

permit area means the area constituted by the blocks that are the subject of a permit;

permittee means the registered holder of a permit;

petroleum means –

(a) any naturally occurring hydrocarbon, whether in a gaseous, liquid, or solid state; or

(b) any naturally occurring mixture of hydrocarbons, whether in a gaseous, liquid, or solid state; or

(c) any naturally occurring mixture of one or more hydrocarbons, whether in a gaseous, liquid, or solid state, and one or more of the following, that is to say, hydrogen-sulphide, nitrogen, helium, and carbon dioxide –

and includes any petroleum as defined by paragraph (a) , (b) , or (c) of this definition that has been returned to a natural reservoir in the adjacent area;

petroleum pool means a naturally occurring discrete accumulation of petroleum;

pipeline means a pipe or system of pipes in the adjacent area for conveying petroleum but does not include a pipe or system of pipes –

- (a) for returning petroleum to a natural reservoir; or
- (b) for conveying petroleum for use for the purposes of petroleum exploration operations or operations for the recovery of petroleum; or
- (c) for conveying petroleum that is to be flared or vented; or
- (d) for conveying petroleum from a well to a terminal station without passing through another terminal station, whether the terminal station to which the petroleum is conveyed is in the adjacent area or not;

pipeline licence means a licence granted and in force under Part III to construct and operate a pipeline;

pipeline licensee means the registered holder of a pipeline licence;

prescribed means prescribed by the regulations;

primary entitlement means –

- (a) in relation to a permittee – the number of blocks forming part of a location in the permit area in respect of which that permittee may make an application under section 39 (1) ; and
- (b) in relation to a lessee – the number of blocks in the lease area in respect of which that lessee may make an application under section 39A (1) ;

primary licence means a licence granted on an application under section 39 (1) or (2) ;

pumping station means equipment for pumping petroleum or water and includes any structure associated with that equipment;

register means the register kept in pursuance of Division 5 of Part III ;

registered holder, in relation to a permit, lease, licence, pipeline licence, special prospecting authority, or access authority, means the person whose name is for the time being shown in the register as being the holder of the permit, lease, licence, pipeline licence, special prospecting authority, or access authority;

the regulations means regulations made and in force under this Act;

the relinquished area means –

- (a) in relation to a permit, lease, or licence that has expired – the area constituted by the blocks in respect of which the permit, lease, or licence was in force but has not been renewed; and
- (b) in relation to a permit or lease that has been wholly determined or partly determined – the area constituted by the blocks as to which the permit or lease was so determined; and
- (c) in relation to a permit or licence that has been wholly cancelled or partly cancelled – the area constituted by the block as to which the permit or licence was so cancelled; and
- (ca) in relation to a lease that has been wholly cancelled – the area constituted by the blocks in respect of which the lease was in force; and
- (d) in relation to a pipeline licence that is no longer in force – that part of the adjacent area in which the pipeline was constructed; and
- (e) in relation to a pipeline licence that has been wholly cancelled or partly cancelled – the part of the adjacent area in which the pipeline or the part of the pipeline, as the case may be, was constructed; and

(f) in relation to a special prospecting authority or access authority that has been surrendered or cancelled, or has expired – the area constituted by the blocks in respect of which that authority was in force;

royalty period, in relation to a permit, lease, or licence, means –

(a) the period from and including the date from which the permit, lease, or licence comes into force to the end of the month of the year during which the date occurs; and

(b) each month thereafter;

Safety Authority means the National Offshore Petroleum Safety Authority established by the Commonwealth Act;

secondary licence means a licence granted on an application under section 39 (3) ;

secondary line means a pipe or system of pipes for any purpose referred to in paragraphs (a) , (b) , (c) , and (d) of the definition of **pipeline** ;

special prospecting authority means a special prospecting authority granted and in force under Part III ;

tank station means a tank or system of tanks for holding or storing petroleum and includes any structure associated with that tank or system of tanks;

terminal station means a pumping station, a tank station, or a valve station declared to be a terminal station under section 62 or under the Commonwealth Act or a corresponding law;

valve station means equipment for regulating the flow of petroleum and includes any structure associated with that equipment;

vessel means a vessel used in navigation, other than air navigation, and includes a barge, lighter, or other floating vessel;

water line means a pipe or system of pipes for conveying water in connection with petroleum exploration operations or operations for the recovery of petroleum;

well means a hole in a sea-bed or subsoil made by drilling, boring, or any other means in connection with exploration for petroleum or operations for the recovery of petroleum but does not include a seismic shot hole;

wholly cancelled, in relation to a permit, lease, licence, or pipeline licence, means cancelled as to all the blocks, or as to the whole of the pipeline, the subject of the permit, lease, licence, or pipeline licence;

wholly determined, in relation to a permit or lease, means determined as to all the blocks the subject of the permit or lease.

(2) If at any time the breadth of the territorial sea is determined or declared to be greater than 3 nautical miles, the definition of the adjacent area in subsection (1) continues to have effect as if the breadth of the territorial sea of Australia had continued to be 3 nautical miles.

(3) When an area described in paragraphs (a) , (b) , and (c) of the definition of **adjacent area** becomes an area which is –

(a) not the subject of a permit; and

(b) not the subject of a licence; and

(c) not the subject of an application for a licence –

the area ceases to be part of the adjacent area.

(4) In this Act, a reference to the term of a permit, lease, licence, pipeline licence, special prospecting authority, or access authority is a reference to the period during which the permit, lease, licence, pipeline licence, special prospecting authority, or access authority remains in force and a reference to the date of expiration of a permit, lease, licence, pipeline licence, special prospecting authority, or access authority is a reference to the day on

which the permit, lease, licence, pipeline licence, special prospecting authority, or access authority ceases to be in force.

(5) In this Act, a reference to a year of the term of a permit, lease, licence, or pipeline licence is a reference to a period of 1 year commencing on the day on which the permit, lease, licence, or pipeline licence, as the case may be, comes into force or on any anniversary of that day.

(6) In this Act, a reference to the renewal, or to the grant of a renewal, of a permit is a reference to the grant of a permit in respect of all or some of the blocks specified in the first-mentioned permit to commence on the day after the date of expiration of the first-mentioned permit or on the day after the date of expiration of the permit granted upon a previous renewal of the first-mentioned permit.

(6A) In this Act, a reference to the renewal, or the grant of a renewal, of a lease is a reference to the grant of a lease in respect of the blocks in respect of which the first-mentioned lease was in force to commence on the day after the date of expiration of the first-mentioned lease or on the day after the date of expiration of the lease granted upon a previous renewal of the first-mentioned lease.

(7) In this Act, a reference to the renewal, or to the grant of a renewal, of a licence in respect of the blocks specified in the licence is a reference to the grant of a licence in respect of those blocks to commence on the day after the date of expiration of the first-mentioned licence or on the day after the date of expiration of the licence granted upon a previous renewal of the first-mentioned licence.

(8) In this Act, a reference to the renewal, or to the grant of a renewal, of a pipeline licence in respect of a pipeline is a reference to the grant of a pipeline licence in respect of that pipeline to commence on the day after the date of expiration of the first-mentioned pipeline licence or on the day after the date of expiration of the pipeline licence granted upon a previous renewal of the first-mentioned pipeline licence.

(9) In this Act, a reference to a pipeline includes a reference to a part of a pipeline.

(10) In this Act, a reference to a permit, lease, licence, pipeline licence, or access authority is a reference to the permit, lease, licence, pipeline licence, or access authority as varied for the time being under this Act.

(11) A power conferred by this Act to make, grant, or issue an instrument or a notice shall be construed as including a power, exercisable in the same manner and subject to the same conditions (if any), to revoke or vary the instrument or notice.

(12)

(13)

(14)

(15)

(16) For the purposes of this Act –

(a) the space above or below the adjacent area shall be deemed to be in that area; and

(b) the space above or below an area that is part of the adjacent area shall be deemed to be in that part.

4. Construction of Act

(1) This Act shall be construed as intended to operate, and as operating, to the full extent of the legislative powers of the State (any presumption to the contrary notwithstanding) but subject to, and so as not to exceed, the limits of those powers to the intent that where any provision of this Act would, but for this subsection, be construed as being in excess of those powers, it shall nevertheless be a valid enactment to the extent to which it is not in excess of those powers.

(2) No other provision of this Act shall be read or construed so as to limit, or as limiting, the operation of subsection (1).

5. Application of Act

This Act applies to all natural persons, whether Australian citizens or not, and whether resident in Tasmania or not, and to all corporations, whether incorporated or carrying on business in Tasmania or not.

6. Petroleum pool extending into two licence areas

(1) Where –

(a) a well-head is situated in a licence area; and

(b) the well from that well-head is inclined so as to enter a petroleum pool, being a pool that does not extend to that licence area, at a place within an adjoining licence area of the same licensee –

any petroleum recovered through that well shall be deemed to have been recovered in that adjoining licence area under the licence in respect of that area.

(2) Where –

(a) a petroleum pool is partly in one licence area and partly in an adjoining licence area of the same licensee; and

(b) petroleum is recovered from that pool through a well or wells in one or both of the licence areas –

there shall be deemed to have been recovered in each of the licence areas, under the licence in respect of that area, such proportion of all petroleum so recovered as may reasonably be treated as being derived from that area, having regard to the nature and probable extent of the pool, and the respective proportions shall be determined in accordance with subsection (3) .

(3) The proportions to be determined for the purposes of subsection (2) may be determined by agreement between the licensee and the Minister or, in the absence of agreement, may be determined by the Supreme Court on the application of the licensee or the Minister.

(4) Where –

(a) a petroleum pool is partly in a licence area and partly in another area in which the licensee has authority under the Commonwealth Act to explore for, or recover, petroleum; and

(b) petroleum is recovered from that pool through a well or wells in the licence area, the other area or both –

there shall be deemed to have been recovered in the licence area such proportion of all petroleum so recovered as may reasonably be treated as being derived from that area, having regard to the nature and probable extent of the pool, and that proportion shall be determined in accordance with subsection (5) .

(5) The proportion to be determined for the purposes of subsection (4) may be determined –

(a) by agreement between the licensee, the Joint Authority, and the Minister; or

(b) in the absence of agreement, by the Supreme Court on the application of the licensee, the Joint Authority, or the Minister.

(6) Where –

(a) a petroleum pool is partly in a licence area and partly in another area in which the licensee has authority under a corresponding law to explore for or recover petroleum; and

(b) petroleum is recovered from that pool through a well or wells in the licence area, the other area or both –

there shall be deemed to have been recovered in the licence area such proportion of all petroleum so recovered as may reasonably be treated as being derived from that area, having regard to the nature and probable extent of the pool, and that proportion shall be determined in accordance with subsection (7) .

(7) The proportion to be determined for the purposes of subsection (6) may be determined –

(a) by agreement between the licensee, the Minister, and the Minister of the other State administering the corresponding law; or

(b) in the absence of agreement, by the Supreme Court on the application of any of those persons.

(8) Where –

- (a) a petroleum pool is partly in a licence area and partly in another area, being an area which is outside the adjacent area and in which the licensee has, under the Commonwealth Act or a corresponding law, authority to explore for, or recover, petroleum; and
- (b) petroleum is recovered from that pool; and
- (c) the Supreme Court of another State makes a determination, under the Commonwealth Act or a corresponding law, of the proportion of the petroleum recovered from that pool that is, for the purposes of the Commonwealth Act or the corresponding law, to be deemed to be recovered from the other area –

the Supreme Court of Tasmania shall not make a determination under this section that would be inconsistent with the determination of the Supreme Court of the other State.

(9) Where –

- (a) a petroleum pool is partly in a licence area and partly in another area, whether in the adjacent area or not, in respect of which another person has authority, whether under this Act, the Commonwealth Act, or a corresponding law, to explore for or recover petroleum; and
- (b) a unit development agreement in accordance with section 58 is in force between the licensee and that other person; and
- (c) petroleum is recovered from that pool through a well or wells in the licence area, the other area, or both –

there shall be deemed to have been recovered in the licence area such proportion of all petroleum so recovered as is specified in, or determined in accordance with, the agreement.

(10) In this section, a reference to a licence, licensee, or a licence area shall be read as including a reference to a permit and a lease, a permittee and a lessee, or a permit area and a lease area.

7. Points, &c., to be ascertained by reference to Australian Geodetic Datum

(1) Where, for the purposes of this Act, or for the purposes of an instrument under this Act, it is necessary to determine the position on the surface of the Earth of a point, line, or area, that position shall be determined by reference to a spheroid having its centre at the centre of the Earth and a major (equatorial) radius of 6 378 160 metres and a flattening of

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and by reference to the position of the Johnston Geodetic Station in the Northern Territory of Australia.

(2) That station shall be taken to be situated at 133 degrees, 12 minutes and 30·0771 seconds of East Longitude and at 25 degrees, 56 minutes and 54·5515 seconds of South Latitude and to have a ground level of 571·2 metres above the spheroid referred to in subsection (1).

Division 2 - Administration of the Commonwealth adjacent area

8. Interpretation

In this Division, unless the contrary intention appears –

Commonwealth Act means, as the context requires –

- (a) the Petroleum (Submerged Lands) Act 1967 of the Commonwealth; or
- (b) the Petroleum (Submerged Lands) (Registration Fees) Act 1967 of the Commonwealth; or
- (c) the Petroleum (Submerged Lands) Fees Act 1994 of the Commonwealth –

or, if an Act specified in paragraph (a), (b) or (c) is repealed and re-enacted, with or without modification, the Act of the Commonwealth that re-enacts it, as amended from time to time;

Commonwealth adjacent area means –

(a) if the Petroleum (Submerged Lands) Act 1967 of the Commonwealth is in force, the adjacent area in respect of Tasmania determined in accordance with section 5A of that Act; or

(b) if the Petroleum (Submerged Lands) Act 1967 of the Commonwealth has been repealed and been re-enacted (with or without modifications), the area that, under the re-enacted Act of the Commonwealth, corresponds to the adjacent area in respect of Tasmania determined in accordance with section 5A of the repealed Act.

9. Minister as member of Joint Authority

(1) The Minister may exercise any power which the Commonwealth Act is expressed to authorize him to exercise as a member of the Joint Authority.

(2) The Minister shall perform any function or duty which the Commonwealth Act is expressed to require him to perform as a member of the Joint Authority.

10. Minister as Designated Authority

The Minister is authorized to perform the functions and duties and exercise the powers which the Commonwealth Act is expressed to require or empower the Designated Authority in respect of the Commonwealth adjacent area to perform or exercise.

11. Delegations under Commonwealth Act

Where, in the exercise of a power which the Commonwealth Act is expressed to confer upon the Designated Authority in respect of the Commonwealth adjacent area, the Minister delegates a power to a person who is an officer of the Public Service or who holds any office in the service of this State, that person may exercise the power.

12. Officers of Public Service performing functions under Commonwealth Act

A State Service officer or State Service employee is to perform any function or duty which the Minister, as the Designated Authority in respect of the Commonwealth adjacent area, or as a member of the Joint Authority, requires him to perform in relation to the Commonwealth Act .

PART II - Application of Laws

13. Power to make regulations providing for non-application or modification of applied provisions

(1) In this section –

modification includes the omission or insertion of a provision or the substitution of a provision for another provision.

(2) Regulations under this Act may provide that such of the applied provisions as are specified in the regulations –

(a) do not apply; or

(b) apply with such modifications as are specified in the regulations –

to or in relation to an act, omission, matter, circumstance, or thing touching, concerning, arising out of, or connected with, the exploration of the sea-bed or subsoil of the adjacent area for petroleum or the exploitation of the petroleum resources of that sea-bed or subsoil.

(3) Without limiting the operation of subsection (2), regulations under this Act may provide that such of the applied provisions as are specified in the regulations –

(a) do not apply; or

(b) apply with such modifications as are specified in the regulations –

to or in relation to –

(c) any –

(i) act or omission that takes in, on, above, below, or in the vicinity of; or

(ii) matter, circumstance, or thing that exists or arises with respect to or in connection with –

a vessel, aircraft, structure or installation, or equipment, or other property, that is in the adjacent area for any reason touching, concerning, arising out of, or connected with, the exploration of the sea-bed or subsoil of the adjacent area for petroleum or the exploitation of the natural resources, being petroleum, of that sea-bed or subsoil;

(d) a person who –

(i) is in the adjacent area for a reason of the kind referred to in paragraph (c) ; or

(ii) is in, on, above, below, or in the vicinity of, a vessel, aircraft, structure or installation, or equipment, or other property that is in the adjacent area for a reason of the kind referred to in paragraph (a) ; or

(e) a person in respect of his carrying on any operation or doing any work in the adjacent area for a reason of the kind referred to in paragraph (c) .

(4) Where any regulations are made as provided in subsection (2) or (3), the applied provisions shall have effect only to the extent that they are not excluded by, or, as the case may be, shall have effect subject to and in accordance with the modifications specified in, those regulations.

14. Jurisdiction of State courts

The jurisdiction with which the several courts of this State are invested by section 5 of the Coastal and Other Waters (Application of State Laws) Act 1982 extends to all matters arising under any modification of the applied provisions effected by regulations under section 13 .

14A. Disapplication of State occupational health and safety laws

(1) The prescribed occupational health and safety laws do not apply in relation to –

(a) a facility; or

(b) a person at a facility; or

(c) a person near a facility, to the extent to which the person is affected by –

(i) a facility; or

(ii) activities that take place at a facility; or

(d) activities that take place at a facility.

(2) A reference in subsection (1) to the prescribed occupational health and safety laws is a reference to such of the provisions of those laws that, but for subsection (1), would apply in the adjacent area by virtue of the Coastal and Other Waters (Application of State Laws) Act 1982 or the cooperative scheme within the meaning of the Crimes at Sea Act 1999 .

(3) In this section –

facility has the same meaning as in Schedule 5 ;

prescribed occupational health and safety laws mean any laws of the State relating to occupational health and safety (whether or not they also relate to other matters) that are prescribed by the regulations for the purposes of this section.

(4) This section applies despite anything to the contrary in the Coastal and Other Waters (Application of State Laws) Act 1982 or the Crimes at Sea Act 1999 .

PART III - Mining for Petroleum

Division 1 - Preliminary

15. Delegation

- (1) The Minister may, either generally or as otherwise provided by the instrument of delegation, by writing signed by him, delegate to a person any of his functions, powers, or duties under this Act, other than this power of delegation.
- (2) A function, power, or duty as so delegated, when performed or exercised by the delegate, shall, for the purposes of this Act or the regulations, be deemed to have been performed or exercised by the Minister.
- (3) A delegation under this section may be expressed as a delegation to the person for the time being holding, or performing the duties of, a specified office under the Commonwealth, a State, or a Territory of the Commonwealth.
- (4) A delegation under this section made at any time by a person who is at that time the Minister continues in force notwithstanding that at some subsequent time a different person is the Minister or there is no person who is the Minister, but such a delegation may be revoked or varied by any person who is for the time being the Minister.
- (5) A delegation under this section does not prevent the exercise of a power by the Minister.
- (6) The Minister may, by writing signed by him, vary or revoke a delegation made under this section.
- (7) A copy of each instrument making, varying, or revoking a delegation shall be published in the *Gazette*.

16. Graticulation of Earth's surface and constitution of blocks

- (1) For the purposes of this Act, the surface of the Earth shall be deemed to be divided –
 - (a) by the meridian of Greenwich and by meridians that are at a distance from that meridian of 5 minutes, or a multiple of 5 minutes, of longitude; and
 - (b) by the equator and by parallels of latitude that are at a distance from the equator of five minutes, or a multiple of 5 minutes, of latitude –
into sections, each of which is bounded –
 - (c) by portions of 2 of those meridians that are at a distance from each other of 5 minutes of longitude; and
 - (d) by portions of 2 of those parallels of latitude that are at a distance from each other of 5 minutes of latitude.
- (2) For the purposes of this Act –
 - (a) a graticular section that is wholly within the adjacent area constitutes a block; and
 - (b) if a part only of a graticular section is, or parts only of a graticular section are, within the adjacent area, the area of that part, or of those parts, constitutes a block.
- (3) In this Act –
 - (a) a reference to a block that is constituted by a graticular section includes a reference to a block that is constituted by the area of a part only, or by the areas of parts only, of a graticular section; and
 - (b) a reference to a graticular section that constitutes a block includes a reference to a graticular section part only of which constitutes, or parts only of which constitute, a block.

17. Reservation of blocks

- (1) The Minister may, by notice published in the *Gazette*, declare that a block specified in the notice (not being a block in respect of which a permit, lease, or licence is in force or over or in which there is a pipeline) shall not

be the subject of a permit, lease, licence, special prospecting authority or access authority and that a pipeline licence shall not be granted in respect of a pipeline over or in that block.

(2) While a declaration under subsection (1) remains in force in respect of a block, a permit, lease, licence, special prospecting authority, or access authority shall not be granted in respect of that block and a pipeline licence shall not be granted in respect of a pipeline over or in that block.

Division 2 - Exploration permits for petroleum

18. Exploration for petroleum

A person shall not explore for petroleum in the adjacent area, except –

- (a) under and in accordance with a permit; or
- (b) as otherwise permitted by this Part.

Penalty: Fine not exceeding 500 penalty units or imprisonment for a term not exceeding 5 years, or both.

19. Advertisement of blocks

(1) The Minister may, by notice published in the *Gazette* –

- (a) invite applications for the grant of a permit in respect of the block or blocks specified in the notice; and
- (b) specify a period within which applications may be made.

(2) The Minister may, for reasons that he thinks sufficient, in a notice referred to in subsection (1), direct that subsection (2) or (3) of section 20 does not apply, or that neither of those subsections do apply, to or in relation to the applications.

(3) Where a notice is published under subsection (1) and –

- (a) no application is made within the period specified in the notice; or
- (b) after consideration of the applicants, a permit –
 - (i) is not granted on any of those applications; or
 - (ii) is granted in respect of some but not all of the blocks specified in the notice –

the Minister may cause a notification accordingly to be published in the *Gazette* and may, at any subsequent time, receive an application for the grant of a permit in respect of some or all of the blocks specified in the notice, not being blocks in respect of which a permit was granted.

(4) The Minister shall not receive an application under subsection (3) during any period during which an application may be made in pursuance of an invitation under subsection (1).

(5) The Minister may, for reasons that he thinks sufficient, upon request in writing served on him, by instrument in writing direct that subsection (2) or (3) of section 21 does not apply, or that neither of those subsections do apply, to or in relation to an application made under subsection (3).

20. Application for permit

(1) An application under section 19 –

- (a) shall be in accordance with an approved form; and
- (b) shall be made in an approved manner; and
- (c) shall be in respect of not more than 400 blocks; and
- (d) shall be accompanied by particulars of –

- (i) the proposals of the applicant for work and expenditure in respect of the blocks specified in the application; and

- (ii) the technical qualifications of the applicant and of his employees; and
 - (iii) the technical advice available to the applicant; and
 - (iv) the financial resources available to the applicant; and
 - (e) may set out any other matters that the applicant wishes the Minister to consider; and
 - (f) shall be accompanied by a fee of \$3 000.
- (2) The number of blocks specified in the application –
- (a) if 16 or more blocks are available – shall not be less than 16; or
 - (b) if less than 16 blocks are available – shall be the number available.
- (3) The blocks specified in the application shall be blocks that are constituted by graticular sections that –
- (a) constitute a single area; and
 - (b) are such that each graticular section in that area has a side in common with at least one other graticular section in that area.
- (4) The Minister may, at any time, by instrument in writing served on the applicant, require him to furnish, within the time specified in the notice, further information in writing in connection with his application.
- (5) Where a permit is not granted, an amount equal to nine-tenths of the fee paid in accordance with subsection (1) shall be refunded to the applicant.

21. Grant or refusal of permit in relation to application

- (1) Where an application has been made under section 19 , the Minister may –
- (a) by instrument in writing served on the applicant, inform the applicant –
 - (i) that he is prepared to grant to the applicant a permit in respect of the block or blocks specified in the instrument; and
 - (ii) that the applicant will be required to lodge a security for compliance with the conditions to which the permit, if granted, will from time to time be subject and with the provisions of this Part and of the regulations; or
 - (b) refuse to grant a permit to the applicant.
- (2) An instrument under subsection (1) shall contain –
- (a) a summary of the conditions subject to which the permit is to be granted; and
 - (b) a statement to the effect that the application will lapse if the applicant does not make a request under subsection (3) in respect of the grant of the permit and lodge with the Minister the security referred to in the instrument.
- (3) An applicant on whom there has been served an instrument under subsection (1) may, within a period of 1 month after the date of service of the instrument on him, or within such further period, not exceeding 1 month, as the Minister, on application in writing served on him before the expiration of the first-mentioned period of 1 month, allows –
- (a) by instrument in writing served on the Minister, request the Minister to grant to him the permit; and
 - (b) lodge with the Minister the security –
- referred to in the first-mentioned instrument.
- (4) Where an applicant on whom there has been served an instrument under subsection (1) –
- (a) has made a request under subsection (3) ; and
 - (b) has lodged with the Minister the security referred to in the instrument –

within the period applicable under subsection (3) , the Minister shall grant to him an exploration permit for petroleum in respect of the block or blocks specified in the instrument.

(5) Where an applicant on whom there has been served an instrument under subsection (1) –

(a) has not made a request under subsection (3) ; or

(b) has not lodged with the Minister the security referred to in the instrument –

within the period applicable under subsection (3) , the application lapses upon the expiration of that period.

22. Application for permit in respect of surrendered, &c., blocks

(1) Where –

(a) a lease is surrendered, cancelled, or determined as to a block or blocks; or

(aa) a licence is surrendered or cancelled as to a block or blocks; or

(b) a permit is surrendered, cancelled, or determined as to a block or blocks and, at the time of the surrender, cancellation, or determination, the block was, or was included in, or the blocks were, or were included in, a location –

the Minister may, at any subsequent time, by notice published in the *Gazette*, invite applications for the grant of a permit in respect of that block or such of those blocks as are specified in the instrument and specify a period within which applications may be made.

(2) Where a notice is published under subsection (1) and –

(a) no application is made within the period specified in the notice; or

(b) after consideration of the applications, a permit is not granted –

in respect of the block or blocks specified in the notice, the Minister may cause a further notice to be published in the *Gazette* to the effect that no such application has been made or, as the case may be, that no such permit has been granted and may, at any subsequent time and without invitation under section 19 (1) , receive an application for the grant of a permit in respect of the block specified in the notice or, if more than one block was specified in the notice, in respect of one or more of the blocks so specified.

(3) The Minister shall not receive an application under subsection (2) , during any period during which an application may be made pursuant to an invitation under subsection (1) or section 19 (1) .

(4) An application under this section –

(a) shall be in accordance with an approved form; and

(b) shall be made in an approved manner; and

(c) shall be accompanied by the particulars referred to in section 20 (1) (d) ; and

(d) shall specify an amount that the applicant is prepared to pay to the Minister, in addition to the fee referred to in section 23 (1) (a) , in respect of the grant of a permit to him on the application; and

(e) may set out any other matters that the applicant wishes the Minister to consider.

(5) The Minister may, at any time, by instrument in writing served on the applicant, require him to furnish, within the time specified in the instrument, further information in writing in connection with his application.

23. Application fee, &c.

(1) An application under section 22 shall be accompanied by –

(a) a fee of \$3 000; and

(b) a deposit of 10 per cent of the amount specified in the application under section 22 (4) (d) .

(2) Where a permit is not granted on the application –

(a) an amount equal to nine-tenths of the fee paid in accordance with subsection (1) ; and

(b) subject to subsection (3) , the amount of the deposit –
shall be refunded to the applicant.

(3) Where an applicant on whom there has been served an instrument under section 24 does not request the Minister in accordance with section 25 to grant to him the permit referred to in the instrument, the deposit shall not, unless the Minister otherwise determines, be refunded to the applicant.

24. Consideration of application

(1) Where, at the expiration of the period specified in a notice published under section 22 (1) , only one application has been made under that subsection in respect of the block or blocks specified in the notice, the Minister may reject the application or may, by instrument in writing served on the applicant, inform the applicant that he is prepared to grant to him a permit in respect of that block or those blocks.

(2) Where, at the expiration of the period specified in a notice published under section 22 (1) , 2 or more applications have been made under that subsection in respect of the block or blocks specified in the notice, the Minister may reject any or all of the applications and, if he does not reject all the applications, may –

(a) if only one application remains unrejected – by instrument in writing served on the applicant; or

(b) if 2 or more applications remain unrejected – by instrument in writing served on the applicant, or on one of the applicants, whose application has not been rejected and who has specified as the amount that he is prepared to pay in respect of the grant of a permit to him an amount that is not less than the amount specified by any other applicant whose application has not been rejected –

inform him that he is prepared to grant to him a permit in respect of that block or those blocks.

(3) Where an application is made under section 22 (2) , the Minister may reject the application or may, by instrument in writing served on the applicant, inform the applicant that he is prepared to grant to him a permit in respect of the block or blocks specified in the application.

(4) Where the Minister serves on an applicant an instrument under this section, he shall, by the instrument, inform the applicant that he will be required to lodge a security for compliance with the conditions to which the permit, if granted, will from time to time be subject and with the provisions of this Part and of the regulations.

(5) An instrument under this section shall contain –

(a) a summary of the conditions subject to which the permit is to be granted; and

(b) a statement to the effect that the application will lapse if the applicant does not –

(i) make a request under section 25 (1) ; and

(ii) pay the balance of the amount to be paid in respect of the grant of the permit to him or enter into an agreement under section 109 in respect of that balance; and

(iii) lodge with the Minister the security referred to in the instrument.

25. Request by applicant for grant of permit in respect of advertised blocks

(1) An applicant on whom there has been served an instrument under section 24 may, within a period of 3 months after the date of service of the instrument on him, or within such further period, not exceeding 3 months, as the Minister, on application in writing served on him before the expiration of the first-mentioned period of 3 months, allows –

(a) by instrument in writing served on the Minister, request the Minister to grant to him the permit referred to in the first-mentioned instrument; and

(b) pay the balance of the amount to be paid in respect of the grant of the permit to him or enter into an agreement under section 109 in respect of that balance; and

(c) lodge with the Minister the security referred to in the first-mentioned instrument.

(2) Where an applicant on whom there has been served an instrument under section 24 –

- (a) has not made a request under subsection (1) ; or
- (b) has not paid the balance of the amount to be paid in respect of the grant of the permit to him or entered into an agreement under section 109 in respect of that balance; or
- (c) has not lodged with the Minister the security referred to in the instrument –

within the period applicable under subsection (1) , the application lapses on the expiration of that period.

(3) Where the application of an applicant on whom an instrument has been served under section 24 (2) lapses as provided by subsection (2) of this section, section 25 (2) applies in respect of the application or applications, if any, then remaining unrejected.

26. Grant of permit on request

Where a person on whom an instrument has been served under section 24 –

- (a) has made a request under section 25 (1) ; and
- (b) has paid the balance of the amount to be paid in respect of the grant of a permit to him or has entered into an agreement under section 109 in respect of that balance; and
- (c) has lodged with the Minister the security referred to in the instrument –

within the period applicable under section 25 (1) , the Minister shall grant to that person an exploration permit for petroleum in respect of the block or blocks specified in the instrument.

27. Rights conferred by permit

A permit, while it remains in force, authorizes the permittee, subject to this Act and in accordance with the conditions to which the permit is subject, to explore for petroleum and to carry on such operations and execute such works as are necessary for that purpose in the permit area.

28. Term of permit

Subject to this Part, a permit remains in force –

- (a) in the case of a permit granted otherwise than by way of the renewal of a permit – for a period of 6 years commencing on the day on which the permit is granted or, if a later day is specified in the permit as being the day on which the permit comes into force, on that later day; and
- (b) in the case of a permit granted by way of the renewal of a permit – for a period of 5 years commencing on the day on which the permit is granted or, if a later day is specified in the permit as being the day on which the permit comes into force, on that later day.

29. Application for renewal of permit

(1) Subject to section 30 , a permittee may, from time to time, make an application to the Minister for renewal of the permit in respect of such of the blocks the subject of the permit as are specified in the application.

(2) An application for the renewal of the permit –

- (a) shall be in accordance with an approved form; and
- (b) subject to subsection (3) shall be made in an approved manner not less than 3 months before the date of expiration of the permit; and
- (c) shall be accompanied by a fee of \$300.

(3) The Minister may, for reasons that he thinks sufficient, receive an application for the renewal of the permit less than 3 months before, but not in any case after, the date of expiration of the permit.

30. Application for renewal of permit to be in respect of reduced area

(1) Subject to subsection (3) , the number of blocks in respect of which an application for the renewal of a permit may be made shall not exceed the number calculated as follows:

- (a) where the number of blocks in respect of which the permit is in force is a number that is divisible by 2 without remainder – one-half of that number; or
 - (b) where the number of blocks in respect of which the permit is in force is a number that is 1 less or 1 more than a number that is divisible by 4 without remainder – one-half of that last-mentioned number.
- (2) A block that is, or is included in, a location and in respect of which the permit is in force shall not be regarded as a block in respect of which the permit is in force for the purpose of making a calculation under subsection (1) .
- (3) An application for the renewal of a permit may include, in addition to the blocks referred to in subsection (1) , a block that is, or is included in, a location and in respect of which the permit is in force, or 2 or more such blocks.
- (4) The blocks specified in an application for the renewal of a permit shall be blocks that are constituted by or are within graticular sections that –
- (a) constitute a single area or a number of discrete areas; and
 - (b) are such that each graticular section in the area, or in each area, has a side in common with at least one other graticular section in that area.
- (5) Where the number of blocks in respect of which an application for the renewal of a permit may be made is 16 or more, each area constituted by blocks in respect of which the application is made shall be constituted by not less than 16 blocks.
- (6) Where the maximum number of blocks in respect of which an application for the renewal of a permit may be made in accordance with the preceding provisions of this section is less than 16, the Minister may, by instrument in writing served on the permittee –
- (a) inform the permittee that the number of blocks in respect of which the application may be made is such number, not exceeding 16, as is specified in the instrument; and
 - (b) give such directions as he thinks fit concerning the blocks in respect of which the application may be made.
- (7) The Minister may, for reasons that he thinks sufficient, by instrument in writing –
- (a) direct that subsections (4) and (5) do not apply to or in relation to a proposed application for the renewal of a permit; and
 - (b) give such directions as he thinks fit concerning the blocks in respect of which that application may be made.

31. Grant or refusal of renewal of permit

- (1) Where a permittee makes an application for the renewal of a permit, the Minister –
- (a) shall, if the permittee has complied with the conditions to which the permit is subject and with the provisions of this Part and of the regulations; or
 - (b) may, if the permittee has not so complied and the Minister is satisfied that, although the permittee has not so complied, special circumstances exist that justify the granting of the renewal of the permit –
inform the permittee, by instrument in writing served on the permittee –
 - (c) that he is prepared to grant to him the renewal of the permit; and
 - (d) that he will be required to lodge a security for compliance with the conditions to which the permit, if the renewal is granted, will from time to time be subject and with the provisions of this Part and of the regulations.
- (2) If the permittee has not complied with the conditions to which the permit is subject and with the provisions of this Part and of the regulations, and if the Minister is not satisfied that special circumstances exist that justify

the granting of the renewal of the permit, the Minister shall, subject to subsection (3) , by instrument in writing served on the permittee, refuse to grant the renewal of the permit.

(3) The Minister shall not refuse to grant the renewal of the permit unless –

(a) he has, by instrument in writing served on the permittee, given not less than one month's notice of his intention to refuse to grant the renewal of the permit; and

(b) he has served a copy of the instrument on such other persons, if any, as he thinks fit; and

(c) he has, in the instrument –

(i) given particulars of the reasons for the intention; and

(ii) specified a date on or before which the permittee or a person on whom a copy of the instrument is served may, by instrument in writing served on the Minister, submit any matters that he wishes the Minister to consider; and

(d) he has taken into account any matters so submitted to him on or before the specified date by the permittee or by a person on whom a copy of the first-mentioned instrument has been served.

(4) An instrument referred to in subsection (1) shall contain –

(a) a summary of the conditions to which the permit, on the grant of the renewal, is to be subject; and

(b) a statement to the effect that the application will lapse if the permittee does not make a request under subsection (5) and lodge with the Minister the security referred to in the instrument.

(5) A permittee on whom there has been served an instrument under subsection (1) may, within a period of one month after the date of service of the instrument on him –

(a) by instrument in writing served on the Minister request the Minister to grant to him the renewal of the permit; and

(b) lodge with the Minister the security referred to in the first-mentioned instrument.

(6) Where a permittee on whom there has been served an instrument under subsection (1) –

(a) has made a request under subsection (5) ; and

(b) has lodged with the Minister the security referred to in the instrument –

within the period referred to in subsection (5) , the Minister shall grant to him the renewal of the permit.

(7) Where a permittee on whom there has been served an instrument under subsection (1) –

(a) has not made a request under subsection (5) ; or

(b) has not lodged with the Minister the security referred to in the instrument –

within the period referred to in subsection (5) , the application lapses upon the expiration of that period.

(8) Where –

(a) an application for the renewal of a permit has been made; and

(b) the permit expires –

(i) before the Minister grants, or refuses to grant, the renewal of the permit; or

(ii) before the application lapses as provided by subsection (7) –

the permit shall be deemed to continue in force in all respects –

(c) until the Minister grants, or refuses to grant, the renewal of the permit; or

(d) until the application so lapses –

whichever first happens.

32. Conditions of permit

- (1) A permit may be granted subject to such conditions as the Minister thinks fit and specifies in the permit.
- (2) The conditions referred to in subsection (1) may include –
 - (a) conditions with respect to –
 - (i) work to be carried out by the permittee in or in relation to the permit area during the term of the permit; or
 - (ii) amounts to be expended by the permittee in the carrying out of any such work –or with respect to both those matters; and
 - (b) conditions requiring the permittee to comply with directions given in accordance with the permit concerning those matters.

33. Discovery of petroleum to be notified

- (1) Where petroleum is discovered in a permit area, the permittee –
 - (a) shall forthwith inform the Minister of the discovery; and
 - (b) shall, within a period of 3 days after the date of the discovery, furnish to the Minister particulars in writing of the discovery.
- (2) Where petroleum is discovered in a permit area, the Minister may, from time to time, by instrument in writing served on the permittee, direct the permittee to furnish to him, within the period specified in the instrument, particulars in writing of any one or more of the following:
 - (a) the chemical composition and physical properties of the petroleum;
 - (b) the nature of the subsoil in which the petroleum occurs;
 - (c) any other matters relating to the discovery that are specified by the Minister in the instrument.
- (3) If a person to whom a direction is given under subsection (2) fails to comply with the direction, he is guilty of an offence and is liable on conviction to a fine not exceeding 100 penalty units.

34. Directions by Minister on discovery of petroleum

- (1) Where petroleum is discovered in a permit area, the Minister may, by instrument in writing served on the permittee, direct the permittee to do, within the period specified in the instrument, such things as the Minister thinks necessary and specifies in the instrument to determine the chemical composition and physical properties of that petroleum and to determine the quantity of petroleum in the petroleum pool to which the discovery relates or, if part only of that petroleum pool is within the permit area, in such part of that petroleum pool as is within the permit area.
- (2) If a person to whom a direction is given under subsection (1) fails to comply with the direction, he is guilty of an offence and is liable on conviction to a fine not exceeding 100 penalty units.

35. Nomination of block for purposes of declaring location

- (1) Where a permit is in force in respect of a discovery block (not being a block that is, or is included in, a location) the permittee –
 - (a) may; or
 - (b) shall, if required to do so by the Minister by instrument in writing served on the permittee –by instrument in writing served on the Minister nominate a block in respect of which the permit is in force for the purposes of the making of a declaration under section 36 .
- (2) Where a permittee who has been required, by instrument in writing served on him under subsection (1) , to nominate a block does not, within a period of 3 months after the date of service of the instrument on him, or within such further period as the Minister, on application in writing served on him before the expiration of that period of 3 months, allows, nominate the block, the Minister may by instrument in writing served on the permittee, nominate the block.

(3) Where a permittee or the Minister nominates a block under this section, he shall specify in the instrument of nomination a discovery block to form part of the location to be declared under section 36 , but this subsection does not prevent other discovery blocks in the permit area forming part of the location.

(4) A block shall not be nominated under subsection (1) or (2) –

(a) if it is, or is included in, a location; or

(b) if it is such that, if the block were so nominated and the declaration under section 36 were made, the discovery block specified in the instrument of nomination would not form part of the location.

(5) Where a discovery block in a permit area immediately adjoins another discovery block and that other discovery block –

(a) is a block –

(i) in respect of which the permit is in force;

(ii) that is, or is included in, a location; and

(iii) that was specified under subsection (3) in relation to the declaration of that location; or

(b) is a block –

(i) that was specified under subsection (3) in relation to the declaration of a location; and

(ii) in respect of which the permit has ceased to be in force by reason of the operation of section 37B (7) or 43 (5) –

the permittee shall not, without the consent of the Minister given by instrument in writing, specify the first-mentioned discovery block under subsection (3) .

(6) The Minister may, for reasons that he thinks sufficient, refuse to give his consent under subsection (5) .

(7) In this section –

discovery block means a block in which petroleum has been discovered.

36. Declaration of location

(1) Where a permittee or the Minister has nominated a block under section 35 , the Minister shall, by instrument published in the *Gazette*, declare –

(a) that block; and

(b) such of the blocks that immediately adjoin that block as are blocks in respect of which the permit is in force and are not included in a location –

to be a location for the purposes of this Part.

(2) Where the registered holder of a permit that is in force in respect of a block or blocks declared under subsection (1) to be a location, by instrument in writing served on the Minister, requests that, for the reasons specified in the instrument, the declaration be revoked in respect of that block or one or more of those blocks, the Minister may, if he is of the opinion that those reasons are sufficient to justify his doing so, by instrument published in the *Gazette*, revoke the declaration in the manner requested.

37. Immediately adjoining blocks

For the purposes of sections 35 and 36 , a block immediately adjoins another block if the graticular section that constitutes or includes that block and the graticular section that constitutes or includes that other block –

(a) have a side in common; or

(b) are adjoined together at one point only.

Division 2A - Retention leases for petroleum

37A. Application by permittee for lease

- (1) A permittee whose permit is in force in respect of a block that constitutes, or the blocks that constitute, a location may, within the application period, make an application to the Minister for the grant of a lease in respect of that block, or in respect of one or more of those blocks, as the case may be.
- (2) An application under subsection (1) –
 - (a) shall be in accordance with an approved form; and
 - (b) shall be made in an approved manner; and
 - (c) shall be accompanied by particulars of –
 - (i) the proposals of the applicant for work and expenditure in respect of the area comprised in the blocks specified in the application; and
 - (ii) the commercial viability of the recovery of petroleum from the area comprised in the blocks specified in the application at the time of the application, and particulars of the possible future commercial viability of the recovery of petroleum from that area; and
 - (d) may set out any other matters that the applicant wishes to be considered; and
 - (e) shall be accompanied by a fee of \$600.
- (3) The Minister may, at any time, by instrument in writing served on the applicant, require the applicant to furnish, within the time specified in the instrument, further information in writing in connection with the application.
- (4) The application period in respect of an application under this section by a permittee is –
 - (a) the period of 2 years after the date on which the block that constitutes the location concerned was, or the blocks that constitute the location concerned were, declared to be a location; or
 - (b) such other period, not less than 2 years or more than 4 years after that date, as the Minister on application in writing by the permittee, served on the Minister before the end of the first-mentioned period of 2 years, allows.

37B. Grant or refusal of lease in relation to application

- (1) Where –
 - (a) an application has been made under section 37A ; and
 - (b) the applicant has furnished any further information as and when required by the Minister under section 37A (3) ; and
 - (c) the Minister is satisfied that recovery of petroleum from the area comprised in the blocks specified in the application –
 - (i) is not, at the time of the application, commercially viable; and
 - (ii) is likely to become commercially viable within the period of 15 years after that time –the Minister shall, by instrument in writing served on the applicant, inform the applicant –
 - (d) that he is prepared to grant to the applicant a lease in respect of the block or blocks specified in the application; and
 - (e) that the applicant will be required to lodge a security for compliance with the conditions to which the lease, if granted, will from time to time be subject and with the provisions of this Part and the regulations.
- (2) Where an application has been made under section 37A and –
 - (a) the applicant has not furnished any further information as and when required by the Minister under section 37A (3) ; or
 - (b) the Minister is not satisfied as to matters referred to in subsection (1) (c) in relation to the blocks specified in the application –

the Minister shall, by instrument in writing served on the applicant, refuse to grant a lease to the applicant.

(3) An instrument under subsection (1) shall contain –

- (a) a summary of the conditions subject to which the lease is to be granted; and
- (b) a statement to the effect that the application will lapse if the applicant does not make a request under subsection (4) in respect of the grant of the lease and lodge with the Minister the security referred to in the instrument.

(4) An applicant on whom there has been served an instrument under subsection (1) may, within a period of one month after the date of service of the instrument, or within such further period, not exceeding one month, as the Minister, on application in writing served on the Minister before the end of the first-mentioned period of one month, allows –

- (a) by instrument in writing served on the Minister, request the Minister to grant to the applicant the lease; and
- (b) lodge with the Minister the security referred to in the first-mentioned instrument.

(5) Where an applicant on whom there has been served an instrument under subsection (1) –

- (a) has made a request under subsection (4) ; and
- (b) has lodged with the Minister the security referred to in the instrument –

within the period applicable under subsection (4) , the Minister shall grant to the applicant a retention lease in respect of the block or blocks specified in the instrument.

(6) Where an applicant on whom there has been served an instrument under subsection (1) –

- (a) has not made a request under subsection (4) ; or
- (b) has not lodged with the Minister the security referred to in the instrument –

within the period applicable under subsection (4) , the application lapses upon the expiration of that period.

(7) On the day on which a lease granted under this section in respect of a block or blocks comes into force, the permit in respect of the block or blocks ceases to be in force in respect of those blocks.

37C. Rights conferred by lease

A lease, while it remains in force, authorizes the lessee, subject to this Act and the regulations and in accordance with the conditions to which the lease is subject, to explore for petroleum, and to carry on such operations and execute such works as are necessary for that purpose, in the lease area.

37D. Term of lease

Subject to this Part, a lease (whether granted by way of renewal of a lease or otherwise) remains in force for a period of 5 years commencing on the day on which the lease was granted or, if a later day is specified in the lease as being the day on which the lease is to come into force, on that later day.

37E. Notice of intention to cancel lease

(1) Where –

- (a) a lessee has been given a notice of the kind referred to in section 37H (3) (b) during the term of the lease and has carried out, and has informed the Minister of the results of, the re-evaluation required by the notice; and
- (b) the lessee has not made an application for the renewal of the lease; and
- (c) after consideration of the results of the re-evaluation referred to in paragraph (a) and such other matters as the Minister thinks fit, the Minister is of the opinion that recovery of petroleum from the lease area is commercially viable –

the Minister may serve on the lessee and on such other persons as the Minister thinks appropriate an instrument in writing –

(d) informing the lessee or the other person that the Minister has formed that opinion and that the Minister intends to cancel the lease; and

(e) stating that the lessee or the other person may serve an instrument in writing on the Minister within the period specified in the first-mentioned instrument, not being a period ending earlier than one month after the date of service of the first-mentioned instrument, setting out any matters that the lessee or the other person, as the case may be, wishes to be considered.

(2) Where –

(a) an instrument under subsection (1) is served on a lessee; and

(b) the lessee does not, within the period referred to in subsection (1) (e) , serve on the Minister an instrument setting out matters that the lessee wishes to be considered or the Minister after consideration of matters set out in an instrument served on the Minister by the lessee within that period, determines that the lease should be cancelled –

the Minister shall, by instrument in writing served on the lessee, cancel the lease.

(3) The cancellation of a lease under subsection (2) has effect –

(a) in a case to which paragraph (b) does not apply – at the end of the period of 12 months commencing on the date of service of the instrument of cancellation; or

(b) in a case where the lessee makes an application for a licence in respect of one or more of the blocks comprised in the lease within the period referred to in paragraph (a) – when the Minister grants, or refuses to grant, the licence or when the application lapses, whichever first happens.

(4) Where a lease is cancelled under subsection (2) , the lease shall be deemed to continue in force in all respects until the cancellation has effect in accordance with subsection (3) .

37F. Application for renewal of lease

(1) A lessee may, from time to time, make an application to the Minister for renewal of the lease.

(2) An application for the renewal of a lease –

(a) shall be in accordance with an approved form; and

(b) subject to subsection (3) , shall be made in an approved manner not less than 6 months or more than 12 months before the day on which the lease ceases to be in force; and

(c) shall be accompanied by particulars of –

(i) the proposals of the applicant for work and expenditure in respect of the lease area; and

(ii) particulars of the commercial viability of recovery of petroleum from the lease at the time of the application and particulars of the possible future commercial viability of recovery of petroleum from the lease area; and

(d) shall be accompanied by a fee of \$600.

(3) The Minister may, for reasons that the Minister thinks sufficient, receive an application for the renewal of the lease less than 6 months before, but not in any case after, the day on which the lease ceases to be in force.

(4) Where a lessee makes an application for the renewal of a lease, the Minister may, at any time, by instrument in writing served on the lessee, require the lessee to furnish, within the time specified in the instrument, further information in writing in connection with the application.

37G. Grant or refusal of renewal of lease

(1) Where –

(a) a lessee makes an application for the renewal of a lease; and

(b) the applicant has furnished any further information as and when required by the Minister under section 37F (4) ; and

(c) the Minister is satisfied that recovery of petroleum from the lease area –

(i) is not, at the time of the application, commercially viable; and

(ii) is likely to become commercially viable within the period of 15 years after that time –

the Minister –

(d) shall, if the lessee has complied with the conditions to which the lease is subject and with the provisions of this Part and of the regulations; or

(e) may, if the lessee has not so complied but the Minister is satisfied that special circumstances exist that justify the granting of the renewal of the lease –

inform the lessee, by instrument in writing served on the lessee, that he is prepared to grant to the lessee the renewal of the lease and that the lessee will be required to lodge a security for compliance with the conditions to which the lease, if the renewal is granted, will from time to time be subject and with the provisions of this Part and of the regulations.

(2) Subject to subsection (3) , where –

(a) a lessee makes an application for the renewal of a lease; and

(b) either –

(i) the applicant has not furnished any further information as and when required by the Minister under section 37F (4) ; or

(ii) the Minister is not satisfied as to the matters referred to in subsection (1) (c) ; or

(iii) the lessee has not complied with the conditions to which the lease is subject and with the provisions of this Part and of the regulations and the Minister is not satisfied that special circumstances exist that justify the granting of the renewal of the lease –

the Minister shall, by instrument in writing served on the lessee, refuse to grant the renewal of the lease.

(3) The Minister shall not refuse to grant the renewal of the lease unless –

(a) he has, by instrument in writing served on the lessee, given not less than one month's notice of his intention to refuse to grant the renewal of the lease; and

(b) he has served a copy of the instrument on such other persons, if any, as he thinks fit; and

(c) he has, in the instrument –

(i) given particulars of the reasons for the intention; and

(ii) specified a date on or before which the lessee or a person on whom a copy of the instrument is served may, by instrument in writing served on the Minister, submit any matters that the lessee wishes to be considered; and

(d) he has taken into account any matter so submitted on or before the specified date by the lessee or by a person on whom a copy of the first-mentioned instrument has been served.

(4) An instrument referred to in subsection (1) shall contain –

(a) a summary of the conditions to which the lease, on the grant of the renewal, is to be subject; and

(b) a statement to the effect that the application will lapse if the lessee does not make a request under subsection (6) and lodge with the Minister the security referred to in the instrument.

(5) An instrument under subsection (2) shall, where the Minister refuses to grant the renewal of a lease by reason only that the Minister is not satisfied as to the matter referred to in subsection (1) (c) (i) , contain a statement to the effect that the lessee may, within the period of 12 months after the date of service of the instrument, make an application for a licence in respect of one or more of the blocks comprised in the lease.

(6) A lessee on whom there has been served an instrument under subsection (1) may, within a period of one month after the date of service of the instrument on the lessee –

- (a) by instrument in writing served on the Minister, request the Minister to grant the lessee the renewal of the lease; and
- (b) lodge with the Minister the security referred to in the first-mentioned instrument.

(7) Where a lessee on whom there has been served an instrument under subsection (1) –

- (a) has made a request under subsection (6) ; and
- (b) has lodged with the Minister the security referred to in the instrument –

within the period referred to in subsection (6) , the Minister shall grant to the lessee the renewal of the lease.

(8) Where a lessee on whom there has been served an instrument under subsection (1) –

- (a) has not made a request under subsection (6) ; or
- (b) has not lodged with the Minister the security referred to in the instrument –

within the period referred to in subsection (6) , the application lapses upon the expiration of that period.

(9) Where –

- (a) an application for the renewal of a lease has been made; and
- (b) the lease expires –
 - (i) before the Minister grants, or refuses to grant, the renewal of the lease; or
 - (ii) before the application lapses as provided by subsection (8) –

the lease shall be deemed to continue in force in all respects –

- (c) until the Minister grants, or refuses to grant, the renewal of the lease; or
- (d) until the application so lapses –

whichever first happens.

(10) Where the Minister refuses to grant the renewal of a lease by reason only that the Minister is not satisfied as to the matter referred to in subsection (1) (c) (i) , the lease shall be deemed to continue in force in all respects –

- (a) in a case to which paragraph (b) does not apply – until 12 months after the date of service of the instrument under subsection (2) ; or
- (b) in a case where the lessee makes an application for a licence in respect of one or more of the blocks comprised in the lease within the period of 12 months after the date referred to in paragraph (a) – until the Minister grants, or refuses to grant, the licence or until the application lapses, whichever first happens.

37H. Conditions of lease

(1) A lease may be granted subject to such conditions as the Minister thinks fit and are specified in the lease.

(2) The conditions referred to in subsection (1) may include conditions with respect to work to be carried out by the lessee in or in relation to the lease area during the term of the lease, or amounts to be expended by the lessee in the carrying out of such work, or conditions with respect to both of those matters, including conditions requiring the lessee to comply with directions given in accordance with the lease concerning those matters.

(3) A lease shall be deemed to contain –

- (a) a condition that the lessee will comply with the provisions of Division 7 of Part III of this Act as in force from time to time; and

(b) a condition that the lessee will, within the period of 3 months after the receipt of a written notice from the Minister requesting the lessee to do so or within such further period as the Minister, on application in writing served on the Minister before the end of the first-mentioned period, allows, re-evaluate the commercial viability of petroleum production in the lease area (otherwise than by the drilling of wells) and inform the Minister in writing of the results of the re-evaluation.

(4) Where a lessee has complied with 2 notices of the kind referred to in subsection (3) (b) during the term of the lease, the Minister shall not give to the lessee during that term a further notice of that kind.

37J. Discovery of petroleum to be notified

(1) Where petroleum is discovered in a lease area, the lessee –

(a) shall forthwith inform the Minister of the discovery; and

(b) shall, within a period of 3 days after the date of the discovery, furnish to the Minister particulars in writing of the discovery.

(2) Where petroleum is discovered in a lease area, the Minister may, from time to time, by instrument in writing served on the lessee, direct the lessee to furnish to the Minister, within the period specified in the instrument, particulars in writing of any one or more of the following:

(a) the chemical composition and physical properties of the petroleum;

(b) the nature of the subsoil in which the petroleum occurs;

(c) any other matters relating to the discovery that are specified by the Minister in the instrument.

(3) A person who fails to comply with a direction given to him under subsection (2) is guilty of an offence and is liable on summary conviction to a fine not exceeding 100 penalty units.

37K. Directions by Minister on discovery of petroleum

(1) Where petroleum is discovered in a lease area, the Minister may, by instrument in writing served on the lessee, direct the lessee to do, within the period specified in the instrument, such things as the Minister thinks necessary and specifies in the instrument to determine the chemical composition and physical properties of that petroleum and to determine the quantity of petroleum in the petroleum pool to which the discovery relates or, if part only of that petroleum pool is within the lease area, in such part of that petroleum pool as is within the lease area.

(2) A person who fails to comply with a direction given to him under subsection (1) is guilty of an offence and is liable on summary conviction to a fine not exceeding 100 penalty units.

Division 3 - Production licences for petroleum

38. Recovery of petroleum in adjacent area

A person shall not carry on operations for the recovery of petroleum in the adjacent area except –

(a) under and in accordance with a licence; or

(b) as otherwise permitted by this Part.

Penalty: Fine not exceeding 500 penalty units or imprisonment for a term not exceeding 5 years, or both.

39. Application by permittee for licence

(1) A permittee whose permit is in force in respect of a block that constitutes, or the blocks that constitute, a location may, within the application period, make an application to the Minister for the grant of a licence –

(a) where 9 blocks constitute the location concerned – in respect of 5 of those blocks; or

(b) where 8 or 7 blocks constitute the location concerned – in respect of 4 of those blocks; or

(c) where 6 or 5 blocks constitute the location concerned – in respect of 3 of those blocks; or

- (d) where 4 or 3 blocks constitute the location concerned – in respect of 2 of those blocks; or
- (e) where 2 blocks constitute the location concerned – in respect of one of those blocks; or
- (f) where one block constitutes the location concerned – in respect of that block.

(2) A permittee whose permit is in force in respect of blocks that constitute a location –

(a) instead of making an application under subsection (1) in respect of his primary entitlement, may, within the application period, make an application to the Minister for the grant of a licence in respect of a number of those blocks that is less than his primary entitlement; and

(b) may, from time to time within that period, make an application to the Minister for the variation of that licence to include in the licence area a number of those blocks that does not exceed the number, if any, by which his primary entitlement exceeds the number of blocks in respect of which that licence was granted and the number of blocks, if any, included in that licence by reason of any previous variations of that licence.

(3) Where –

(a) a permittee makes an application under subsection (1) in respect of his primary entitlement; or

(b) a permittee to whom a licence has been granted in respect of a number of blocks that is less than his primary entitlement makes an application under subsection (2) for a variation of that licence, and the number of blocks in respect of which that licence was granted, together with the number of blocks included, and sought to be included, in the licence area by reason of applications under that subsection, is his primary entitlement –

the permittee may, within the application period, make an application to the Minister for the grant of a licence in respect of any of the other blocks forming part of the location concerned.

(4) Subject to subsection (5), the application period in respect of an application under this section by a permittee is –

(a) the period of 2 years after the date on which the block that constitutes the location concerned was, or the blocks that constitute the location concerned were, declared to be a location; or

(b) such other period, not less than 2 years or more than 4 years after that date, as the Minister, on application by the permittee, in writing, served on the Minister before the expiration of the first-mentioned period of 2 years, allows.

(5) Where –

(a) a permittee applies for the grant by the Minister of a licence in respect of a block or blocks in respect of which the permittee has applied for a lease under section 37A; and

(b) an instrument refusing to grant the lease is served on the permittee pursuant to section 37B (2) – the application period is whichever of the following periods last expires:

(c) the period that is applicable under subsection (4);

(d) the period of 12 months after the day of service of the instrument.

39A. Application for licence by holder of lease

(1) A lessee whose lease is in force may make an application to the Minister for the grant by the Minister of a licence –

(a) where the lease is in respect of 9 blocks – in respect of 5 of those blocks; or

(b) where the lease is in respect of 8 or 7 blocks – in respect of 4 of those blocks; or

(c) where the lease is in respect of 6 or 5 blocks – in respect of 3 of those blocks; or

(d) where the lease is in respect of 4 or 3 blocks – in respect of 2 of those blocks; or

(e) where the lease is in respect of 2 blocks – in respect of one of those blocks; or

(f) where the lease is in respect of one block – in respect of that block.

(2) At any time while a lease is in force, the lessee may, instead of making an application under subsection (2) in respect of the lessee's primary entitlement, make an application to the Minister for the grant by the Minister of a licence in respect of a number of blocks that is less than the lessee's primary entitlement.

(3) Where a lessee makes an application under subsection (2) in respect of the lessee's primary entitlement, the lessee may, at any time while the lease concerned is in force, make an application to the Minister for the grant by the Minister of a licence in respect of any of the other blocks forming part of the lease.

40. Application for licence

(1) An application under section 39 or 39A –

(a) shall be in accordance with an approved form; and

(b) shall be made in an approved manner; and

(c) shall be accompanied by particulars of the proposals of the applicant for work and expenditure in respect of the area comprised in the blocks specified in the application; and

(d) may set out any other matters that the applicant wishes the Minister to consider; and

(e) shall in the case of an application for the grant of a licence be accompanied by a fee of \$600.

(2) The Minister may, at any time, by instrument in writing served on the applicant, require him to furnish, within the period specified in the instrument, further information in writing in connection with his application.

41. Determination of rate of royalty

(1) Where an application for a primary licence has been made and, before or after the grant of the primary licence, the applicant makes an application for a secondary licence, the Minister shall determine a rate at which royalty is to be payable in respect of petroleum recovered, whether under the primary licence or under the secondary licence, being a rate that is not less than 11 per cent or more than 12½ per cent of the value at the well-head of that petroleum.

(2) The Minister shall not, under subsection (1), determine the rate at which royalty is to be payable unless he has given to the applicant an opportunity to confer with him concerning that rate.

42. Notification as to grant of licence

(1) Where an application for the grant of a licence has been made under section 39 or 39A and the applicant has furnished any further information as and when required by the Minister under section 40 (2), the Minister, by instrument in writing served on the applicant –

(a) shall inform the applicant that he is prepared to grant to him a licence in respect of the blocks specified in the application; and

(b) may inform the applicant that the applicant will be required to lodge a security for compliance with the conditions to which the licence, if granted, will from time to time be subject and with the provisions of this Part and of the regulations.

(2) An instrument under subsection (1) shall –

(a) contain a summary of the conditions subject to which the licence is to be granted; and

(b) if the instrument relates to an application for a secondary licence – specify the rate of royalty determined by the Minister in pursuance of section 41 (1); and

(c) contain a statement to the effect that the application will lapse –

(i) if the applicant does not make a request under section 43 (1) in respect of the grant of the licence; or

(ii) in a case where the Minister informs the applicant that he will be required to lodge a security as mentioned in subsection (1) (b) – if the applicant does not lodge that security with the

Minister.

43. Grant of licence

(1) An applicant on whom there has been served an instrument under section 42 (1) may, within a period of 3 months after the date of service of the instrument on him, or within such further period, not exceeding 3 months, as the Minister, on application in writing served on him before the expiration of the first-mentioned period of 3 months allows –

(a) by instrument in writing served on the Minister request the Minister to grant to him the licence referred to in the first-mentioned instrument; and

(b) if the Minister has informed him that he will be required to lodge a security as mentioned in section 42 (1) (b) lodge that security with the Minister.

(2) Where an applicant on whom there has been served an instrument under section 42 (1) –

(a) has made a request under subsection (1) ; and

(b) if the Minister has informed the applicant that he will be required to lodge a security as mentioned in section 42 (1) (b) , has lodged that security with the Minister –

within the period applicable under subsection (1) , the Minister shall grant to the applicant a production licence for petroleum in respect of the blocks specified in the application.

(3) A secondary licence shall not be granted to a permittee or lessee in respect of any one or more of the blocks that constitute a location unless –

(a) a primary licence has been granted in respect of a block or blocks forming part of that location; and

(b) the number of blocks in respect of which the primary licence was granted, together with the number of blocks included in that licence by reason of variations of the licence under section 44 , is the permittee's or lessee's primary entitlement.

(4) Where an applicant on whom there has been served an instrument under section 42 (1) –

(a) has not made a request under subsection (1) ; or

(b) if the Minister has informed the applicant that he will be required to lodge a security as mentioned in section 42 (1) (b) , has not lodged that security with the Minister –

within the period applicable under subsection (1) , the application lapses upon the expiration of that period.

(5) On the day on which a licence granted under this section comes into force, the permit or lease in respect of the blocks in respect of which the licence was granted ceases to be in force in respect of those blocks.

44. Variation of licence area

(1) Where an application is made under section 39 (2) for a variation of a licence, the Minister shall, by instrument in writing served on the licensee, vary the licence to include in the licence area the blocks specified in the application.

(2) On and from the day on and from which a variation of a licence under this section has effect –

(a) the blocks included in the licence area by reason of the variation are, subject to this Part, for the remainder of the term of the licence, blocks in respect of which the licence is in force; and

(b) the permit that is in force in respect of the blocks so included ceases to be in force in respect of those blocks.

45. Determination of permit as to block not taken up by licensee

(1) Subject to subsection (2) , where –

(a) a permittee who may make an application under section 39 in respect of a block does not, within the application period, make the application; or

- (b) all applications made by a permittee under that section in respect of a block have lapsed – the permit is determined as to that block and the determination has effect –
- (c) in a case referred to in paragraph (a) – upon the expiration of the application period; and
- (d) in a case referred to in paragraph (b) –

- (i) upon the expiration of the application period; or
- (ii) upon the lapsing of the application, or of the last of the applications, referred to in that paragraph, whichever is the later.

(1A) Subject to subsection (2) , where all applications made by a lessee under section 39A in respect of a block have lapsed, the lease is determined as to that block and the determination has effect upon the lapsing of the last of those applications.

(2) Where a permittee or lessee makes an application for a secondary licence –

- (a) the permit or lease is determined as to any blocks forming part of the location concerned that are not the subject of that application or of any application for a primary licence or for the variation of such a licence; and
- (b) the determination has effect upon the making of the application.

(3) Subject to subsection (4) , where a block or blocks constituting or forming part of a location is or are no longer the subject of a permit or lease, the Minister shall, by instrument published in the *Gazette* –

- (a) in a case where that block or those blocks constitutes or constitute that location – revoke the declaration made under section 36 (1) in respect of that location; or
- (b) in a case where that block or those blocks forms or form part of that location – revoke the declaration made under section 36 (1) in respect of that location to the extent that it relates to that block or those blocks.

(4) Subsection (3) does not apply in relation to a block –

- (a) in respect of which an application for the grant of a lease or licence has been made, being an application that has not lapsed and in relation to which a decision has not been made by the Minister; or
- (b) in respect of which a lease or licence is in force.

(5) Where a lease is granted in respect of a block or blocks forming part of a location, the Minister shall, by instrument published in the *Gazette*, revoke the declaration made under section 36 (1) to the extent that it relates to the block or blocks that is or are not within the lease area.

(6) Where –

- (a) the Minister refuses to grant a lease in respect of a block or blocks constituting or forming part of a location; and
- (b) the reason, or one of the reasons, for the refusal is that the Minister is not satisfied as to the matter referred to in section 37B (1) (c) (ii) –

the Minister shall, by instrument published in the *Gazette*, revoke the declaration made under section 36 (1) in respect of that location.

46. Application for licence in respect of surrendered, &c., blocks

(1) Where –

- (a) a licence is surrendered or cancelled as to a block; or
- (b) a permit or lease is surrendered, cancelled, or determined as to a block –
 - (i) that, at the time of the surrender, cancellation, or determination, was, or was included in, a location; and

- (ii) in which, in the opinion of the Minister, there is petroleum –
 - the Minister may, at any subsequent time, by instrument published in the *Gazette* –
 - (c) invite applications for the grant of a licence in respect of that block; and
 - (d) specify a period within which applications may be made.
- (2) The Minister shall, in an instrument under subsection (1) , state –
- (a) that an applicant is required to specify an amount that he would be prepared to pay in respect of the grant of a licence to him on his application; or
 - (b) that an applicant is required to specify a rate of royalty that he would be prepared to pay, if a licence were granted to him on his application, in respect of petroleum recovered under the licence, being a rate that exceeds 10 per cent of the value at the well-head of that petroleum.
- (3) Where the Minister, in an instrument under subsection (1) , states that an applicant is required to specify a rate of royalty as mentioned in subsection (2) (b) , the Minister may, in that instrument, state that an applicant on whose application he is prepared to grant a licence will also be required to pay to him, in respect of the grant of the licence to the applicant, the amount specified in that behalf in that instrument.
- (4) Where an instrument is published under subsection (1) and –
- (a) no application is made within the period specified in the instrument; or
 - (b) after consideration of the applications, a licence is not granted –
- in respect of the block specified in the instrument, the Minister may cause a notification accordingly to be published in the *Gazette* and may, at any subsequent time and without invitation under subsection (1) , receive an application for the grant of a licence in respect of that block.
- (5) The Minister shall not receive an application under subsection (4) during any period during which an application may be made in pursuance of an invitation under subsection (1) .
- (6) An application under this section –
- (a) shall be in accordance with an approved form; and
 - (b) shall be made in an approved manner; and
 - (c) shall be accompanied by the particulars referred to in section 40 (1) (c) ; and
 - (d) in the case of an application under subsection (1) , shall specify, in accordance with the requirement in the instrument by which applications were invited, the amount or the rate of royalty, that the applicant would be prepared to pay; and
 - (e) in the case of an application under subsection (4) , shall specify –
 - (i) an amount that the applicant would be prepared to pay in respect of the grant of a licence to him on the application; or
 - (ii) a rate of royalty that the applicant would be prepared to pay in respect of petroleum recovered under the licence, being a rate that exceeds 10 per cent of the value at the well-head of that petroleum; or
 - (iii) such an amount and such a rate; and
 - (f) may set out any other matters that the applicant wishes the Minister to consider.
- (7) The Minister may, at any time, by instrument in writing served on the applicant, require him to furnish, within the period specified in the instrument, further information in connection with his application.

47. Application fee, &c.

- (1) An application under section 46 shall be accompanied by –
- (a) a fee of \$3 000; and

(b) a deposit –

(i) if the application is made under section 46 (1) or (4) and the applicant has specified an amount that he would be prepared to pay in respect of the grant of a licence to him on the application – of 10 per cent of that amount; or

(ii) if the application is made under section 46 (1) and the Minister has, in the instrument by which applications were invited, stated an amount that the applicant will be required to pay in respect of the grant of a licence – of 10 per cent of that amount.

(2) Where a licence is not granted on the application –

(a) an amount equal to nine-tenths of the fee paid in accordance with subsection (1) ; and

(b) subject to subsection (3) , the amount of the deposit –

shall be refunded to the applicant.

(3) Where an applicant on whom there has been served an instrument under section 48 (1) or (3) does not request the Minister, under section 48 (6) , to grant to him the licence referred to in the instrument, the deposit shall not, unless the Minister otherwise determines, be refunded to the applicant.

48. Request by applicant for grant of licence

(1) Where, at the expiration of the period specified in an instrument under subsection (1) of section 46 , only one application has been made under that subsection in respect of the block specified in the instrument, the Minister may reject the application or may, by instrument in writing served on the applicant, inform him that he is prepared to grant a licence to him in respect of that block.

(2) Where, at the expiration of the period specified in an instrument under section 46 (1) , 2 or more applications have been made under that subsection in respect of the block specified in the instrument, the Minister may reject any or all of the applications but, if the Minister does not reject all of the applications, may –

(a) if only one application remains unrejected – by instrument in writing served on the applicant; or

(b) if 2 or more applications remain unrejected – by instrument in writing served on the applicant, or on one of the applicants, whose application has not been rejected and who has specified in his application an amount, or a rate of royalty that he would be prepared to pay that is not less than the amount, or the rate of royalty, specified in the application of any other applicant whose application has not been rejected –

inform the successful applicant that the Minister is prepared to grant to that applicant a licence in respect of that block, and that that applicant will be required to pay –

(c) the amount specified in the application; or

(d) royalty at the rate specified in the application; or

(e) royalty at the rate and the amount so specified –

as the case requires.

(3) Where an application is made under section 46 (4) , the Minister may reject the application or may, by instrument in writing served on the applicant, inform the applicant –

(a) that he is prepared to grant to him a licence in respect of that block; and

(b) that the applicant will be required to pay –

(i) the amount specified in the application; or

(ii) royalty at the rate specified in the application; or

(iii) the amount, and royalty at the rate, specified in the application –

as the case may be.

(4) The Minister may, by an instrument in writing served on an applicant under any of the preceding subsections, inform the applicant that he will be required to lodge a security for compliance with the conditions to which the licence, if granted, will from time to time be subject and with the provisions of this Part and of the regulations.

(5) An instrument under any of the preceding subsections shall contain –

- (a) a summary of the conditions subject to which the licence is to be granted; and
- (b) a statement of the balance of the amount, if any, that the applicant will be required to pay in respect of the grant of the licence to him; and
- (c) a statement to the effect that the application will lapse –
 - (i) if the applicant does not make a request under subsection (6) ; or
 - (ii) in a case where the instrument contains a statement referred to in paragraph (b) – if the applicant does not pay the balance of the amount referred to in that statement or enter into an agreement under section 109 in respect of that balance; or
 - (iii) in a case where the Minister informs the applicant that he will be required to lodge a security as mentioned in subsection (4) – if the applicant does not lodge that security with the Minister.

(6) An applicant on whom there has been served an instrument under any of the preceding subsections may, within a period of 3 months after the date of service of the instrument on him, or within such further period, not exceeding 3 months, as the Minister, on application in writing served on him before the expiration of the first-mentioned period of 3 months, allows –

- (a) by instrument in writing served on the Minister, request the Minister to grant to him the licence; and
- (b) if the first-mentioned instrument contains a statement of the balance of an amount that the applicant will be required to pay in respect of the grant of the licence to him – pay that balance or enter into an agreement under section 108 in respect of that balance; and
- (c) if the Minister has informed him that he will be required to lodge a security as mentioned in subsection (4) , lodge that security with the Minister.

(7) Where an applicant on whom there has been served an instrument under subsection (1) , (2) , or (3) –

- (a) has not made a request under subsection (6) ; or
- (b) if the instrument contains a statement of the balance of an amount that the applicant will be required to pay in respect of the grant of a licence to him – has not paid that balance or entered into an agreement under section 109 in respect of that balance; or
- (c) if the Minister has informed the applicant that he will be required to lodge a security as mentioned in subsection (4) , has not lodged that security with the Minister –

within the period applicable under subsection (6) , the application lapses at the expiration of that period.

(8) Where the application of an applicant on whom an instrument has been served under subsection (2) lapses as provided by subsection (7) , subsection (2) applies in respect of the application or applications, if any, then remaining unrejected.

49. Grant of licence on request

Where an applicant on whom there has been served an instrument under section 48 –

- (a) has made a request under section 48 (6) ; and
- (b) if the instrument contains a statement of the balance of an amount that the applicant will be required to pay in respect of the grant of a licence to him – has paid that balance or entered into an agreement under section 109 in respect of that balance; and
- (c) if the Minister has informed him that he will be required to lodge a security as mentioned in section 49(4) , has lodged that security with the Minister –

within the period applicable under section 48 (6) , the Minister shall grant to him a production licence for petroleum in respect of the block specified in the instrument.

50. Grant of licences in respect of individual blocks

(1) In this section, a reference to the original licence is a reference to the licence first-mentioned in subsection (2) .

(2) Where a licence is in force in respect of 2 or more blocks (not being blocks that form, or form part of, a location), the licensee may make an application to the Minister for the grant to him of 2 or more licences in respect of the blocks that were the subject of the original licence in exchange for the original licence.

(3) An application under subsection (2) shall –

- (a) be in accordance with an approved form; and
- (b) be made in an approved manner; and
- (c) specify the number of licences required; and
- (d) specify the block or blocks that were the subject of the original licence in respect of which each licence is sought; and
- (e) be accompanied by a fee of \$300.

(4) The Minister may, by instrument in writing served on a licensee who has made an application under this section, require him to lodge, in respect of a licence to be granted to him under this section, a security for compliance with the conditions to which the licence is from time to time subject and with the provisions of this Part and of the regulations.

(5) Where a licensee –

- (a) has made an application under this section; and
- (b) if the Minister has required the licensee to lodge a security as mentioned in subsection (4) , has lodged that security with the Minister –

the Minister shall grant to the licensee production licences for petroleum in accordance with the application.

(6) A licence granted on an application made under this section –

- (a) remains in force, subject to this Part, but notwithstanding section 52 , for the remainder of the term of the original licence; and
- (b) shall be granted subject to conditions corresponding as nearly as practicable to the conditions to which the original licence was subject.

(7) Where licences are granted on an application made under this section –

- (a) the licence is, by force of this subsection, determined; and
- (b) the determination has effect on and from the day on which those licences come into force.

51. Rights conferred by licence

A licence, while it remains in force, authorizes the licensee, subject to this Act and in accordance with the conditions to which the licence is subject –

- (a) to recover petroleum in the licence area and to recover from the licence area petroleum in another area to which he has lawful access for that purpose; and
- (b) to explore for petroleum in the licence area; and
- (c) to carry on such operations and execute such works in the licence area as are necessary for those purposes.

52. Term of licence

Subject to this Part, a licence remains in force –

- (a) in the case of a licence granted otherwise than by way of renewal of a licence – for a period of 21 years commencing on the day on which the licence is granted or, if a later day is specified in the licence as being the day on which the licence comes into force, on that later day; and
- (b) in the case of a licence granted by way of the first renewal of a licence – for a period of 21 years commencing on the day on which the licence is granted or, if a later day is specified in the licence as being the day on which the licence comes into force, on that later day; and
- (c) in the case of a licence granted by way of the renewal, other than the first renewal of a licence – for such period not exceeding 21 years, commencing on the day on which the licence is granted or, if a later day is specified in the licence as being the day on which the licence comes into force, on that later day, as the Minister determines and specifies in the licence.

53. Application for renewal of licence

- (1) A licensee may, from time to time, make an application to the Minister for the renewal of the licence.
- (2) An application for the renewal of the licence shall –
 - (a) be in accordance with an approved form; and
 - (b) subject to subsection (3) , be made in an approved manner not less than 6 months before the day on which the licence ceases to be in force; and
 - (c) be accompanied by particulars of the proposals of the licensee for work and expenditure in respect of the licence area; and
 - (d) be accompanied by a fee of \$600.
- (3) The Minister may, for reasons that he thinks sufficient receive an application for the renewal of the licence less than 6 months before, but not in any case after, the day on which the licence ceases to be in force.

54. Grant or refusal of renewal of licence

- (1) Where a licensee who has complied with the conditions to which the licence is subject and with the provisions of this Part and of the regulations makes an application under section 53 for the renewal of the licence, the Minister –
 - (a) shall, if the application is in respect of the first renewal of the licence; or
 - (b) may, if the application is in respect of a renewal other than the first renewal of the licence –inform the licensee, by instrument in writing served on the licensee, that he is prepared to grant to him the renewal of the licence.
- (2) Where a licensee who has not complied with the conditions to which the licence is subject and with the provisions of this Part and of the regulations makes an application under section 53 for the renewal of the licence, the Minister, if he is satisfied that, although the licensee has not so complied, special circumstances exist that justify the granting of the renewal of the licence, may inform the licensee, by instrument in writing served on the licensee, that he is prepared to grant to him the renewal of the licence.
- (3) If a licensee has not complied with the conditions to which the licence is subject and with the provisions of this Part and of the regulations, and if the Minister is not satisfied that special circumstances exist that justify the granting of the renewal of the licence, the Minister shall, subject to subsection (4) , by instrument in writing served on the licensee, refuse to grant the renewal of the licence.
- (4) The Minister shall not, under subsection (3) , refuse to grant the renewal of a licence unless –
 - (a) he has, by instrument in writing served on the licensee, given not less than one month's notice of his intention to refuse to grant the renewal of the licence; and
 - (b) he has served a copy of the instrument on such other persons, if any, as he thinks fit; and
 - (c) he has, in the instrument –
 - (i) given particulars of the reasons for the intention; and

(ii) specified a date on or before which the licensee or a person on whom a copy of the instrument is served may, by instrument in writing served on the Minister, submit any matters that he wishes the Minister to consider; and

(d) he has taken into account any matters so submitted to him on or before the specified date by the licensee or by a person on whom a copy of the first-mentioned instrument has been served.

(5) Where a licensee makes an application under section 53 in respect of a renewal other than the first renewal of the licence, the Minister may, by instrument in writing served on the licensee, refuse to grant the renewal of the licence.

(6) The Minister may, by an instrument served on a licensee under subsection (1) or (2), inform the licensee that he will be required to lodge a security for compliance with the conditions to which the licence, if the renewal is granted, will from time to time be subject and with the provisions of this Part and of the regulations.

(7) An instrument under subsection (1) or (2), shall contain –

(a) a summary of the conditions to which the licence, on the grant of the renewal, is to be subject; and

(b) a statement to the effect that the application will lapse –

(i) if the licensee does not make a request under subsection (8); or

(ii) in a case where the Minister informs the licensee that he will be required to lodge a security as mentioned in subsection (6) – if the licensee does not lodge that security with the Minister.

(8) A licensee on whom there has been served an instrument under subsection (1) or (2) may, within a period of one month after the date of service of the instrument on him –

(a) by instrument in writing served on the Minister, request the Minister to grant to him the renewal of the licence; and

(b) if the Minister has informed him that he will be required to lodge a security as mentioned in subsection (6), lodge that security with the Minister.

(9) Where a licensee on whom there has been served an instrument under subsection (1) or (2) –

(a) has made a request under subsection (8); and

(b) if the Minister has informed him that he will be required to lodge a security as mentioned in subsection (6), has lodged that security with the Minister –

within the period referred to in subsection (8), the Minister shall grant to him the renewal of the licence.

(10) Where a licensee on whom there has been served an instrument under subsection (1) or (2) –

(a) has not made a request under subsection (8); or

(b) if the Minister has informed him that he will be required to lodge a security as mentioned in subsection (6), has not lodged that security with the Minister –

within the period referred to in subsection (8), the application lapses upon the expiration of that period.

(11) Where –

(a) an application for the renewal of a licence is made under section 53; and

(b) the licence expires –

(i) before the Minister grants, or refuses to grant, the renewal of the licence; or

(ii) before the application lapses as provided by subsection (10) –

the licence shall be deemed to continue in force in all respects –

(c) until the Minister grants, or refuses to grant, the renewal of the licence; or

(d) until the application so lapses –

whichever first occurs.

55. Conditions of licence

A licence may be granted subject to such conditions as the Minister thinks fit and specifies in the licence.

55A. Licences not personal property for purposes of *Personal Property Securities Act 2009* of the Commonwealth

A licence in force under this Division is not personal property for the purposes of section 8(1)(k) of the *Personal Property Securities Act 2009* of the Commonwealth.

56. Works to be carried out

(1) A licensee is required, during the first year of the term of the licence, to carry out in or in relation to the licence area, in connection with exploration for, or operations for the recovery of, petroleum in or from the licence area approved works to the value of not less than the amount calculated by multiplying the sum of \$300 000 by the number of blocks in respect of which the licence is in force.

(2) A licensee is required, during each subsequent year of the term of the licence, to carry out in or in relation to the licence area, in connection with exploration for, or operations for the recovery of, petroleum in or from the licence area, approved works –

(a) if he did not recover petroleum in or from the licence area during the last preceding year of the term of the licence – to the value of not less than the amount calculated by multiplying the sum of \$300 000 by the number of blocks in respect of which the licence is in force; or

(b) if he did recover petroleum in or from the licence area during the last preceding year of the term of the licence and the amount referred to in paragraph (a) exceeds the value of the petroleum so recovered – to the value of not less than the amount of the excess.

(3) Where, in respect of a year of the term of his licence, a licensee has not complied with subsection (1) or (2), the Crown is entitled to recover from the licensee, by action against the licensee in a court of competent jurisdiction, an amount equal to the value of the approved works that the licensee was required to carry out in or in relation to the licence area during that year of the term of the licence less the value of any approved works carried out by the licensee in or in relation to that area during that year.

(4) The Minister may, if he is satisfied that special circumstances exist that justify his doing so, by instrument in writing served on a licensee, exempt the licensee from compliance with the requirements of this section in respect of the year of the term of the licence specified in the instrument subject to such conditions, if any, as the Minister thinks fit and specifies in the instrument.

(5) For the purposes of this section –

(a) the quantity of any petroleum recovered by a licensee from a well during a year shall be ascertained in accordance with Division 7 ; and

(b) the value of any petroleum is the value at the well-head of that petroleum ascertained in accordance with that Division.

57. Directions as to recovery of petroleum

(1) Where petroleum is not being recovered in a licence area and the Minister is satisfied that petroleum in that area is recoverable, he may, by instrument in writing served on the licensee, direct the licensee to take all necessary and practicable steps to recover that petroleum.

(2) Where the Minister is not satisfied with the steps taken or being taken by a licensee to whom a direction has been given under subsection (1), the Minister may, by instrument in writing served on the licensee, give to the licensee such directions as the Minister thinks necessary for or in relation to the recovery of petroleum in the licence area.

(3) Where petroleum is being recovered in a licence area, the Minister may, for reasons that he thinks sufficient, by instrument in writing served on the licensee, direct the licensee to take all necessary and practicable steps to increase or reduce the rate at which petroleum is being recovered in the licence area or from a petroleum pool in the licence area to such rate as the Minister specifies in the instrument.

(4) Where the Minister is not satisfied with the steps taken or being taken by a licensee to whom a direction has been given under subsection (3), the Minister may, by instrument in writing served on the licensee, give to the licensee such directions as the Minister thinks necessary for or in relation to the increase or reduction of the rate at which petroleum is being recovered in the licence area or from a petroleum pool in the licence area.

58. "Unit development"

(1) In this section, the expression *unit development* –

(a) applies in relation to a petroleum pool that is partly in a particular licence area of a licensee and partly in a licence area of another licensee, or in an area that is not within the adjacent area but in which a person other than the first-mentioned licensee is lawfully entitled to carry on operations for the recovery of petroleum from the pool; and

(b) means the carrying on of operations for the recovery of petroleum from that pool under co-operative arrangements between the persons entitled to carry on such operations in each of those areas.

(2) A licensee may from time to time enter into an agreement in writing for or in relation to the unit development of a petroleum pool, but nothing in this subsection derogates from the operation of section 80 (2).

(3) The Minister, of his own motion or on application made to him in writing by –

(a) a licensee in whose licence area there is a part of a particular petroleum pool; or

(b) a person who is lawfully entitled to carry on operations for the recovery of petroleum in an area outside the adjacent area that includes part of a particular petroleum pool that extends into the adjacent area –

may, for the purpose of securing the more effective recovery of petroleum from the petroleum pool, by instrument in writing served on the licensee, direct any licensee whose licence area includes part of the petroleum pool to enter into an agreement in writing, within the period specified in the instrument, for or in relation to the unit development of the petroleum pool and to lodge an application in accordance with section 80 for approval of any dealing to which the agreement relates.

(4) Where –

(a) a licensee who is directed under subsection (3) to enter into an agreement for or in relation to the unit development of a petroleum pool does not enter into such an agreement within the specified period; or

(b) the licensee enters into such an agreement but an application for approval of a dealing to which the agreement relates is not lodged with the Minister or, if an application is so lodged, the dealing is not approved under section 80 –

the Minister may, by instrument in writing served on the licensee, direct the licensee to submit to him, within the period specified in the instrument, a scheme for or in relation to the unit development of the petroleum pool.

(5) At any time after the expiration of the period within which a scheme for or in relation to the unit development of a petroleum pool is to be submitted by a licensee under subsection (4), the Minister may, by instrument in writing served on the licensee, give to the licensee such directions as the Minister thinks necessary for the purpose of securing the more effective recovery of petroleum from the petroleum pool.

(6) Where a person is the licensee in respect of 2 or more licence areas in each of which there is part of a particular petroleum pool, the Minister may, by instrument in writing served on the licensee, give to the licensee such directions as the Minister thinks necessary for the purpose of securing the more effective recovery of petroleum from the petroleum pool.

(7) Where an agreement under this section is in force or the Minister has given directions under subsection (5) or (6), the Minister may, having regard to additional information that has become available, by instrument in writing served on the licensee or licensees concerned, give to the licensee or licensees such directions, or further directions, as the case may be, as he thinks necessary for the purpose of achieving a more effective recovery of petroleum from the petroleum pool.

(8) The Minister shall not give a direction under subsection (6) or (7) unless he has given to the licensee or licensees concerned an opportunity to confer with him concerning the proposed directions.

(9) Directions under subsection (5), (6), or (7) may include directions as to the rate at which petroleum is to be recovered.

(10) In this section –

dealing means a dealing to which section 80 applies.

(11) The Minister shall –

(a) if a petroleum pool extends, or is reasonably believed by him to extend, from the adjacent area into land to which the laws of another State relating to the exploitation of petroleum resources apply, consult with the appropriate authority of that State concerning the exploitation of the petroleum pool; or

(b) if a petroleum pool extends, or is reasonably believed by him to extend, from the adjacent area into the adjacent area in respect of a State other than Tasmania, consult with the Designated Authority under the Commonwealth Act in respect of that other State concerning the exploitation of the petroleum pool; or

(c) if both paragraph (a) and paragraph (b) apply, comply with both of those paragraphs.

(12) Where subsection (11) applies in relation to a petroleum pool, the Minister shall not approve an agreement under this section, or give directions under this section, in relation to that petroleum pool except with the approval of any other authority required by that subsection to be consulted.

(13) For the purposes of subsection (11)(b), the adjacent area in respect of a State is –

(a) if the Petroleum (Submerged Lands) Act 1967 of the Commonwealth is in force, the adjacent area in respect of a State within the meaning of that Act; or

(b) if the Petroleum (Submerged Lands) Act 1967 of the Commonwealth has been repealed and been re-enacted (with or without modifications), the area that, under the re-enacted Act of the Commonwealth, corresponds to the adjacent area in respect of a State within the meaning of the repealed Act.

Division 4 - Pipeline licences

59. Construction, &c., of pipelines, &c.

(1) A person shall not, in the adjacent area –

(a) commence or continue the construction, or the alteration or reconstruction, of a pipeline; or

(b) operate a pipeline –

except under and in accordance with a pipeline licence.

(2) A person shall not, in the adjacent area –

(a) commence or continue the construction, or the alteration or reconstruction, of a secondary line or water line; or

(b) operate a secondary line or water line –

except with and in accordance with a consent in writing of the Minister.

(3) A person shall not, in the adjacent area –

(a) commence or continue the construction, or the alteration or reconstruction, of a pumping station, tank station, or valve station; or

(b) operate a pumping station, tank station, or valve station –

except under and in accordance with a pipeline licence or with and in accordance with a consent in writing of the Minister.

(4) A person shall not, in the adjacent area, commence to operate a pipeline, a secondary line or a water line unless –

(a) in the case of a pipeline, it has been constructed and tested in accordance with the pipeline licence; and

(b) in the case of a secondary line or water line it has been constructed and tested in accordance with a consent in writing of the Minister; and

(c) the Minister has certified in writing that he is satisfied that the pipeline, secondary line, or water line, as the case may be, has been so constructed and tested and is fit to be operated.

(5) A person shall not, in the adjacent area, recommence to operate a pipeline, a secondary line, or a water line, the previous operation of which was discontinued, except with and in accordance with a consent in writing of the Minister.

(6) The Minister may, for reasons that he thinks sufficient, refuse to give his consent or certificate for the purposes of this section or, where he gives his consent, may attach conditions to that consent.

(7) Any person who contravenes subsection (1), (2), (3), (4), or (5) is guilty of an offence and is liable on conviction to a fine not exceeding 500 penalty units or imprisonment for a term not exceeding 5 years, or both.

60. Acts done in an emergency, &c.

It is not an offence against section 59 –

(a) if, in an emergency in which there is a likelihood of loss or injury, or for the purpose of maintaining a pipeline, water line, pumping station, tank station, valve station, or secondary line in good order or repair, a person does an act to avoid the loss or injury or to maintain the pipeline, water line, pumping station, tank station, valve station, or secondary line in good order and repair and –

(i) as soon as practicable notifies the Minister of the act done; and

(ii) complies with any directions given to him by the Minister; or

(b) if a person does an act in compliance with a direction under this Act.

61. Removal of pipeline, &c., constructed in contravention of Act

(1) Where –

(a) the construction of a pipeline, water line, pumping station, tank station, valve station, or secondary line is commenced, continued or completed in contravention of this Act; or

(b) a pipeline, water line, pumping station, tank station, valve station, or secondary line is altered or reconstructed in contravention of this Act –

the Minister may, by instrument in writing served on the appropriate person, direct him –

(c) to make such alterations to the pipeline, water line, pumping station, tank station, valve station, or secondary line as are specified in the instrument; or

(d) to move the pipeline, water line, pumping station, tank station, valve station, or secondary line to a specified place in, or to remove it from, the adjacent area –

within the period specified in the instrument.

(2) For the purpose of subsection (1), the appropriate person is –

(a) if the construction of the pipeline, water line, pumping station, tank station, valve station, or secondary line has been completed – the owner of the pipeline, water line, pumping station, tank station, valve station, or secondary line; or

(b) if the construction of the pipeline, water line, pumping station, tank station, valve station, or secondary line has not been completed – the person for whom the pipeline, water line, pumping station, tank station, valve station, or secondary line is being constructed.

(3) Where a person on whom there has been served an instrument under subsection (1) does not, within the period specified in the instrument or within such further period, if any, as the Minister, on application in writing served on him before the expiration of the first-mentioned period, allows, comply with the direction, the Minister may do all or any of the things required by the direction to be done.

(4) Costs and expenses incurred by the Minister under subsection (3) are a debt due by the person referred to in that subsection to the Crown and are recoverable in a court of competent jurisdiction.

62. Terminal station

The Minister may, by instrument published in the *Gazette*, declare a pumping station, a tank station, or a valve station in the adjacent area to be a terminal station.

63. Application for pipeline licence

(1) An application for a pipeline licence –

(a) shall be in accordance with an approved form; and

(b) shall be made in an approved manner; and

(c) shall be accompanied by particulars of –

(i) the proposed design and construction of the pipeline; and

(ii) the proposed size and capacity of the pipeline; and

(iii) the proposals of the applicant for work and expenditure in respect of the construction of the pipeline; and

(iv) the technical qualifications of the applicant and of his employees; and

(v) the technical advice available to the applicant; and

(vi) the financial resources available to the applicant; and

(vii) any agreements entered into, or proposed to be entered into, by the applicant for or in relation to the supply or conveyance of petroleum by means of the pipeline; and

(d) shall be accompanied by a plan, drawn to an approved scale, showing –

(i) the route to be followed by the pipeline; and

(ii) the sites of pumping stations, tank stations, and valve stations to be used in connection with the pipeline; and

(iii) the site of any pumping station, tank station, or valve station that the applicant desires to be declared under section 62 to be a terminal station in connection with the pipeline; and

(e) may set out any other matters that the applicant wishes the Minister to consider; and

(f) shall be accompanied by a fee of \$3 000.

(2) Where a notice is published in the *Gazette* –

(a) of an application for a pipeline licence in respect of the construction of a pipeline for the conveyance of petroleum recovered in a licence area, being an application made by a person other than the licensee; or

(b) of an application by a person other than the pipeline operator under the Commonwealth Act or a corresponding law for a pipeline licence in respect of the construction of a pipeline for the conveyance of petroleum recovered in a licence area of a production licence under the Commonwealth Act or a corresponding law–

the licensee or, as the case may be, the pipeline operator under the Commonwealth Act or a corresponding law may, within a period of 3 months after the date of publication of the notice, or within such further period, not exceeding 3 months, as the Minister, on application in writing served on him before the expiration of the first-

mentioned period of 3 months, allows, make an application for a pipeline licence referred to in paragraph (a) or (b) , as the case requires, and, in the application, request that the application referred to in the notice be rejected.

(3) Where –

(a) a notice referred to in subsection (2) is published in the *Gazette*; and

(b) a pipeline licence is granted to the licensee or to the pipeline operator under the Commonwealth Act or a corresponding law on an application under subsection (2) –

the Minister shall, by instrument in writing served on the applicant, reject the application referred to in the notice.

(4) The Minister may, at any time, by instrument in writing served on a person who has made an application under this section, require him to furnish, within the time specified in the instrument, further information in writing in connection with his application.

(5) In this section

pipeline operator under the Commonwealth Act or a corresponding law has the same meaning as in section 64 .

64. Grant or refusal of pipeline licence

(1) Where a person makes an application in accordance with section 63 , the Minister –

(a) shall, if the application is –

(i) in respect of the construction in the adjacent area of a pipeline for the conveyance of petroleum recovered in a licence area in respect of which the applicant is the licensee and the licensee has complied with the conditions to which the licence is subject and with the provisions of this Part and of the regulations; or

(ii) by a pipeline operator under the Commonwealth Act or a corresponding law; or

(b) may, if the application is by any other person and has not been rejected under section 63 (3) –

inform the applicant, by instrument in writing served on him, that the Minister is prepared to grant a pipeline licence to him.

(2) Where a licensee who has not complied with the conditions to which the licence is subject and with the provisions of this Part and of the regulations makes an application in accordance with section 63 for a pipeline licence in respect of the construction of a pipeline for the conveyance of petroleum recovered in the licence area, the Minister, if he is satisfied that, although the licensee has not so complied, special circumstances exist that justify the granting of a pipeline licence, may inform the licensee, by instrument in writing served on the licensee, that he is prepared to grant a pipeline licence to him.

(3) If a licensee who has not complied with the conditions to which the licence is subject and with the provisions of this Part and of the regulations makes an application in accordance with section 63 for a pipeline licence, and if the Minister is not satisfied that special circumstances exist that justify the granting of a pipeline licence, the Minister shall, subject to subsection (4) , by instrument in writing served on the licensee, refuse to grant a pipeline licence.

(4) The Minister shall not, under subsection (3) , refuse to grant a pipeline licence to a licensee unless –

(a) he has, by instrument in writing served on the licensee, given not less than one month's notice of his intention to refuse to grant the pipeline licence; and

(b) he has served a copy of the instrument on such other persons, if any, as he thinks fit; and

(c) he has, in the instrument –

(i) given particulars of the reasons for the intention; and

(ii) specified a date on or before which the licensee or a person on whom a copy of the instrument is served may, by instrument in writing served on the Minister, submit any matters

that he wishes the Minister to consider; and

(d) he has taken into account any matters so submitted to him on or before the specified date by the licensee or by a person on whom a copy of the first-mentioned instrument has been served.

(5) Where a person, other than the licensee or the pipeline operator under the Commonwealth Act or a corresponding law, makes an application in accordance with section 63 for a pipeline licence in respect of the construction of a pipeline for the conveyance of petroleum recovered in a licence area or, as the case may be, a licence area of a production licence under the Commonwealth Act or a corresponding law, the Minister may, by instrument in writing served on the applicant, refuse to grant a pipeline licence.

(6) Where the Minister is required, or proposes, to serve on a person an instrument under subsection (1) or (2), he shall, by the instrument, inform that person that he will be required to lodge a security for compliance with the conditions to which the pipeline licence, if granted, will from time to time be subject and with the provisions of this Part and of the regulations.

(7) An instrument under subsection (1) or (2) –

(a) shall specify the route to be followed by the pipeline; and

(b) shall contain a summary of the conditions subject to which the pipeline licence is to be granted; and

(c) shall contain a statement to the effect that the application will lapse if the applicant does not make a request under subsection (9) and lodge with the Minister the security referred to in the instrument.

(8) The route to be specified in an instrument under subsection (1) or (2) shall be –

(a) the route shown in the plan accompanying the application; or

(b) if the Minister is of the opinion that, for any reason, that route is not appropriate – a route that, in the opinion of the Minister, is appropriate.

(9) A person on whom there has been served an instrument under subsection (1) or (2) may, within a period of 3 months after the date of service of the instrument on him, or within such further period, not exceeding 3 months, as the Minister, on application in writing served on him before the expiration of the first-mentioned period of 3 months, allows –

(a) by instrument in writing served on the Minister, request the Minister to grant to him the pipeline licence; and

(b) lodge with the Minister the security referred to in the instrument so served on him.

(10) Where a person on whom there has been served an instrument under subsection (1) or (2) –

(a) has made a request under subsection (9); and

(b) has lodged with the Minister the security referred to in the instrument –

within the period applicable under subsection (9), the Minister shall grant to that person a licence to construct and operate a pipeline in respect of the pipeline specified in the instrument.

(11) Where a person on whom there has been served an instrument under subsection (1) or (2) –

(a) has not made a request under subsection (9); or

(b) has not lodged with the Minister the security referred to in the instrument –

within the period applicable under subsection (9), the application lapses upon the expiration of that period.

(12) Where a pipeline licence is not granted on an application, an amount equal to nine-tenths of the fee paid in accordance with section 63 (1) (f) shall be refunded to the applicant.

(13) In this section –

pipeline operator under the Commonwealth Act or a corresponding law means a person who is entitled under the Commonwealth Act or a corresponding law to carry on operations for the recovery of

petroleum in an area outside the adjacent area and who the Minister is satisfied is or will be entitled to construct a pipeline from the first-mentioned area to the boundary of the adjacent area.

65. Rights conferred by pipeline licence

A pipeline licence, while it remains in force, authorizes the pipeline licensee, subject to this Act and in accordance with the conditions to which the pipeline licence is subject –

- (a) to construct in the adjacent area –
 - (i) a pipeline of the design, construction, size, and capacity specified in the pipeline licence along the route, and in the position in relation to the sea-bed in the adjacent area, so specified; and
 - (ii) the pumping stations, tank stations, and valve stations so specified in the positions so specified; and
- (b) to operate that pipeline and those pumping stations, tank stations, and valve stations; and
- (c) to carry on such operations, to execute such works and to do all such other things in the adjacent area as are necessary for or incidental to the construction and operation of that pipeline and of those pumping stations, tank stations, and valve stations.

66. Term of pipeline licence

- (1) Subject to this Part, a pipeline licence remains in force –
 - (a) for a period of 21 years; or
 - (b) where the Minister is of the opinion that, having regard to the dates of expiration of the licences that relate to the licence areas from which petroleum is, or is to be, conveyed by means of the pipeline, it is not necessary for the pipeline licence to remain in force for a period of 21 years – for such period less than 21 years as the Minister determines and specifies in the pipeline licence.
- (2) A pipeline licence comes into force on the day on which the pipeline licence is granted or, if a later day is specified in the pipeline licence as being the day on which the pipeline licence comes into force, on that later day.

67. Application for renewal of pipeline licence

- (1) A pipeline licensee may, from time to time, make an application to the Minister for the renewal of the pipeline licence.
- (2) An application for the renewal of the pipeline licence shall –
 - (a) be in accordance with an approved form; and
 - (b) subject to subsection (3), be made in an approved manner not less than 6 months before the day on which the pipeline licence ceases to be in force; and
 - (c) be accompanied by a fee of \$600.
- (3) The Minister may, for reasons that he thinks sufficient, receive an application for the renewal of the pipeline licence less than 6 months before, but not in any case after, the day on which the pipeline licence ceases to be in force.

68. Grant or refusal of renewal of pipeline licence

- (1) Where the pipeline licensee makes an application for the renewal of the pipeline licence under section 67, the Minister –
 - (a) shall if the pipeline licensee has complied with the conditions to which the pipeline licence is subject and with the provisions of this Part and of the regulations; or
 - (b) may, if the pipeline licensee has not so complied and the Minister is satisfied that, although the pipeline licensee has not so complied, special circumstances exist that justify the granting of the renewal of the pipeline licence –

inform the pipeline licensee, by instrument in writing served on the pipeline licensee –

- (c) that the Minister is prepared to grant to the pipeline licensee the renewal of the pipeline licence; and
- (d) that the pipeline licensee will be required to lodge a security for compliance with the conditions to which the pipeline licence, if the renewal is granted, will from time to time be subject and with the provisions of this Part and of the regulations.

(2) If a pipeline licensee who has not complied with the conditions to which the pipeline licence is subject and with the provisions of this Part and of the regulations makes an application in accordance with section 67 in respect of the renewal of the pipeline licence, and if the Minister is not satisfied that special circumstances exist that justify the granting of the renewal of the pipeline licence, the Minister shall, subject to subsection (3) , by instrument in writing served on the pipeline licensee, refuse to grant the renewal of the pipeline licence.

(3) The Minister shall not refuse to grant the renewal of the pipeline licence unless –

- (a) he has, by instrument in writing served on the pipeline licensee, given not less than 1 month's notice of his intention to refuse to grant the renewal of the pipeline licence; and
- (b) he has served a copy of the instrument on such other persons, if any, as he thinks fit; and
- (c) he has, in the instrument –
 - (i) given particulars of the reasons for the intention; and
 - (ii) specified a date on or before which the pipeline licensee or a person on whom a copy of the instrument is served may, by instrument in writing served on the Minister, submit any matters that he wishes the Minister to consider; and
- (d) he has taken into account any matters so submitted to him on or before the specified date by the pipeline licensee or by a person on whom a copy of the first-mentioned instrument has been served.

(4) An instrument under subsection (1) shall contain –

- (a) a summary of the conditions to which the pipeline licence, on the grant of the renewal, is to be subject; and
- (b) a statement to the effect that the application will lapse if the pipeline licensee does not make a request under subsection (5) and lodge with the Minister the security referred to in the instrument.

(5) A pipeline licensee on whom there has been served an instrument under subsection (1) may, within a period of one month after the date of service of the instrument on him –

- (a) by instrument in writing served on the Minister, request the Minister to grant to him the renewal of the pipeline licence; and
- (b) lodge with the Minister the security referred to in the first-mentioned instrument.

(6) Where a pipeline licensee on whom there has been served an instrument under subsection (1) –

- (a) has made a request under subsection (5) ; and
- (b) has lodged with the Minister the security referred to in the instrument –

within the period referred to in subsection (5) , the Minister shall grant to him the renewal of the pipeline licence.

(7) Where a pipeline licensee on whom there has been served an instrument under subsection (1) –

- (a) has not made a request under subsection (5) ; or
- (b) has not lodged with the Minister the security referred to in the instrument –

within the period referred to in subsection (5) , the application lapses upon the expiration of that period.

(8) Where –

- (a) an application for the renewal of a pipeline licence is made under section 67 ; and

- (b) the pipeline licence expires –
 - (i) before the Minister grants, or refuses to grant, the renewal of the pipeline licence; or
 - (ii) before the application lapses as provided by subsection (7) –
- the pipeline licence shall be deemed to continue in force in all respects –
- (c) until the Minister grants, or refuses to grant, the renewal of the pipeline licence; or
 - (d) until the application so lapses –

whichever first occurs.

69. Conditions of pipeline licence

- (1) A pipeline licence may be granted subject to such conditions as the Minister thinks fit and specifies in the pipeline licence.
- (2) The conditions referred to in subsection (1) may include a condition that the pipeline licensee shall complete the construction of the pipeline within the period specified in the pipeline licence.
- (3) This section extends to a pipeline licence granted by way of the renewal of a pipeline licence and, in the case of a pipeline licence so granted, the conditions may include conditions varying or adding to the conditions of the previous licence and conditions requiring reconstruction or modification of the pipeline or of associated works.

70. Variation of pipeline licence on application by pipeline licensee

- (1) A pipeline licensee may, at any time, make an application to the Minister for the variation of the pipeline licence.
- (2) An application under this section shall –
 - (a) be in accordance with an approved form; and
 - (b) be made in an approved manner; and
 - (c) be accompanied by particulars of the proposed variation; and
 - (d) specify the reasons for the proposed variation; and
 - (e) be accompanied by a fee of \$300.
- (3) The Minister may, at any time, by instrument in writing served on a person who has made an application under this section require him to furnish, within the period specified in the instrument further information in writing in connection with his application.
- (4) The Minister shall, in a notice published in the *Gazette* of an application under this section, specify a period within which a person may submit to the Minister, in writing, any matters that he wishes the Minister to consider in connection with the application.
- (5) After considering any matters submitted to him under subsection (4), the Minister may, by instrument in writing, vary the pipeline licence to such extent as he thinks necessary or may refuse to vary the pipeline licence.

71. Variation of pipeline licence by designated authority

- (1) The Minister may –
 - (a) at the request of –
 - (i) a Minister or a Minister of State of the Commonwealth; or
 - (ii) a body established by a law of the Commonwealth or of the State; and
 - (b) if, in his opinion, it is in the public interest so to do –

by instrument in writing served on a person who is a pipeline licensee or the holder of an instrument of consent under section 59, direct that person to make such changes in the design, construction, route, or position of the pipeline, or of a water line, pumping station, tank station, valve station, or secondary line, to which the pipeline licence or instrument of consent relates as are specified in the first-mentioned instrument, within the period specified in the first-mentioned instrument, and, if the person so directed is a pipeline licensee, the Minister shall vary the pipeline licence accordingly.

(2) If a person to whom a direction is given under subsection (1) fails to comply with the direction, he is guilty of an offence and is liable on conviction to a fine not exceeding 500 penalty units or to imprisonment for a term not exceeding 5 years, or both.

(3) Where the Minister gives a direction under subsection (1), and the person to whom the direction was given has complied with the direction, that person may take proceedings in the Supreme Court against the Minister, the Minister of State of the Commonwealth, or the body making request.

(4) The Supreme Court shall hear the proceedings, without a jury, and shall determine whether it is just that the whole or a portion of the reasonable cost of complying with the direction ought to be paid to the plaintiff by the defendant.

(5) If the Supreme Court determines that it is just that such a payment ought to be made, the Supreme Court shall determine the amount of the payment and give judgment accordingly.

71A. Licences not personal property for purposes of *Personal Property Securities Act 2009* of the Commonwealth

A licence in force under this Division is not personal property for the purposes of section 8(1)(k) of the *Personal Property Securities Act 2009* of the Commonwealth.

72. Common carrier

The Minister may, by instrument in writing served on a pipeline licensee, direct the pipeline licensee to be a common carrier of petroleum in respect of the pipeline and thereupon the pipeline licensee is a common carrier of petroleum in respect of the pipeline.

73. Ceasing to operate pipeline

(1) Except with the consent in writing of the Minister and subject to compliance with such conditions, if any, as are specified in the instrument of consent, a pipeline licensee shall not cease to operate the pipeline.

(2) Subject to subsection (3), a licensee who ceases to operate a pipeline in contravention of subsection (1) is guilty of an offence and is liable on conviction to a fine not exceeding 500 penalty units or to imprisonment for a term not exceeding 5 years, or both.

(3) If the failure of a pipeline licensee to operate a pipeline –

(a) occurred in the ordinary course of operating the pipeline; or

(b) was for the purpose of repairing or maintaining the pipeline; or

(c) was due to an emergency in which there was a likelihood of damage to or loss or destruction of property or of death or personal injury –

that licensee is not guilty of an offence against subsection (2).

Division 5 - Registration of instruments

73A. Interpretation

In this Division –

title means a permit, lease, licence, pipeline licence, or access authority.

74. Register of certain instruments to be kept

For the purposes of this Part, the Minister shall keep a register of titles and special prospecting authorities granted by him, and a reference in this Part to the register is a reference to the register so kept.

75. Particulars to be entered in register

- (1) The Minister shall enter in the register a memorial in respect of each title or special prospecting authority –
 - (a) specifying the name of the holder of the title or special prospecting authority; and
 - (b) in the case of a permit, lease, or licence, setting out an accurate description (including, where convenient, a map) of the permit area, lease area, or licence area; and
 - (c) in the case of a special prospecting authority or an access authority, setting out an accurate description (including, where convenient a map) of the area in respect of which the special prospecting authority or access authority is in force; and
 - (d) in the case of a pipeline licence, setting out a description of the route of the pipeline; and
 - (e) specifying the term of the title or special prospecting authority; and
 - (f) setting out such other matters and things as are required by this Part to be entered in the register; and
 - (g) setting out such other matters relating to the registered holder or to the terms and conditions of the title or special prospecting authority as the Minister considers appropriate and expedient in the public interest.
- (2) The Minister shall enter in the register a memorial of –
 - (a) any instrument varying, cancelling, surrendering, or otherwise affecting a title or special prospecting authority; and
 - (b) any instrument under section 58 (5) , (6) , or (7) ; and
 - (c) any agreement under section 109 ; and
 - (d) any instrument varying or revoking an instrument referred to in paragraph (a) or (b) .
- (3) It is a sufficient compliance with the requirements of subsection (1) or (2) if the Minister enters a copy of the title, special prospecting authority, or instrument in the register.
- (4) The Minister shall endorse on the memorial or copy of the title, special prospecting authority, or instrument a memorandum of the date upon which the memorial or copy was entered in the register.

76. Memorials to be entered of permits, &c., determined, &c.

Where –

- (a) a permit or lease ceases to be in force in respect of a block in respect of which a licence is granted; or
- (aa) a permit ceases to be in force in respect of a block in respect of which a lease is granted; or
- (b) a permit or lease has been wholly determined or partly determined; or
- (c) a title or special prospecting authority has expired –

the Minister shall enter in the register a memorial of the fact.

77. Approval and registration of transfers

- (1) A transfer of a title is of no force until it has been approved by the Minister and an instrument of transfer is registered as provided by this section.
- (2) Where it is desired that a title be transferred, one of the parties to the proposed transfer may make an application in writing to the Minister for approval of the transfer.
- (3) An application for approval of a transfer of a title shall be accompanied by –
 - (a) an instrument of transfer in the prescribed form executed by the registered holder or, if there are 2 or more registered holders, by each registered holder and by the transferee or, if there are 2 or more

transferees, by each transferee; and

(b) in a case where the transferee or one or more of the transferees is not a registered holder or are not registered holders of the title, an instrument setting out –

(i) the technical qualifications of that transferee or those transferees; and

(ii) details of the technical advice that is or will be available to that transferee or those transferees; and

(iii) details of the financial resources that are or will be available to that transferee or those transferees; and

(c) 2 copies of the application and of the instruments referred to in paragraphs (a) and (b) .

(4) The Minister shall not approve the transfer of a title unless the application was lodged with the Minister within 3 months after the day on which the party who last executed the instrument of transfer so executed the instrument of transfer or within such longer period as the Minister, in special circumstances, allows.

(5) Where an application for approval of a transfer is made in accordance with this section, the Minister shall enter a memorandum in the register of the date on which the application was lodged and may make such other notation in the register as the Minister considers appropriate.

(6) The Minister shall –

(a) consider each application for approval of the transfer of a title and determine whether to approve the transfer; and

(b) in the case of a transfer of a permit, lease, licence, or pipeline licence, determine whether approval of the transfer should be made subject to a security being lodged by the transferee or transferees for compliance with the provisions of this Act, of the regulations, and of any conditions to which the permit, lease, licence, or pipeline licence may, from time to time, be subject.

(7) Where an application for approval of the transfer of a title is made in accordance with this section, the Minister shall, by notice in writing served on the person who made the application, inform the person of the decision of the Minister and shall set out in the notice details of any security required to be lodged by the transferee or transferees.

(8) Where –

(a) the Minister has served a notice on a person under subsection (7) stating that the Minister will approve a transfer of a permit, lease, licence, or pipeline licence subject to a security being lodged; and

(b) that security is lodged with the Minister –

the Minister shall be deemed to have approved the transfer.

(9) Where the Minister approves the transfer of a title, the Minister shall forthwith endorse on the instrument of transfer and on one copy of the instrument a memorandum of approval and shall, on payment of the fee provided by section 91 , enter in the register a memorandum of the transfer and the name of the transferee or of each transferee.

(10) Upon the entry in the register of a memorandum of the transfer of a title and of the name of the transferee or each transferee in accordance with subsection (9) –

(a) the transfer shall be deemed to be registered; and

(b) the transferee becomes the registered holder, or the transferees become the registered holders, of the title.

(11) Where the Minister refuses to approve the transfer of a title, the Minister shall make a notation of the refusal in the register.

(12) Where a transfer is registered –

- (a) the copy of the instrument of transfer endorsed with the memorandum of approval shall be retained by the Minister and made available for inspection in accordance with this Division; and
- (b) the instrument of transfer endorsed with the memorandum of approval shall be returned to the person who lodged the application for approval of the transfer.

(13) The mere execution of an instrument of transfer of a title creates no interest in the title.

78. Entries in register on devolution of title

(1) A person upon whom the rights of a registered holder of a particular title have devolved by operation of law may apply in writing to the Minister to have his name entered in the register as the holder of the title.

(2) The Minister shall, if he is satisfied that the rights of the holder have devolved upon the applicant by operation of law and on payment of a fee of \$30, enter the name of the applicant in the register as the holder of the title and, on that entry being so made, the applicant becomes the registered holder of the title.

(3) Where a company that is the registered holder of a particular title has changed its name, it may apply in writing to the Minister to have its new name substituted for its previous name in the register in relation to that title and, if –

- (a) the Minister is satisfied that the company has so changed its name; and
- (b) the company has paid a fee of \$30 –

the Minister shall make the necessary alterations in the register.

79.

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80. Approval of dealings creating, &c., interests, &c., in existing titles

(1) This section applies to a dealing that would, but for subsection (2) , have one or more of the following effects:

- (a) the creation or assignment of an interest in an existing title;
- (b) the creation or assignment of a right (conditional or otherwise) to the assignment of an interest in an existing title;
- (c) the determining of the manner in which persons may exercise the rights conferred by, or comply with the obligations imposed by or the conditions of, an existing title (including the exercise of those rights or the compliance with those obligations or conditions under co-operative arrangements for the recovery of petroleum);
- (d) the creation or assignment of –
 - (i) an interest in relation to an existing permit, lease, or licence, being an interest known as an overriding royalty interest, a production payment, a net profits interest, or a carried interest; or
 - (ii) any other interest that is similar to an interest referred to in subparagraph (i) , being an interest relating to petroleum produced from operations authorized by an existing permit, lease, or licence or relating to revenue derived as a result of the carrying out of operations of that kind;
- (e) the creation or assignment of an option (conditional or otherwise) to enter into a dealing, being a dealing that has one or more of the effects referred to in paragraphs (a) , (b) , (c) , and (d) ;
- (f) the creation or assignment of a right (conditional or otherwise) to enter into a dealing, being a dealing that has one or more of the effects referred to in paragraphs (a) , (b) , (c) , and (d) ;
- (g) the alteration or termination of a dealing, being a dealing that has one or more of the effects referred to in paragraphs (a) , (b) , (c) , (d) , (e) , and (f) –

but this section does not apply to a transfer to which section 77 applies.

- (2) A dealing to which this section applies is of no force in so far as the dealing would, but for this subsection, have an effect of a kind referred to in subsection (1) in relation to a particular title until –
- (a) the dealing, in so far as it relates to that title, has been approved by the Minister; and
 - (b) an entry has been made in the register in relation to the dealing by the Minister in accordance with subsection (12) .
- (3) A party to a dealing to which this section applies may lodge with the Minister –
- (a) in a case where the dealing relates to only one title, an application in writing for approval by the Minister of the dealing; or
 - (b) in any other case, a separate application in writing for approval by the Minister of the dealing in relation to each title to which the dealing relates.
- (4) An application under subsection (3) for approval of a dealing shall be accompanied by –
- (a) the instrument evidencing the dealing or, if that instrument has already been lodged with the Minister for the purposes of another application, a copy of that instrument; and
 - (b) an instrument setting out such particulars (if any) as are prescribed for the purposes of an application for approval of a dealing of that kind; and
 - (c) 2 copies of the application and of the instruments referred to in paragraphs (a) and (b) .
- (5) Subject to subsection (6) , the Minister shall not approve a dealing unless the application for approval of the dealing is lodged with the Minister within 3 months after the day on which the party who last executed the instrument evidencing the dealing so executed the instrument or such longer period as the Minister, in special circumstances, allows.
- (6) Where a dealing relating to a title was, immediately before the title came into existence, a dealing referred to in section 80A (1) , the Minister shall not approve the dealing unless –
- (a) a provisional application for approval of the dealing was lodged in accordance with section 80A (1) ;
or
 - (b) an application for approval of the dealing is lodged with the Minister in accordance with this section within 3 months after the day on which the title came into existence or such longer period as the Minister, in special circumstances, allows.
- (7) Where a dealing to which this section applies forms a part of the issue of a series of debentures, all of the dealings constituting the issue of that series of debentures shall, for the purposes of this section, be taken to be one dealing.
- (8) Where a dealing to which this section applies (including a dealing referred to in subsection (7)) creates a charge over some or all of the assets of a body corporate, the person lodging the application for approval of the dealing shall be deemed to have complied with subsection (4) (a) , and with paragraph (c) of subsection (4) in so far as that paragraph requires 2 copies of the document referred to in subsection (4) (a) to accompany the application, if the person lodges with the application 3 copies of each document required to be lodged with ASIC relating to the creation of that charge pursuant to section 263 of the Corporations Act.
- (9) On receipt of an application made under this section, the Minister shall enter a memorandum in the register of the date on which the application was lodged and may make such other notation in the register as the Minister considers appropriate.
- (10) The Minister may approve or refuse to approve a dealing to which this section applies in so far as the dealing relates to a particular title.
- (11) The Minister shall, by notice in writing served on the person who made an application for approval of a dealing, inform the person of his decision.
- (12) If the Minister approves a dealing, he shall endorse on the original instrument evidencing the dealing and on one copy of that instrument or, if the original instrument was not lodged with the application, on 2 of the copies of that instrument, a memorandum of approval and, on payment of the fee provided by section 91 , make

an entry of the approval of the dealing in the register on the memorial relating to, or on the copy of, the title in respect of which the approval is sought.

(13) Where an entry is made in the register in relation to a dealing in accordance with subsection (12) –

(a) one copy of an instrument evidencing the dealing endorsed with a memorandum of approval shall be retained by the Minister and made available for inspection in accordance with this Division; and

(b) the original instrument, or a copy of the original instrument, as the case requires, endorsed with a memorandum of approval shall be returned to the person who made the application for approval.

(14) Where the Minister refuses to approve a dealing, he shall make a notation of the refusal in the register.

(15) In this section –

charge and *debenture* have the same respective meanings as they have for the purposes of the Corporations Act.

80A. Approval of dealings in future interests, &c.

(1) Where 2 or more persons enter into a dealing relating to a title that may come into existence in the future and that dealing would, if the title came into existence, become a dealing to which section 80 applies, a person who is a party to the dealing may, during the prescribed period in relation to the title lodge with the Minister –

(a) in a case where the dealing relates to only one title that may come into existence in the future, a provisional application in writing for approval by the Minister of the dealing; or

(b) in any other case, a separate provisional application in writing for approval by the Minister of the dealing in relation to each title that may come into existence in the future and to which the dealing relates.

(2) Subsections (4), (7), and (8) of section 80 apply to a provisional application lodged under subsection (1) of this section as if that provisional application were an application lodged under section 80 (3).

(3) Where –

(a) the title to which a dealing referred to in subsection (1) relates comes into existence; and

(b) upon that title coming into existence, the dealing becomes a dealing to which section 80 applies –

the provisional application lodged under subsection (1) in relation to the dealing shall be treated as if it were an application lodged under section 80 (3) on the day on which that title came into existence.

(4) A reference in subsection (1) to the prescribed period, in relation to a title, is a reference to the period –

(a) commencing –

(i) in the case of a permit, lease, licence, or pipeline licence – on the day of service of an instrument informing the applicant for the permit, lease, licence, or pipeline licence that the Minister is prepared to grant the permit, lease, licence, or pipeline licence; or

(ii) in the case of an access authority – on the day on which the application for the grant of the access authority is made; and

(b) ending on the day on which the title comes into existence.

81. True consideration to be shown

(1) A person who is a party to a transfer referred to in section 77, a dealing to which section 80 applies, or a dealing referred to in section 80A (1) shall not lodge with the Minister –

(a) an instrument of transfer; or

(b) an instrument evidencing the dealing; or

(c) an instrument of the kind referred to in section 80 (4) (b) –

that contains a statement relating to the consideration for the transfer or dealing, or to any other fact or circumstance affecting the amount of the fee payable in respect of the transfer or dealing under section 91 , being a statement that is, to the knowledge of the person, false or misleading in a material particular.

(2) A person who contravenes subsection (1) is guilty of an offence and is liable on summary conviction to a fine not exceeding 100 penalty units.

(3) Where a person is convicted of an offence against subsection (2) , the Minister may make a fresh determination of the amount of the fee payable under section 91 in respect of the memorandum relating to the transfer or dealing.

(4) Subsections (2) and (3) of section 90 apply in relation to a determination under subsection (3) in the same way as they apply in relation to a determination under section 90 (1) .

82. Minister not concerned with certain matters

Neither the Minister nor a person acting under his direction or authority is concerned with the effect in law of any instrument lodged with him in accordance with this Division nor does the approval of a transfer or dealing give to the transfer or dealing any force, effect, or validity that the transfer or dealing would not have had if this Division had not been enacted.

83. Power of Minister to require information as to dealings

(1) The Minister may require the person lodging an application for approval of a transfer or dealing or a provisional application for approval of a dealing under this Division to furnish to him in writing such information concerning the transfer or dealing as the Minister considers necessary or advisable.

(1A) The Minister may require a person who is a party to a dealing approved by the Minister under section 80 to furnish to the Minister a statement in writing setting out such information concerning alterations in the interests or rights existing in relation to the title to which the approved dealing relates as the Minister considers necessary or advisable.

(1B) The Minister may require a person making an application under section 78 (1) or (3) or section 86A (2) to furnish to the Minister in writing such information concerning the matter to which the application relates as the Minister considers necessary or advisable.

(1C) A person shall not fail or refuse to comply with a requirement given to the person under subsection (1) , (1A) , or (1B) .

(2) A person who is so required to furnish information shall not furnish information that is false or misleading in a material particular.

(3) A person who contravenes subsection (2) is guilty of an offence and is liable on summary conviction to a fine not exceeding 50 penalty units.

84. Production and inspection of documents

(1) The Minister may require any person to produce to him or make available for inspection by him any documents in the possession or under the control of that person and relating to a transfer or dealing in relation to which approval is sought under this Division.

(1A) The Minister may require any person to produce to the Minister or to make available for inspection by the Minister any documents in the possession or under the control of that person and relating to an application made to the Minister under section 78 (1) or (3) or 86A (2) .

(2) Any person who fails or refuses to comply with a requirement given to him under subsection (1) or (1A) is guilty of an offence and is liable on conviction to a fine not exceeding 50 penalty units.

85. Inspection of register and documents

(1) The register and all instruments subject to inspection under this Division shall at all convenient times be open for inspection, by any person on payment of the prescribed fee.

(2)

86. Evidentiary provisions

- (1) The register shall be received by all courts as evidence of all matters required or authorized by this Division to be entered in the register.
- (2) The Minister may, on the application of any person and payment of a fee calculated at the prescribed rate per page, supply to that person a copy of the register or of any instrument lodged with the Minister under this Division, or of any specified part of the register or any such instrument, certified by writing under his hand, and such a copy so certified is admissible in evidence in all courts and proceedings without further proof or production of the original register or instrument.
- (3) The Minister may, on the application of any person and payment of the prescribed fee, by instrument in writing under his hand, issue to that person a certificate to the effect that an entry, matter or thing required or permitted by or under this Division to be made or done or not to be made or done has or has not as the case may be, been made or done, and such a certificate is evidence in all courts and proceedings of the statements contained in the certificate.

86A. Minister may make corrections to register

- (1) The Minister may alter the register for the purposes of correcting a clerical error or an obvious defect in the register.
- (2) Subject to subsection (3), the Minister may, on application being made in writing to the Minister by a person or of the Minister's own motion, make such entries in the register as the Minister considers appropriate for the purposes of ensuring that the register accurately records the interests and rights existing in relation to a title.
- (3) Where the Minister proposes to make an entry in the register in accordance with subsection (2), the Minister shall cause to be published in the *Gazette* a notice –
 - (a) setting out the terms of the entry that the Minister proposes to make in the register; and
 - (b) inviting interested persons to give to the Minister by such day as is specified in the notice, being a day not earlier than 45 days after the publication of the notice, submissions in writing relating to the making of the entry.
- (4) Where submissions are, in accordance with a notice under subsection (3), given to the Minister in relation to the proposed making of an entry in the register, the Minister shall –
 - (a) take those submissions into account before making an entry in the register; and
 - (b) after making an entry in the register, cause to be published in the *Gazette* a notice setting out the terms of the entry.

87. Appeals

- (1) The Supreme Court may, on the application of a person aggrieved by –
 - (a) the omission of an entry from the register; or
 - (b) an entry made in the register without sufficient cause; or
 - (c) an entry wrongly existing in the register; or
 - (d) an error or defect in an entry in the register –

make such order as it thinks fit directing the rectification of the register.

- (2) The Supreme Court may, in proceedings under this section, decide any question that it is necessary or expedient to decide in connection with the rectification of the register.
- (3) Notice of an application under this section shall be given to the Minister, who may appear before and be heard by the Supreme Court and shall so appear, if directed by that Court to do so.
- (4) An office copy of an order made by the Supreme Court may be served on the Minister, and the Minister shall, on receipt of the order, rectify the register accordingly.

88. Minister not liable to certain actions

Subject to section 87, neither the Minister, his delegate, nor a person acting under the direction or authority of the Minister or his delegate is liable to any proceeding for or in respect of an act or matter done or omitted to be done in good faith in the exercise or purported exercise of any power or authority conferred by this Division.

89. Offences

A person who wilfully –

- (a) makes, causes to be made, or concurs in making a false entry in the register; or
- (b) produces or tenders in evidence a document falsely purporting to be a copy of or extract from an entry in the register or of or from an instrument lodged with the Minister under this Division –

is guilty of an offence and is liable on conviction to a fine not exceeding 50 penalty units.

90. Assessment of fee

- (1) The Minister may, by instrument in writing, determine the amount of the fee payable under section 91 in respect of any memorandum.
- (2) A person dissatisfied with a determination of the Minister under subsection (1) may appeal to the Supreme Court against the determination.
- (3) On the hearing of the appeal, the Supreme Court may affirm, reverse, or modify the determination of the Minister.

91. Registration fees

(1) Subject to this section, there is payable to the Minister in respect of an entry in the register of a memorandum of the transfer of a title under section 77, a fee at the rate of 1.5 per cent of –

- (a) the value of the consideration for the transfer; or
- (b) the value of the title transferred –

whichever is the greater or, if the amount of that fee is less than \$300, a fee of \$300.

(2) Where –

- (a) a fee imposed by subsection (4) in respect of an entry of approval of a dealing, being a dealing pursuant to which the transfer of a title is agreed to, has been paid; and
- (b) but for this subsection, the amount of the fee imposed by subsection (1) in respect of the entry of a memorandum of the transfer of the title, being a transfer executed for the purpose of giving effect to the dealing referred to in paragraph (a), would be greater than \$300 –

the amount of the fee imposed by subsection (1) in respect of the entry of the memorandum of the transfer is \$300.

(3) Where –

- (a) the parties to a transfer of a title lodged for approval under section 77 satisfy the Minister that –
 - (i) those parties are related corporations within the meaning of the Corporations Act; and
 - (ii) the transfer was executed solely for the purpose of a reorganization of the corporations concerned or any of them or solely for the purpose of securing the better administration of the corporations concerned or any of them; and
 - (iii) the transfer was not executed substantially for the purpose of avoiding or reducing the registration fees that would, but for this subsection, be payable under subsection (1) in respect of the entry of a memorandum of the transfer; and
- (b) but for this subsection, the amount of the fee imposed by subsection (1) in respect of the entry of the memorandum of the transfer of the title would be more than \$3 000 –

the amount of the fee imposed by subsection (1) in respect of the entry of the memorandum of the transfer is \$3 000.

(4) Subject to this section, there is payable to the Minister in respect of an entry in the register of the approval of a dealing under section 80 a fee at the rate of 1.5 per cent of –

(a) the value of the consideration for the dealing or, if the Minister approves the dealing in relation to another title or titles, an amount equal to the value of the consideration for the dealing divided by the number of titles in relation to which the dealing is approved; or

(b) in the case where –

(i) the entry of approval relates to an interest in a licence or pipeline licence; and

(ii) the value of the interest is greater than the amount applicable under paragraph (a) ; and

(iii) the dealing has an effect of the kind referred to in section 80 (1) (a) , (b) , or (d) ; and

(iv) the Minister is satisfied that the dealing was not made pursuant to another dealing, being a dealing that relates to that title and in respect of an entry of approval of which a fee imposed by this subsection has been paid –

the value of the interest.

(5) Where –

(a) but for this subsection, the amount of the fee imposed by subsection (4) in relation to an entry of approval of a dealing would be less than \$300; or

(b) an approval under section 80 is given in respect of a dealing that is a dealing to which that section applies by reason only that the dealing creates, varies, or terminates a charge over some or all of the assets of a body corporate –

the amount of the fee imposed by subsection (4) in respect of the entry of that approval is \$300.

(6) Where –

(a) the parties to a dealing lodged for approval under section 80 satisfy the Minister that –

(i) those parties are related corporations within the meaning of the Corporations Act; and

(ii) the dealing was entered into solely for the purpose of a reorganization of the corporations concerned or any of them or solely for the purpose of securing the better administration of the corporations concerned or any of them; and

(iii) the dealing was not entered into substantially for the purpose of avoiding or reducing the registration fees that would, but for this subsection, be payable under subsection (4) in respect of the entry of approval of the dealing; and

(b) but for this subsection, the amount of the fee imposed by subsection (4) in relation to the entry of approval of the dealing would be more than \$3 000 –

the amount of the fee imposed by subsection (4) in respect of the entry of approval of that dealing is \$3 000.

(7) For the purposes of calculating the amount of the fee imposed by subsection (4) in respect of an entry of approval of a dealing, the value, as determined by the Minister, of any exploration works to be carried out pursuant to the dealing, being works that were, at the time when the application for approval of the dealing was lodged, required or permitted to be carried out by or under the relevant title, shall be deducted from the value of the consideration for the dealing or from the value of the interest in the relevant licence as the case requires.

93. Notice of grants of permits, &c., to be published

The Minister shall cause notice of, and such particulars as he thinks fit of –

- (a) the grant, and the grant of the renewal, of a permit, lease, licence, or pipeline licence; and
- (b) the variation of a licence or pipeline licence; and
- (c) the surrender or cancellation of a permit, lease, or licence as to all or some of the blocks in the permit area, lease area, or licence area; and
- (d) the determination of a permit or lease as to a block or blocks; and
- (e) an application for a pipeline licence or for the renewal or variation of a pipeline licence; and
- (f) the surrender or cancellation of a pipeline licence as to the whole or a part of the pipeline; and
- (g) the expiry of a permit, lease, licence, or pipeline licence –

under this Part to be published in the *Gazette*.

94. Commencement of permits, &c.

(1)

(2) The surrender or cancellation of a permit, lease, or licence as to all or some of the blocks in the permit area, lease area, or licence area has effect on and from the day on which notice of the surrender or cancellation is published in the *Gazette*.

(3) The surrender or cancellation of a pipeline licence as to the whole or a part of the pipeline has effect on and from the day on which notice of the surrender or cancellation is published in the *Gazette*.

(4) A variation of a licence or pipeline licence has effect on and from the day on which notice of the variation is published in the *Gazette*.

95. Commencement of works

(1) Where a permit, lease, licence, or pipeline licence is granted subject to a condition that works or operations specified in the permit, lease, licence, or pipeline licence are to be carried out, the permittee, lessee, licensee, or pipeline licensee, as the case may be, shall commence to carry out those works or operations within a period of 6 months after the day on which the permit, lease, licence, or pipeline licence, as the case may be, comes into force.

(2) The Minister may, for reasons that he thinks sufficient, by instrument in writing served on a permittee, lessee, licensee, or pipeline licensee –

- (a) exempt him from compliance with the requirements of subsection (1) ; and
- (b) direct him to commence to carry out the works or operations specified in the permit, lease, licence, or pipeline licence, as the case may be, within such period after the day on which the permit, lease, licence, or pipeline licence, as the case may be, comes into force as is specified in the instrument.

(3) If a person to whom a direction is given under subsection (2) (b) fails to comply with the direction, he is guilty of an offence and is liable on conviction to a fine not exceeding 100 penalty units.

96. Work practices

(1) A permittee, lessee, or licensee shall carry out all petroleum exploration operations and operations for the recovery of petroleum in the permit area, lease area, or licence area in a proper and workmanlike manner and in accordance with good oil-field practice and shall secure the safety, health, and welfare of persons engaged in those operations in or about the permit area, lease area, or licence area.

(2) In particular, and without limiting the generality of subsection (1) , but subject to any authorization given or requirement made by or under this Act or any directions given under this Act, a permittee, lessee, or licensee shall –

- (a) control the flow and prevent the waste or escape in the permit area, lease area, or licence area of petroleum or water; and
- (b) prevent the escape in the permit area, lease area, or licence area of any mixture of water or drilling fluid with petroleum or any other matter; and
- (c) prevent damage to petroleum-bearing strata in an area, whether within the adjacent area or not, in respect of which the permit, lease, or licence is not in force; and
- (d) keep separate –
 - (i) each petroleum pool discovered in the permit area, lease area, or licence area; and
 - (ii) such of the sources of water, if any, discovered in that area as the Minister, by instrument in writing served on that person, directs; and
- (e) prevent water or any other matter entering any petroleum pool through wells in the permit area, lease area, or licence area except when required by, and in accordance with, good oil-field practice.

(3) A pipeline licensee shall operate the pipeline in a proper and workmanlike manner and shall secure the safety, health, and welfare of persons engaged in operations in connection with the pipeline.

(4) In particular and without limiting the generality of subsection (3) , a pipeline licensee shall prevent the waste or escape of petroleum or water from the pipeline or from any secondary line, pumping station, tank station, valve station, or water line.

(5) A person who is the holder of a special prospecting authority or an access authority shall carry out all petroleum exploration operations in the area in respect of which the special prospecting authority or access authority is in force in a proper and workmanlike manner and in accordance with good oil-field practice and shall secure the safety, health, and welfare of persons engaged in those operations in or about that area.

(6) Any person –

- (a) being a licensee or permittee, fails to comply with subsection (1) or (2) ; or
- (b) being a pipeline licensee, fails to comply with subsection (3) or (4) ; or
- (c) being the holder of a special prospecting authority, fails to comply with subsection (5) –

is guilty of an offence and is liable on conviction to a fine not exceeding 100 penalty units.

(7) It is a defence if a person charged with an offence against subsection (6) , or a defendant in civil proceedings arising out of a failure by the defendant to comply with a provision of this section, proves that he took all reasonable steps to comply with that provision.

97. Conditions relating to insurance

Without limiting the generality of any provision of this Act relating to conditions, the conditions subject to which a permit, lease, licence, pipeline licence, special prospecting authority, or access authority is granted may include a condition requiring the holder to effect and maintain, to the satisfaction of the Minister, insurance against expenses or liabilities or specified things arising in connection with, or as a result of, the carrying out of work, or the doing of any other thing, in pursuance of the permit, lease, licence, or authority, including expenses of complying with directions with respect to the clean-up or other remedying of the effects of the escape of petroleum.

98. Maintenance, &c., of property

(1) In this section –

operator means a permittee, lessee, licensee, pipeline licensee, or holder of a special prospecting authority or access authority;

the operations area –

- (a) in relation to an operator who is a permittee, lessee, or licensee – means the permit area, lease area, or licence area, as the case may be; and

(b) in relation to an operator who is a pipeline licensee – means the part of the adjacent area in which the pipeline is constructed; and

(c) in relation to an operator who is the holder of a special prospecting authority or access authority – means the area in respect of which that authority is in force.

(2) An operator shall maintain in good condition and repair all structures, equipment, and other property in the operations area and used in connection with the operations in which he is engaged.

(3) An operator shall remove from the operations area all structures, equipment, and other property that are not either used or to be used in connection with the operations in which he is engaged.

(4) Subsections (2) and (3) do not apply in relation to any structure, equipment, or other property that was not brought into the operations area by or with the authority of the operator.

Penalty: Fine not exceeding 100 penalty units.

99. Sections 96 and 98 to have effect subject to certain provisions, &c.

Sections 96 and 98 have effect subject to –

- (a) any other provision of this Act; and
- (b) the regulations; and
- (c) a direction under section 101 ; and
- (d) any other law.

100. Drilling near boundaries

(1) A permittee, lessee, or licensee shall not make a well any part of which is less than 300 metres from a boundary of the permit area, lease area, or licence area, as the case may be, except with the consent in writing of the Minister and in accordance with such conditions, if any, as are specified in the instrument of consent.

(2) Where a permittee, lessee, or licensee does not comply with subsection (1) , the Minister may, by instrument in writing served on the permittee, lessee, or licensee, as the case may be, direct him to do one or more of the following, within the period specified in the instrument –

- (a) to plug the well; and
- (b) to close off the well; and
- (c) to comply with such directions relating to the making or maintenance of the well as are specified in the instrument.

(3) A person to whom a direction is given under subsection (2) shall comply with the direction.

Penalty: Fine not exceeding 100 penalty units.

101. Directions

(1) The Minister may, by instrument in writing served on the registered holder of a permit, lease, licence, pipeline licence, special prospecting authority, or access authority, give to the registered holder a direction as to any matter with respect to which regulations may be made.

(2) A direction given under this section to a registered holder applies to the registered holder and may also be expressed to apply to –

- (a) a specified class of persons, being a class constituted by or included in one or both of the following classes of persons:
 - (i) servants or agents of, or persons acting on behalf of, the registered holder;
 - (ii) persons performing work or services, whether directly or indirectly, for the registered holder;
- or

(b) any person (not being a person to whom the direction applies otherwise than in accordance with this paragraph) who is in the adjacent area for any reason touching, concerning, arising out of, or connected with the exploration of the sea-bed or subsoil of the adjacent area for petroleum or the exploitation of the natural resources, being petroleum, of that sea-bed or subsoil or is in, on, above, below, or in the vicinity of a vessel, aircraft, structure, or installation, or equipment, or other property, that is in the adjacent area for a reason of that kind –

and where a direction so expressed is given, the direction shall be deemed to apply to each person included in that specified class or to each person who is in the adjacent area as mentioned in paragraph (b) , as the case may be.

(2A) Where a direction under this section applies to a registered holder and to a person referred to in subsection (2) (a) , the registered holder shall cause a copy of the instrument by which the direction was given to be given to that other person or to be exhibited at a prominent position at a place in an adjacent area frequented by that other person.

(2B) Where a direction under this section applies to a registered holder and to a person referred to in subsection (2) (b) , the registered holder shall cause a copy of the instrument by which the direction was given to be exhibited at a prominent position at a place in an adjacent area.

(2C) Where a direction under this section applies to a registered holder and to a person referred to in subsection (2) (b) , the Minister may, by notice in writing given to the registered holder, require the registered holder to cause to be displayed at such places in an adjacent area, and in such manner, as are specified in the notice, copies of the instrument by which the direction was given, and the registered holder shall comply with that requirement.

(2D) A registered holder to whom a direction under this section applies –

(a) who fails to comply with subsection (2A) or (2B) ; or

(b) who fails to comply with a requirement under subsection (2C) –

is guilty of an offence and is liable on summary conviction to a fine not exceeding 50 penalty units.

(3) The Minister shall not give a direction of a standing or permanent nature except after consultation with the Minister for the time being administering the Commonwealth Act , but the validity of a direction of the Minister shall not be called in question by reason only that the Minister has contravened this subsection.

(4) A direction given under this section has effect and shall be complied with notwithstanding anything in the regulations or the applied provisions.

(5) Subsections (2A) and (2B) of section 151 apply in relation to directions made under this section in like manner as those subsections apply to the regulations.

(6) If a person to whom a direction in force under subsection (1) is applicable fails to comply with the direction, he is guilty of an offence and is liable on conviction to a fine not exceeding 500 penalty units.

(7) Where –

(a) a direction given under this section applies to a registered holder and another person and that other person is prosecuted for an offence against subsection (6) in relation to the direction; and

(b) the person adduces evidence that the person did not know, and could not reasonably be expected to have known, of the existence of the direction –

the person shall not be convicted of the offence unless the prosecutor proves that the person knew, or could reasonably be expected to have known, of the existence of the direction.

102. Compliance with directions

(1) Where a person does not comply with a direction given or applicable to the person under this Part or under the regulations, the Minister may do all or any of the things required by the direction to be done.

(2) Costs and expenses incurred by the Minister under subsection (1) in relation to a direction are a debt due by the person to whom the direction was given or was applicable to the Crown and are recoverable in a court of competent jurisdiction.

(2A) Where –

(a) a direction given under section 101 applies to a permittee, lessee, licensee, pipeline licensee, or the holder of a special prospecting authority or access authority and another person and an action under subsection (2) relating to the direction is brought against that other person; and

(b) the person adduces evidence that the person did not know, and could not reasonably be expected to have known, of the existence of the direction –

the person is not liable under subsection (2) unless the plaintiff proves that the person knew, or could reasonably be expected to have known, of the existence of the direction.

(3) It is a defence if a person charged with failing to comply with a direction given or applicable to the person under this Part or under the regulations or a defendant in an action under subsection (2) proves that he took all reasonable steps to comply with the direction.

103. Variation and suspension of, and exemption from compliance with, conditions of permit, licence, &c.

(1) Where –

(a) a permit, lease, licence, or pipeline licence is, under this Part, to be deemed to continue in force until the Minister grants, or refuses to grant, the renewal of the permit, lease, licence, or pipeline licence; or

(b) a licence is varied under section 44 ; or

(c) a licensee enters into an agreement under section 58 or a direction is given to a licensee under that section; or

(d) a permit, lease, or licence is partly cancelled, partly determined or surrendered as to one or more but not all of the blocks in respect of which it is in force; or

(e) a pipeline licence is varied under section 70 or 71 ; or

(f) a direction is given to a pipeline licensee under section 72 ; or

(g) a pipeline licence is partly cancelled; or

(h) an access authority is granted in respect of a block the subject of a permit, lease, or licence, or an access authority as in force in respect of such a block is varied; or

(i) a permittee, lessee, licensee, pipeline licensee, or the holder of a special prospecting authority or access authority applies, by instrument in writing served on the Minister –

(i) for a variation or suspension of; or

(ii) for exemption from compliance with –

any of the conditions to which the permit, lease, licence, pipeline licence, special prospecting authority, or access authority is subject; or

(j) the Minister under this Part or the regulations gives a direction or consent to a permittee, lessee, licensee, pipeline licensee, or the holder of a special prospecting authority or access authority –

the Minister may, at any time, by instrument in writing served on the permittee, lessee, licensee, pipeline licensee, or the holder of the special prospecting authority or access authority –

(k) vary or suspend; or

(l) exempt the permittee, lessee, licensee, pipeline licensee, or the holder of the special prospecting authority or access authority from compliance with –

any of the conditions to which the permit, lease, licence, pipeline licence, special prospecting authority, or access authority is subject, upon such conditions, if any, as the Minister determines and specifies in the

instrument.

(2) Subsection (1) does not authorize the making of an instrument to the extent that it would affect the term of a permit, lease, licence or pipeline licence.

(3) Notwithstanding subsection (2) , where in accordance with subsection (1) , the Minister suspends, or exempts the permittee or lessee from compliance with, any of the conditions to which a permit or lease is subject, the Minister may, if he considers that circumstances make it reasonable to do so, in the instrument of suspension or exemption or by a later instrument in writing served on the permittee, extend the term of the permit or lease by a period not exceeding the period of suspension or exemption.

104. Surrender of permits, &c.

(1) The registered holder of an instrument, being a permit, lease, licence, or pipeline licence, may, at any time, by application in writing served on the Minister, apply for consent to surrender the instrument –

(a) in the case of a permit or licence – as to all or some of the blocks in respect of which it is in force; or

(aa) in the case of a lease – as to all of the blocks in respect of which it is in force; or

(b) in the case of a pipeline licence – as to the whole or a part of the pipeline in respect of which it is in force.

(2) Subject to subsection (3) , the Minister shall not give his consent to a surrender of an instrument under subsection (1) unless the registered holder –

(a) has paid all fees and amounts payable by him under this Act, or has made arrangements that are satisfactory to the Minister for the payment of those fees and amounts; and

(b) has complied with the conditions to which the instrument is subject and with the provisions of this Part and of the regulations; and

(c) has, to the satisfaction of the Minister, removed or caused to be removed from the area to which the surrender relates all property brought into that area by any person engaged or concerned in the operations authorized by the instrument, or has made arrangements that are satisfactory to the Minister with respect to that property; and

(d) has, to the satisfaction of the Minister, plugged or closed off all wells made in that area by any person engaged or concerned in the operations authorized by the instrument; and

(e) subject to this Part and to the regulations, has made provision, to the satisfaction of the Minister, for the conservation and protection of the natural resources in that area; and

(f) has, to the satisfaction of the Minister, made good any damage to the sea-bed or subsoil in that area caused by any person engaged or concerned in the operations authorized by the instrument –

but if the registered holder has complied with those requirements, the Minister shall not unreasonably refuse to consent to the surrender.

(3) Where the registered holder of an instrument, being a permit, lease, licence, or pipeline licence, has not complied with the conditions to which the instrument is subject and with the provisions of this Part and of the regulations, the Minister may give his consent to a surrender of the instrument under subsection (1) if he is satisfied that, although the registered holder had not so complied, special circumstances exist that justify the giving of consent to the surrender.

(4) Where the Minister consents to an application under subsection (1) , the applicant may, by instrument in writing served on the Minister, surrender the instrument accordingly.

(5) In this section, *the area to which the surrender relates* means –

(a) in relation to a surrender of a permit, lease, or licence – the area constituted by the block as to which the permit, lease, or licence is proposed to be surrendered; and

(b) in relation to a surrender of a pipeline licence – the part of the adjacent area in which the pipeline, or the part of the pipeline, as to which the pipeline licence is proposed to be surrendered is constructed.

105. Cancellation of permits, &c.

- (1) Where a permittee, lessee, licensee, or pipeline licensee –
 - (a) has not complied with a condition to which the permit, lease, licence, or pipeline licence is subject; or
 - (b) has not complied with a direction given to him under this Part by the Minister; or
 - (c) has not complied with a provision of this Part or of the regulations; or
 - (d) has not paid any amount payable by him under this Act, within a period of 3 months after the day on which the amount became payable –

the Minister may, on that ground, by instrument in writing served on the permittee, lessee, licensee, or pipeline licensee, as the case may be –
 - (e) in the case of a permit or licence – cancel the permit or licence as to all or some of the blocks in respect of which it is in force; or
 - (ea) in the case of a lease – cancel the lease as to all of the blocks in respect of which it is in force; or
 - (f) in the case of a pipeline licence – cancel the pipeline licence as to the whole or a part of the pipeline in respect of which it is in force.
- (2) The Minister shall not, under subsection (1), cancel a permit, licence, or pipeline licence as to all or some of the blocks, or as to the whole or a part of the pipeline, in respect of which it is in force, or cancel a lease as to all of the blocks in respect of which it is in force, on a ground referred to in that subsection unless –
 - (a) he has, by instrument in writing served on the permittee, lessee, licensee, or pipeline licensee, as the case may be, given not less than 1 month's notice of his intention to cancel the permit, lease, licence, or pipeline licence on that ground; and
 - (b) he has served a copy of the instrument on such other persons, if any, as he thinks fit; and
 - (c) he has, in the instrument, specified a date on or before which the permittee, lessee, licensee, or pipeline licensee or a person on whom a copy of the instrument is served may, by instrument in writing served on the Minister, submit any matters that he wishes the Minister to consider; and
 - (d) he has taken into account –
 - (i) any action taken by the permittee, lessee, licensee, or pipeline licensee, as the case may be, to remove that ground or to prevent the recurrence of similar grounds; and
 - (ii) any matters so submitted to him on or before the specified date by the permittee, lessee, licensee, or pipeline licensee or by a person on whom a copy of the first-mentioned instrument has been served.

106. Cancellation of permit, &c., not affected by other provisions

- (1) A permit, licence, or pipeline licence may be wholly cancelled or partly cancelled, and a lease may be wholly cancelled, on the ground that the registered holder of the permit, lease, licence, or pipeline licence has not complied with a provision of this Part or of the regulations notwithstanding that he has been convicted of an offence by reason of his failure to comply with the provision.
- (2) A person who was the registered holder of a permit, lease, licence, or pipeline licence that has been wholly cancelled, or is the registered holder of a permit, licence, or pipeline licence that has been partly cancelled, on the ground that he has not complied with a provision of this Part or of the regulations may be convicted of an offence by reason of his failure to comply with the provision, notwithstanding that the permit, lease, licence, or pipeline licence has been so cancelled.
- (3) A permit, licence, or pipeline licence may be wholly cancelled or partly cancelled, and a lease may be wholly cancelled, on the ground that the registered holder of the permit, lease, licence, or pipeline licence has not paid an amount payable by him under this Act within a period of 3 months after the day on which the

amount became payable, notwithstanding that judgment for the amount may have been obtained or that the amount, or any part of the amount, may have been paid or recovered.

(4) A person who –

(a) was the registered holder of a permit, lease, licence, or pipeline licence that has been wholly cancelled; or

(b) is the registered holder of a permit, licence, or pipeline licence that has been partly cancelled –

on the ground that he has not paid an amount payable by him under this Act within a period of 3 months after the day on which the amount became payable continues to be liable to pay that amount, together with any additional amount payable by reason of late payment of that amount, notwithstanding that the permit, lease, licence, or pipeline licence may have been so cancelled.

107. Removal of property, &c., by permittee, &c.

(1) Where a permit, licence, or pipeline licence has been wholly determined, partly determined, wholly cancelled, or partly cancelled, or has expired, or a lease has been wholly determined, partly determined, or wholly cancelled or has expired, the Minister may, by instrument in writing served on the person who was, or is, as the case may be, the permittee, lessee, licensee, or pipeline licensee, direct that person to do any one or more of the following things:

(a) to remove or cause to be removed from the relinquished area all property brought into that area by any person engaged or concerned in the operations authorized by the permit, lease, licence, or pipeline licence or to make arrangements that are satisfactory to the Minister with respect to that property;

(b) to plug or close off, to the satisfaction of the Minister, all wells made in that area by any person engaged or concerned in those operations;

(c) subject to this Part and to the regulations, to make provision, to the satisfaction of the Minister, for the conservation and protection of the natural resources in that area;

(d) to make good, to the satisfaction of the Minister, any damage to the sea-bed or subsoil in that area caused by any person engaged or concerned in those operations.

(2) The Minister may, by instrument in writing served on a permittee, lessee, licensee, or pipeline licensee, direct him to do any one or more of the following things:

(a) to remove or cause to be removed from the permit area, lease area, licence area, or part of the adjacent area in which the pipeline is constructed, as the case may be, all property brought into that area or part by any person engaged or concerned in the operations authorized by the permit, lease, licence, or pipeline licence or to make arrangements that are satisfactory to the Minister with respect to that property;

(b) to plug or close off, to the satisfaction of the Minister all wells made in that area or part by any person engaged or concerned in those operations;

(c) subject to this Part and to the regulations, to make provision, to the satisfaction of the Minister, for the conservation and protection of the natural resources in that area or part;

(d) to make good, to the satisfaction of the Minister, any damage to the sea-bed or subsoil in that area or part caused by any person engaged or concerned in those operations.

(3) If a person to whom a direction is given under subsection (1) or (2) fails to comply with the direction –

(a) in the case of a direction given under subsection (1) – within the period specified in the instrument by which the direction was given; or

(b) in the case of a direction given under subsection (2) – on or before the date of expiration of the permit, lease, licence, or pipeline licence concerned –

he is guilty of an offence and is liable on conviction to a fine not exceeding 100 penalty units.

108. Removal of property, &c., by Minister

Where a permit, licence, or pipeline licence has been wholly determined, partly determined, wholly cancelled, or partly cancelled, or has expired, or a lease has been wholly determined, partly determined, cancelled, or has expired, and a direction under section 107 has not been complied with, or an arrangement under that section has not been carried out, in relation to the relinquished area –

- (a) the Minister may do all or any of the things required by the direction or arrangement to be done; and
- (b) if any property brought into that area by any person engaged or concerned in the operations authorized by the permit, lease, licence, or pipeline licence has not been removed in accordance with the direction or arrangement, the Minister may, by instrument published in the *Gazette*, direct that the owner or owners of that property shall remove it from that area, or dispose of it to the satisfaction of the Minister, within the period specified in the instrument and shall serve a copy of the instrument on each person whom he believes to be an owner of that property or any part of that property.

109. Payment by instalments

- (1) The Minister and a person who may request, or has requested, that a permit under section 26 or a licence under section 49 be granted to him may enter into an agreement in writing for or in relation to the payment, by instalments, of the amount to be paid in respect of the grant of the permit or licence, together with interest at the rate that is the specified rate from time to time on so much of that amount as from time to time remains unpaid.
- (2) For the purposes of subsection (1), the specified rate is 10 per cent per annum or, if a lower rate is prescribed, that lower rate.
- (3) The period specified in an agreement under this section as the period within which an amount payable by instalments is to be paid shall not be greater than 21 years.
- (4) Where a person enters into an agreement under this section for or in relation to the payment of an amount in respect of the grant of a permit or licence, any instalment or interest that is due under the agreement and has not been paid is payable by the registered holder of the permit or licence, as the case may be.

110. Penalty for late payment of instalment, &c.

- (1) Where the liability of a person under section 109 to pay an amount, being an instalment or any interest, is not discharged at or before the time when the amount is payable, there is payable by that person an additional amount calculated at the rate of one-third of 1 per cent per day on so much of the first-mentioned amount as from time to time remains unpaid, to be computed from the time when the first-mentioned amount became payable until it is paid.
- (2) The Minister may, in a particular case, for reasons that he thinks sufficient, remit the whole or part of an amount payable under this section.

111. Special prospecting authorities

- (1) A person may make an application to the Minister for the grant of a special prospecting authority in respect of a block or blocks of which a permit, lease, or licence is not in force.
- (2) An application under this section shall –
 - (a) be in accordance with an approved form; and
 - (b) be made in an approved manner; and
 - (c) specify the operations that the applicant proposes to carry on and the block or blocks in respect of which the applicant proposes to carry on those operations.
- (3) The Minister –
 - (a) may grant to the applicant a special prospecting authority subject to such conditions as the Minister thinks fit and specifies in the authority; or
 - (b) may refuse to grant the application.
- (4) A special prospecting authority, while it remains in force, authorizes the holder, subject to this Act and in accordance with the conditions to which the special prospecting authority is subject, to carry on in the blocks

specified in the special prospecting authority the petroleum exploration operations so specified.

(5) Nothing in a special prospecting authority authorizes the holder to make a well.

(6) A special prospecting authority comes into force on the day specified for the purpose in the authority and, unless surrendered or cancelled, remains in force for such period, not exceeding 6 months, as is so specified.

(6A) A special prospecting authority is not capable of being transferred.

(6B) Where –

(a) a person holds a special prospecting authority in respect of a block; and

(b) another special prospecting authority is granted to another person in respect of the block –

the Minister shall, by notice in writing served on each of those persons, inform each of them of –

(c) the petroleum exploration operations authorized by the special prospecting authority granted to the other person; and

(d) the conditions to which the special prospecting authority granted to the other person is subject.

(7) A special prospecting authority –

(a) may be surrendered by the holder at any time by instrument in writing served on the Minister; and

(b) may, if the holder has not complied with a condition to which the authority is subject, be cancelled by the Minister by instrument in writing served on the holder.

(8) Where a special prospecting authority has been surrendered or cancelled, or has expired, the Minister may, by instrument in writing served on the person who was the holder of the special prospecting authority, direct that person to do any one or more of the following things:

(a) to remove or cause to be removed from the relinquished area all property brought into that area by any person engaged or concerned in the operations authorized by the special prospecting authority or to make arrangements that are satisfactory to the Minister with respect to that property;

(b) subject to this Part and to the regulations, to make provision, to the satisfaction of the Minister, for the conservation and protection of the natural resources in that area;

(c) to make good, to the satisfaction of the Minister, any damage to the sea-bed or subsoil in that area caused by any person engaged or concerned in those operations.

(9) If a person to whom a direction is given under subsection (8) fails to comply with the direction, he is guilty of an offence and is liable on conviction to a fine not exceeding 100 penalty units.

(10) Section 108 applies to and in relation to a special prospecting authority as if –

(a) a reference in that section to a permit were a reference to a special prospecting authority; and

(b) a reference in that section to a direction or an arrangement under section 107 were a reference to a direction or an arrangement under subsection (8) .

112. Access authorities

(1) A permittee, lessee, or licensee may make an application to the Minister for the grant of an access authority to enable him to carry on in any part of the adjacent area that is not part of his permit area, lease area, or licence area petroleum exploration operations or operations related to the recovery of petroleum in or from the permit area, lease area, or licence area.

(1A) A holder of an extra-State title may make an application to the Minister for the grant of an access authority to enable the holder to carry on, in a part of the adjacent area, petroleum exploration operations or operations related to the recovery of petroleum in or from the area to which that extra-State title relates.

(2) An application under this section –

(a) shall be in accordance with an approved form; and

(b) shall be made in an approved manner; and

(c) shall specify the operations that the applicant proposes to carry on and the area in which the applicant proposes to carry on those operations; and

(d) may set out any other matters that the applicant wishes the Minister to consider.

(3) The Minister may –

(a) if he is satisfied that it is necessary or desirable to do so for the more effective exercise of the rights, or for the proper performance of the duties, of a permittee, lessee, licensee, or holder of an extra-State title who has made an application under this section, grant to him an access authority subject to such conditions as the Minister thinks fit and specifies in the access authority; and

(b) at any time, by instrument in writing served on the registered holder of an access authority so granted, vary the access authority.

(4) The Minister shall not grant an access authority on an application under this section in respect of a block that is the subject of a permit, lease, or licence of which the registered holder is a person other than the applicant, or vary an access authority as in force in respect of a block that is the subject of a permit, lease, or licence of which the registered holder is a person other than the registered holder of the access authority, unless

–

(a) he has, by instrument in writing served on that person, given not less than 1 month's notice of his intention to grant, or vary, as the case may be, the access authority; and

(b) he has served a copy of the instrument –

(i) on such other persons, if any, as he thinks fit; and

(ii) in a case where he intends to vary an access authority – on the registered holder of the access authority; and

(c) he has, in the instrument –

(i) given particulars of the access authority proposed to be granted, or of the variation proposed to be made, as the case may be; and

(ii) specified a date on or before which a person on whom the instrument, or a copy of the instrument, is served may, by instrument in writing served on the Minister submit any matters that he wishes the Minister to consider; and

(d) he has taken into account any matters so submitted to him on or before the specified date by a person on whom the first-mentioned instrument, or a copy of that instrument, has been served.

(5) An access authority, while it remains in force, authorizes the holder, subject to this Act and in accordance with the conditions to which the access authority is subject, to carry on, in the area specified in the access authority, the operations so specified.

(6) Nothing in an access authority authorizes the holder to make a well.

(7) An access authority comes into force on the day specified for the purpose in the access authority and, unless surrendered or cancelled, remains in force for such period as is so specified and the authority may be extended by the Minister for a further period.

(8) An access authority –

(a) may be surrendered by the holder at any time by instrument in writing served on the Minister; and

(b) may be cancelled by the Minister at any time by instrument in writing served on the holder and on any person in whose permit area, lease area, or licence area operations may be carried on in pursuance of the access authority.

(9) Where an access authority has been surrendered or cancelled or has expired, the Minister may, by instrument in writing served on the person who was the holder of the access authority, direct that person to do any one or more of the following things:

- (a) to remove or cause to be removed from the relinquished area all property brought into that area by any person engaged or concerned in the operations authorized by the access authority or to make arrangements that are satisfactory to the Minister with respect to that property;
- (b) subject to this Part and to the regulations, to make provision, to the satisfaction of the Minister, for the conservation and protection of the natural resources in that area;
- (c) to make good, to the satisfaction of the Minister, any damage to the sea-bed or subsoil in that area caused by any person engaged or concerned in those operations.

(10) If a person to whom a direction is given under subsection (9) fails to comply with the direction, he is guilty of an offence and is liable on conviction to a fine not exceeding 100 penalty units.

(11) The holder of an access authority shall, if the access authority is in force in respect of an area that consists of, or includes, a block that is the subject of a permit, lease, or licence of which he is not the registered holder, furnish to the registered holder of that permit, lease, or licence, within 28 days after the end of each month during which the access authority is in force in respect of that block, a full report, in writing, of the operations carried on in that block during that month and of the facts ascertained from those operations.

Penalty: Fine not exceeding 50 penalty units.

(12) Section 108 applies to and in relation to an access authority as if –

- (a) a reference in that section to a permit were a reference to an access authority; and
- (b) a reference in that section to a direction or an arrangement under section 107 were a reference to a direction or an arrangement under subsection (9) .

(13) In this section –

extra-State title means an authority, however described, under a law of the Commonwealth or another State, to explore for, or to recover, petroleum.

113. Sale of property

(1) Where a direction under section 108 has not been complied with in relation to any property, the Minister may do all or any of the following things:

- (a) remove, in such manner as he thinks fit, all or any of that property from the relinquished area concerned;
- (b) dispose of, in such manner as he thinks fit, all or any of that property;
- (c) if he has served a copy of the instrument by which the direction was given on a person whom he believed to be an owner of that property or part of that property, sell, by public auction or otherwise, as he thinks fit, all or any part of that property that belongs, or that he believes to belong, to that person.

(2) The Minister may deduct from the proceeds of a sale under subsection (1) of property that belongs, or that he believes to belong, to a particular person –

- (a) all or any part of any costs and expenses incurred by him under that subsection in relation to that property; and
- (b) all or any part of any costs and expenses incurred by him in relation to the doing of any thing required by a direction under section 107 , 111 , or 112 , as the case may be, to be done by that person; and
- (c) all or any part of any fees or amounts due and payable under this Act by that person.

(3) Costs and expenses incurred by the Minister under subsection (1) –

- (a) if incurred in relation to the removal, disposal, or sale of property, are a debt due by the owner of the property to the Crown; or

(b) if incurred in relation to the doing of any thing required by a direction under section 107 , 111 , or 112 , as the case may be, to be done by a person who is or was a permittee, lessee, licensee, pipeline licensee, or holder of a special prospecting authority or access authority, are a debt due by that person to the Crown –

and, to the extent to which they are not recovered under subsection (2) , are recoverable in a court of competent jurisdiction.

(4) Subject to subsection (3) , no action lies in respect of the removal, disposal, or sale of property under this section.

114. Securities

(1) A security referred to in this Part –

(a) shall be –

(i) in the case of a security referred to in Division 2 or 2A – the sum of \$15 000; and

(ii) in the case of a security referred to in Division 3 – the sum of \$150 000; and

(iii) in the case of a security referred to in Division 4 – the sum of \$60 000; and

(b) shall be given in such manner and form as are approved; and

(c) may, subject to that approval, be by cash deposit or such other method as the Minister allows or partly by cash deposit and partly by such other method as the Minister allows.

(2) A security given in accordance with a form approved by the Minister although it is not sealed binds the person subscribing it as if it were sealed.

(3) Whenever a security under this Part is put in suit, the production of a security, without further proof, entitles the Minister to judgment against the person appearing to have executed the security, for the amount of his stated liability or for such lesser amount as is claimed, unless that person proves compliance with the conditions of the security or that the security was not executed by him or release or satisfaction.

(4) If it appears to the court that a non-compliance with a condition of a security under this Part has occurred, the security shall not be deemed to have been discharged or invalidated, and the subscriber shall not be deemed to have been released or discharged from liability, by reason of –

(a) any extension of time or other concession; or

(b) any consent to, or acquiescence in, a previous non-compliance with a condition; or

(c) any failure to bring suit against the subscriber upon the occurrence of a previous non-compliance with the condition.

(5) If there are several subscribers to the security, they are bound, unless the security otherwise provides, jointly and severally and for the full amount.

115. Power of Minister to require information to be furnished, &c.

(1) Where the Minister or an inspector has reason to believe that a person is capable of giving information or producing documents relating to petroleum exploration operations, operations for the recovery of petroleum, or operations connected with the construction or operation of a pipeline in the adjacent area, he may, by instrument in writing served on that person, require that person –

(a) to furnish to him in writing, within the period and in the manner specified in the instrument, any such information; or

(b) to attend before him or a person specified in the instrument, at such time and place as is so specified and there to answer questions relating to those operations and to produce such documents relating to those operations as are so specified.

(2) A person is not excused from furnishing information, answering a question, or producing a document when required to do so under this section on the ground that the information so furnished, the answer to the question,

or the production of the document might tend to incriminate him or make him liable to a penalty, but the information so furnished or his answer to the question is not admissible in evidence against him in proceedings other than proceedings for an offence against section 117 .

116. Power to examine on oath

- (1) The Minister or an inspector may administer an oath to a person required to attend before him under section 115 and may examine that person on oath.
- (2) Where a person attending before the Minister or an inspector under section 115 conscientiously objects to taking an oath, he may make an affirmation that he conscientiously objects to taking an oath and that he will state the truth, the whole truth and nothing but the truth to all questions asked him.
- (3) An affirmation made under subsection (2) is of the same force and effect, and entails the same penalties, as an oath.

117. Failing to furnish information, &c.

A person shall not –

- (a) refuse or fail to comply with a requirement in an instrument under section 115 to the extent to which he is capable of complying with it; or
- (b) in purported compliance with such a requirement, furnish information that is to his knowledge false or misleading in a material particular; or
- (c) when attending before the Minister or an inspector in pursuance of such a requirement, make a statement or produce a document that is to his knowledge false or misleading in a material particular.

Penalty: Fine not exceeding 100 penalty units.

118. Release of information

- (1) The Minister may, at any time, make available to another Minister to a Minister of State of the Commonwealth or of another State –
 - (a) any information contained in a document to which this section applies that has been furnished to the Minister; and
 - (b) any cores or cuttings from, or samples of, the sea-bed or subsoil in a block, or samples of petroleum recovered in a block, that have been furnished to the Minister.
- (1A) The Minister or another Minister may, at any time after the grant or renewal, or refusal to grant or renew, a permit, lease, licence, pipeline licence, access authority, or special prospecting authority –
 - (a) make publicly known; or
 - (b) on request by a person and, if the Minister or the other Minister so requires, on payment of a fee of \$15 per day, make available to that person –

any information contained in, or accompanying, the application for the grant or renewal, as the case may be, but not including –
 - (c) information of a kind referred to in subsection (2) or (5A) ; or
 - (d) particulars of –
 - (i) the technical qualifications of the applicant and of the employees of the applicant; or
 - (ii) the technical advice available to the applicant; or
 - (iii) the financial resources available to the applicant.
- (2) The Minister or another Minister may, at any time after the relevant day –
 - (a) make publicly known; or

(b) on request by a person and, if the Minister or the other Minister so requires, on payment of a fee of \$15 per day, make available to that person –

any information contained in a document to which this section applies that has been furnished to the Minister or has been made available to the other Minister under subsection (1), being information that relates to the sea-bed or subsoil, or to petroleum, in a block, but not including any matter contained in a document to which this section applies that, in the opinion of the Minister or the other Minister, is a conclusion drawn, in whole or in part, from, or an opinion based, in whole or in part, on, any such information.

(3) The Minister or another Minister may, at any time after the relevant day –

(a) make publicly known any particulars of; or

(b) on request by a person and, if the Minister or the other Minister so requires, on payment of a fee of \$15 per day, permit that person to inspect –

any cores or cuttings from, or samples of, the sea-bed or subsoil in a block, or samples of petroleum recovered in a block, that have been furnished to the Minister or have been made available to the other Minister under subsection (1).

(4) For the purposes of subsections (2) and (3) –

(a) where –

(i) a permit or lease is in force in respect of the block; and

(ii) the document, core, cutting, or sample was furnished to the Minister during the period which any of the following were in force in respect of the block:

(A) the permit or lease;

(B) in a case where a lease is in force in respect of the block – the permit that ceased to be in force in respect of the block by virtue of section 37B (7) on the day on which the lease came into force –

the relevant day is the day on which the period of 2 years that commenced on the day on which the document, core, cutting, or sample was furnished to the Minister expires; and

(b) where –

(i) a licence is in force in respect of the block; and

(ii) the document, core, cutting, or sample was furnished to the Minister during the period during which any of the following were in force in respect of the block:

(A) the licence;

(B) the permit or lease that ceased to be in force in respect of the block by virtue of section 43 (5) on the day on which the licence came into force –

the relevant day is the day on which the period of 12 months that commenced on the day on which the document, core, cutting, or sample was furnished to the Minister expires; and

(c) where the document, core, cutting, or sample was furnished to the Minister during a period during which a permit, lease, or licence was in force in respect of the block and –

(i) the permit, lease, or licence is surrendered, cancelled, or determined as to the block; or

(ii) the permit, lease, or licence expires but is not renewed in respect of the block –

the relevant day is the day on which the permit, lease, or licence is so surrendered, cancelled, or determined, or expires, as the case may be, whether another permit, lease, or licence is subsequently in force in respect of the block or not; and

(d) where the document, core, cutting, or sample was furnished to the Minister during a period during which a permit, lease, or licence was not in force in respect of the block, the relevant day is such day as

the Minister determines, being a day earlier than the day on which the period of 2 years that commenced on the day on which the document, core, cutting, or sample was furnished to the Minister expires.

(5) Where –

(a) a document, core, cutting, or sample referred to in subsection (1) was furnished to the Minister –

(i) during or in respect of a period during which a permit, lease, or licence was in force in respect of the block; or

(ii) during or in respect of a period during which a special prospecting authority or access authority was in force in respect of the block but during which a permit, lease, or licence was not in force in respect of the block; and

(b) the permittee, lessee, licensee, or holder of the special prospecting authority or access authority or, if the permit, lease, licence, special prospecting authority, or access authority has ceased to be in force, the person who was the holder of the permit, lease, licence, special prospecting authority, or access authority –

(i) has made publicly known any information contained in the document or has consented in writing to any of that information being made publicly known; or

(ii) has made publicly known any particulars of that core, cutting, or sample or has consented in writing to any particulars of that core, cutting, or sample being made available for inspection –

the Minister, or another Minister to whom that information, core, cutting, or sample has been made available under subsection (1) may, at any time after that information has, or those particulars have, been made publicly known or after that consent has been given –

(c) make publicly known that information or, on request by another person and, if the Minister or the other Minister so requires, on payment of a fee of \$15 per day, make that information available to that other person; or

(d) make publicly known those particulars or, on request by any other person and, if the Minister or the other Minister so requires, on payment of a fee of \$15 per day, permit that other person to inspect that core, cutting, or sample –

as the case may be.

(5A) Subject to subsection (5F), the Minister or another Minister may, at any time after the end of the period of 5 years after a document to which this section applies was furnished to the Minister –

(a) make publicly known; or

(b) on request by a person and, if the Minister or the other Minister so requires, on payment of a fee of \$15 per day, make available to that person –

any information contained in the document, being information that relates to the sea-bed or subsoil, or to petroleum, in a block, and that, in the opinion of the Minister or the other Minister, is a conclusion drawn, in whole or in part, from, or an opinion based, in whole or in part, on any information contained in a document to which this section applies that has been furnished to the Minister or has been made available to the other Minister under subsection (1).

(5B) Before the Minister or the other Minister makes available or publicly known any information pursuant to subsection (5A), the Minister or the other Minister, as the case may be, shall –

(a) cause to be published in the *Gazette* a notice –

(i) stating that the Minister or the other Minister, as the case may be, proposes to make the information available or publicly known; and

(ii) inviting interested persons to give to the Minister or the other Minister, as the case may be, by such day as is specified in the notice, being a day not earlier than 45 days after the publication of the notice, a notice objecting to the whole or any part of the information being made available or publicly known; and

(iii) stating that, if a person does not make an objection in accordance with the invitation, the person will be taken to have consented to the information being made available or publicly known; and

(b) if it is practicable to do so – cause a copy of the notice so published in the *Gazette* to be served on the person who furnished the document containing the information.

(5C) There shall be set out in the notice of objection the reasons for making the objection.

(5D) A person is not entitled to make an objection to information being made available or publicly known except on the grounds that to do so would disclose –

(a) a trade secret; or

(b) any other information the disclosure of which would, or could reasonably be expected to, adversely affect the person in respect of the lawful business, commercial, or financial affairs of the person.

(5E) Where a person makes an objection to the Minister or the other Minister in accordance with such an invitation, the Minister or the other Minister shall, within 45 days after the receipt of the notice of objection, consider the objection, and may either disallow it, or allow it in whole or in part, and shall cause to be served on the person written notice of the decision on the objection.

(5F) The Minister or the other Minister shall not make available or make publicly known any information pursuant to subsection (5A) if there is in force an objection made in relation to the information being made available or publicly known but, where such an objection is in force, nothing in this section shall be taken to preclude a further invitation under subsection (5B) being made in relation to the information.

(6) Except as provided by the preceding subsections or for the purposes of the administration of this Act, the Minister or another Minister to whom any information, core, cutting, or sample has been made available under subsection (1) shall not –

(a) make publicly known, or make available to any person (not being a Minister or a Minister of State of the Commonwealth or of another State), any information contained in a document to which this section applies; or

(b) make publicly known any particulars of, or permit any person (not being a Minister referred to in paragraph (a)) to inspect any core, cutting, or sample so referred to.

(6A) This section applies to the following documents:

(a) an application made to the Minister under this Act or a document accompanying such an application;

(b) a report, return, or other document relating to a block that has been furnished to the Minister under this Act.

(7) In this section, a reference to a core, cutting, or sample includes a reference to a portion of a core, cutting, or sample.

(8) For the purposes of this section –

(a) cores and cuttings, and well data, logs, sample descriptions, and other documents, relating to the drilling of a well, shall be deemed to have been furnished to the Minister not later than 1 month after the drilling of the well was, in the opinion of the Minister, substantially completed; and

(b) geophysical or geochemical data relating to geophysical or geochemical surveys shall be deemed to have been furnished to the Minister not later than 1 year after the geophysical or geochemical field work was, in the opinion of the Minister, substantially completed.

(9) In this section, a reference to a Minister of State of another State includes a reference to a Minister of State of the Northern Territory.

119. Safety zones

(1) For the purpose of protecting a well or structure, or any equipment, in the adjacent area, the Minister may, by notice published in the *Gazette*, prohibit –

- (a) all vessels; or
- (b) all vessels other than specified vessels; or
- (c) all vessels other than the vessels included in specified classes of vessels –

from entering or remaining in a specified area (in this section called a "safety zone") surrounding the well, structure, or equipment without the consent in writing of the Minister.

(2) A safety zone specified in a notice published under subsection (1) may extend to a distance of 500 metres around the well structure, or equipment specified in the notice measured from each point of the outer edge of the well, structure, or equipment.

(3) Where a vessel enters or remains in a safety zone specified in a notice under subsection (1) in contravention of the notice, the owner and the person in command or in charge of the vessel are each guilty of an offence and each liable on conviction to a fine not exceeding 1 000 penalty units or imprisonment for a term not exceeding 10 years, or both.

120. Discovery of water in permit or licence area

(1) Where water is discovered in a permit area, a lease area, or a licence area, the permittee, lessee, or licensee, as the case may be, shall, within a period of 1 month after the date of the discovery, furnish to the Minister in writing particulars of the discovery.

(2) A permittee or licensee who fails to comply with subsection (1) is guilty of an offence and is liable on conviction to a fine not exceeding 100 penalty units.

121. Survey of wells, &c.

(1) The Minister may, at any time, by instrument in writing served on a permittee, lessee, or licensee, direct the permittee, lessee, or licensee –

- (a) to carry out a survey of the position of the well, structure, or equipment specified in the instrument; and

- (b) to furnish to him a report in writing of the survey.

(2) Where the Minister is not satisfied with a report of a survey furnished to him under subsection (1) by a permittee, lessee, or licensee, he may, by instrument in writing served on the permittee, lessee, or licensee, direct the permittee, lessee, or licensee to furnish further information in writing in connection with the survey.

(3) If a person to whom a direction is given under subsection (1) or (2) fails to comply with the direction, he is guilty of an offence and is liable on conviction to a fine not exceeding 100 penalty units.

122. Records, &c., to be kept

(1) The Minister may, by instrument in writing served on a person carrying on operations in the adjacent area under a permit, lease, licence, pipeline licence, special prospecting authority, access authority, or instrument of consent under section 123, direct that person to do any one or more of the following things:

- (a) to keep such accounts, records, and other documents in connection with those operations as are specified in the instrument;

- (b) to collect and retain such cores, cuttings, and samples in connection with those operations as are so specified;

- (c) to furnish to the Minister, or to such person as is so specified, in the manner so specified, such reports, returns, other documents, cores, cuttings, and samples in connection with those operations as are so specified.

(2) If a person to whom a direction is given under subsection (1) fails to comply with the direction, he is guilty of an offence and is liable on conviction to a fine not exceeding 100 penalty units.

123. Scientific investigations

(1) The Minister may, by instrument in writing, consent to the carrying on in the adjacent area by any person of petroleum exploration operations in the course of a scientific investigation.

(2) An instrument of consent under subsection (1) may be made subject to such conditions, if any, as are specified in the instrument.

(3) An instrument of consent in force under subsection (1) authorizes the person specified in the instrument, subject to section 124 and in accordance with the conditions, if any, to which the instrument is subject, to carry on, in the adjacent area, petroleum exploration operations so specified in the course of the scientific investigation so specified.

124. Interference with other rights

A person carrying on operations in the adjacent area under a permit, lease, licence, pipeline licence, special prospecting authority, access authority, or instrument of consent under section 60(2) or (3) or 123 shall not carry on those operations in a manner that interferes with –

(a) navigation; or

(b) fishing; or

(c) the conservation of the resources of the sea and sea-bed; or

(d) any operations of another person being lawfully carried on by way of exploration for, recovery of or conveyance of a mineral, whether petroleum or not, or by way of construction or operation of a pipeline

–

to a greater extent than is necessary for the reasonable exercise of the rights and performance of the duties of that first-mentioned person.

Penalty: Fine not exceeding 100 penalty units.

124A. Interfering with offshore petroleum installation or operations

(1) A person must not intentionally or recklessly –

(a) cause damage to, or interfere with, any structure or vessel in the adjacent area that is, or is to be, used in exploring for, recovering, processing, storing, preparing for transport, or transporting, petroleum; or

(b) interfere with any operations or activities being carried out, or any works being executed, on, or by means of, or in connection with, such a structure or vessel.

Penalty: In the case of –

(a) a body corporate, a fine not exceeding 3 300 penalty units; or

(b) a natural person, a fine not exceeding 660 penalty units or imprisonment for a term not exceeding 10 years, or both.

(2) In this section –

structure means any fixed, moveable or floating structure or installation and includes a pipeline, pumping station, tank station or valve station.

125. Inspectors

(1) The Secretary of the Department may –

(a) appoint State Service officers and State Service employees employed in the Department; and

(b) with the approval of another Head of a State Service Agency, appoint State Service officers and State Service employees employed in that Agency –

to be inspectors for the purposes of this Act and those officers and employees are to hold office in conjunction with State Service employment.

- (2) An inspector within the meaning of the Work Health and Safety Act 2012 shall, while continuing to hold office as such, be deemed to hold office as an inspector for the purposes of this Act.
- (3) The Minister may furnish to an inspector a certificate stating that he is an inspector for the purposes of this Act.
- (4) Where a person ceases to hold office as an inspector, that person shall forthwith surrender the certificate furnished to him under this section to the Minister or, if the Minister, by instrument in writing served on that person, specifies another person to whom the certificate is to be surrendered, to that other person.
- (5) A person to whom subsection (4) applies who fails to comply with that subsection is guilty of an offence and is liable on conviction to a fine not exceeding 5 penalty units.

126. Powers of inspectors

- (1) For the purposes of this Act, an inspector, at all reasonable times and on production of the certificate furnished to him under section 125 –
 - (a) shall have access to any part of the adjacent area and to any structure, ship, aircraft, or building in that area that, in his opinion, has been, is being, or is to be used in connection with petroleum exploration operations, operations for the recovery of petroleum, or operations connected with the construction or operation of a pipeline in that area; and
 - (b) may inspect and test any equipment that, in his opinion, has been, is being, or is to be used in that area in connection with any of those operations; and
 - (c) may enter any structure, ship, aircraft, building, or place in that area or in the State, in which, in his opinion, there are any documents relating to any of those operations and may inspect, and make copies of any of those documents or of any parts of them.
- (2) A person who is the occupier or person in charge of any building, structure, or place, or is the person in charge of any ship, aircraft, or equipment referred to in subsection (1) shall provide an inspector with all reasonable facilities and assistance for the effective exercise of his powers under this section.
- (3) Any person who, without reasonable excuse, obstructs or hinders an inspector in the exercise of his powers under this section is guilty of an offence and is liable on conviction to a fine not exceeding 50 penalty units.

127. Property in petroleum

Subject to this Act and to any rights of other persons, on the recovery of any petroleum by a permittee, lessee, or licensee in the permit area, lease area, or licence area, the petroleum becomes the property of the permittee, lessee, or licensee.

128. Suspension of rights conferred by permit

- (1) Where the Minister is satisfied that it is necessary to do so in the public interest, he shall, by instrument in writing served on the permittee, suspend, either for a specified period or indefinitely, all or any of the rights conferred by the permit.
- (2) Where any rights are suspended in accordance with subsection (1), any conditions required to be complied with in the exercise of those rights are also suspended.
- (3) Where rights conferred by a permit are suspended in accordance with subsection (1), the Minister may, by the instrument of suspension or by a later instrument in writing served on the permittee, extend the term of the permit by a period not exceeding the period of the suspension.

129. Certain payments to be made by State to Commonwealth

- (1) The Treasurer shall, not later than the last day of each month of the year, pay to the Commonwealth amounts ascertained in accordance with the formula –

$$\frac{4A}{B}$$

where –

A is the amount of royalty payable under this Act, together with the amount, if any, payable under this Act by reason of late payment of that royalty, by a permittee, lessee, or licensee in respect of petroleum recovered in the adjacent area under the permit, lease, or licence and received by the Minister during the preceding month; and

B is the percentage rate at which royalty is payable under this Act by the permittee, lessee, or licensee in respect of that petroleum.

(2) Amounts required to be paid under subsection (1) are a charge on the Consolidated Fund and may be paid without further appropriation than this subsection.

130. Determination to be disregarded in certain cases

Where a determination has been made by the Minister under section 143 in relation to a well, that determination shall be disregarded in ascertaining the value of *B* for the purposes of section 129 .

131. Continuing offences

(1) Where an offence is committed by a person by reason of his failure to comply, within the period specified in a direction given to him under this Act, with the requirements specified in the direction, the offence, for the purposes of subsection (3) , shall be deemed to continue so long as any requirement specified in the direction remains undone, notwithstanding that the period has elapsed.

(2) Where an offence is committed by a person by reason of his failure to comply with a requirement made by this Act, the offence, for the purposes of subsection (3) , shall be deemed to continue so long as that failure continues, notwithstanding that any period within which the requirement was to be complied with has elapsed.

(3) Where, under subsection (1) or (2) , an offence is to be deemed to continue, the person who committed the offence commits an additional offence against this Act on each day during which the offence is to be deemed to continue and is liable, on conviction for the additional offence, to a fine not exceeding 100 penalty units.

132. Prosecution of offences

(1) In this section, a reference to a prescribed offence shall be read as a reference to an offence against this Act the penalty in respect of which may include a term of imprisonment.

(2) All prescribed offences are indictable offences.

(3) Notwithstanding that prescribed offences are indictable offences, a court of summary jurisdiction may hear and determine proceedings for a prescribed offence if the court is satisfied that it is appropriate to do so and the defendant and the prosecutor consent.

(4) Where, in accordance with subsection (3) , a court of summary jurisdiction convicts a person of a prescribed offence, the penalty that the court may impose in respect of the offence is a fine not exceeding 100 penalty units or imprisonment for a term not exceeding 2 years, or both.

(5) Subject to this section, a court of summary jurisdiction shall, unless the contrary intention appears, hear and determine proceedings for an offence against this Act.

(6) In this section –

court of summary jurisdiction and *indictable offence* have the meanings assigned to those expressions by the Justices Act 1959 .

133. Orders for forfeiture in respect of certain offences

(1) Where a person is convicted by the Supreme Court of an offence against section 18 , 38 , or 59 , the Supreme Court may, in addition to imposing a fine, make one or more of the following orders:

(a) an order for the forfeiture of a specified aircraft or vessel used in the commission of the offence;

(b) an order for the forfeiture of specified equipment used in the commission of the offence;

(c) an order –

(i) for the forfeiture of specified petroleum recovered, or conveyed through a pipeline, as the case may be, in the course of the commission of the offence;

(ii) for the payment by that person to the Crown of an amount equal to the proceeds of the sale of specified petroleum so recovered or conveyed; or

(iii) for the payment by that person to the Crown of an amount equal to the value at the well-head, assessed by the Court, of the quantity, so assessed, of petroleum so recovered or conveyed or for the payment of such part of that amount as the Court, having regard to all the circumstances, thinks fit.

(2) Where the Supreme Court is satisfied that an order made under subsection (1) (c) (i) cannot, for any reason, be enforced, the Supreme Court may, on the application of the person by whom the proceedings were brought, set aside the order and make either of the orders referred to in subsection (1) (c) (ii) and (iii) .

(3) The Supreme Court may, before making an order under this section, require notice to be given to, and hear, such persons as it thinks fit.

134. Power of Attorney-General to direct disposal of goods

Goods in respect of which an order is made under section 133 shall be dealt with as the Attorney-General directs and, pending his direction, may be detained in such custody as the Supreme Court directs.

135. Time for bringing proceedings for offences

Notwithstanding anything in the Justices Act 1959 to the contrary, proceedings in respect of an offence against this Act may be brought at any time.

136. Judicial notice

(1) All courts shall take judicial notice of the signature of a person who is, or has been, the Minister or a delegate of the Minister and of the fact that that person is, or has been, the Minister or a delegate of the Minister.

(2) In this section –

court includes all persons authorized by the law of the State or by consent of parties to receive evidence.

137. Service

(1) A document required or permitted by this Act to be served on a person other than the Minister or a corporation shall be served –

(a) by delivering the document to that person personally; or

(b) by prepaying and posting the document as a letter addressed to that person at his last known place of residence or business or, if he is carrying on business at 2 or more places, at one of those places; or

(c) by leaving the document at the last known place of residence of that person with some person apparently a resident of that place and apparently not less than 16 years of age; or

(d) by leaving the document at the last known place of business of that person or, if he is carrying on business at 2 or more places, at one of those places with some person apparently in the service of that person and apparently not less than 16 years of age.

(2) A document required or permitted by this Act to be served on the Minister shall be served –

(a) by prepaying and posting the document as a letter addressed to the Minister at a place of business of the Minister; or

(b) by leaving it at a place of business of the Minister with some person apparently employed in connection with the business of the Minister and apparently not less than 16 years of age.

(3) A document required by this Act to be served on a person which is a corporation shall be served –

(a) by prepaying and posting the document as a letter addressed to the corporation at its last known place of business or, if it is carrying on business at 2 or more places, at one of those places; or

(b) by leaving it at that place, or at one of those places, with some person apparently in the service of the corporation and apparently not less than 16 years of age.

137A. Service of documents on 2 or more permittees, &c.

(1) Where there are 2 or more registered holders of a title or special prospecting authority, those registered holders may, by notice in writing signed by each of them and served on the Minister, nominate one of the registered holders as being the person on whom documents relating to the title or special prospecting authority that are required or permitted by this Act to be served may be served.

(2) Subject to subsections (3) and (4), where –

(a) a document relating to a title or special prospecting authority is required or permitted by this Act to be served on the registered holder; and

(b) there are 2 or more registered holders of the title or special prospecting authority; and

(c) the document is served on a person in respect of whom a nomination under subsection (1) is in force in relation to the title or special prospecting authority –

the document shall be deemed to have been served on each of those registered holders.

(3) Where –

(a) a person has been nominated under subsection (1) in relation to a title or special prospecting authority; and

(b) one of the registered holders of the title or special prospecting authority, by notice in writing served on the Minister, revokes that nomination –

that nomination ceases to be in force.

(4) Where –

(a) a person has been nominated under subsection (1) in relation to a title or special prospecting authority; and

(b) the person so nominated ceases to be one of the registered holders of the title or special prospecting authority –

that nomination ceases to be in force.

(5) In this section –

title means a permit, lease, licence, pipeline licence, or access authority.

Division 6A - Powers of authorized persons

137B. Interpretation

(1) In this Division –

authorized person means –

(a) a police officer; or

(b) a person, or a person included in a class of persons, authorized to perform duties under this Division in accordance with subsection (2);

exempt vessel, in relation to a safety zone, means a vessel –

(a) that is excluded from the operation of section 119 in relation to that safety zone by virtue of the instrument establishing the safety zone; or

(b) in respect of which there is in force a consent in writing of the Minister under section 119 (1) in relation to that safety zone;

Government vessel means a vessel that is beneficially owned by, or a vessel the whole possession and control of which is for the time being vested in, the State, another State, the Commonwealth, or a Territory of the Commonwealth or an authority of the State, another State, the Commonwealth, or a Territory of the Commonwealth;

master, in relation to a vessel, means the person having command or charge of the vessel;

relevant vessel means a vessel –

(a) that is registered under the Shipping Registration Act 1981 of the Commonwealth and the gross tonnage of which specified in the certificate of registration of the vessel exceeds 200; or

(b) that is not registered under the Shipping Registration Act 1981 of the Commonwealth but is permitted to be registered under that Act (other than a vessel that, under the law of another country, is entitled to fly the flag of that country and is flying that flag), being a vessel the tonnage length of which is equal to or exceeds 24 metres; or

(c) not being a vessel to which paragraph (a) or (b) applies, that is in the adjacent area for the purpose of exploring the sea-bed or subsoil of the adjacent area for petroleum or minerals or for the purpose of exploiting the natural resources, being petroleum or minerals, of that sea-bed or subsoil –

but does not include a Government vessel;

safety zone means an area that is a safety zone for the purposes of section 119 .

(2) The Minister may, by notice published in the *Gazette*, authorize a person, or a person included in a specified class of persons, to perform duties under this Division.

(3) The reference in the definition of **Government vessel** in subsection (1) to an authority of the State, another State, the Commonwealth, or a Territory of the Commonwealth shall be read as a reference to a body corporate established for a public purpose by or under a law of the State, another State, the Commonwealth, or a Territory of the Commonwealth, as the case may be, other than –

(a) the Australian Shipping Commission; or

(b) the Western Australian Coastal Shipping Commission; or

(c) the Transport Commission incorporated under the Transport Act 1981 ; or

(d) a body corporate that is declared by regulations made under the Shipping Registration Act 1981 of the Commonwealth not to be a Government authority for the purposes of that Act.

(4) For the purposes of this Division, the tonnage length of a ship shall be determined in the same manner as it is determined for the purposes of the Shipping Registration Act 1981 of the Commonwealth.

137C. Powers of authorized persons

(1) Subject to subsection (3) , an authorized person may –

(a) board a vessel that the person has reasonable grounds to believe has been used, is being used, or is about to be used in contravention of section 119 ; or

(b) where the person has boarded a vessel in the exercise of powers under paragraph (a) –

(i) require any person on board the vessel to answer questions relating to the vessel or to the movements of the vessel; or

(ii) require the master of the vessel to state whether there is in force in respect of the vessel a consent under section 119 and, if so, to produce the consent; or

(iii) if the vessel is registered under the Shipping Registration Act 1981 of the Commonwealth – require the master of the vessel to produce the certificate of registration of the vessel; or

- (iv) search the vessel for any documents relating to the vessel or to the movements of the vessel;
or
 - (c) require the master of a vessel, being a vessel that is in a safety zone and that is not an exempt vessel in relation to the safety zone, to take the vessel outside the safety zone; or
 - (d) require the master of a disabled vessel –
 - (i) that is in a safety zone; or
 - (ii) that is, or that the person has reasonable grounds to believe is, a relevant vessel and that the person has reasonable grounds to believe is likely to cause damage to any well, pipeline, structure, or equipment in the safety zone –to permit the vessel to be towed away from the safety zone or to accept the giving of such other assistance to the vessel as the person considers necessary; or
 - (e) detain the vessel that the person has reasonable grounds to believe has been used in contravention of section 119 .
- (2) A person shall not –
- (a) fail to facilitate by all reasonable means the boarding of a vessel by an authorized person pursuant to subsection (1) ; or
 - (b) refuse to allow a search that is authorized under subsection (1) to be made by an authorized person;
or
 - (c) refuse or neglect to comply with a requirement made by an authorized person under subsection (1) ;
or
 - (d) when an authorized person requires the person to give information pursuant to the powers of the authorized person under subsection (1) – give information that is, to the knowledge of the person, false or misleading in a material particular; or
 - (e) resist or obstruct an authorized person who is acting pursuant to subsection (1) .
- (3) The powers of an authorized person in relation to a vessel under subsection (1) (a) , (b) , and (e) shall not be exercised except –
- (a) pursuant to a warrant issued under section 137D ; or
 - (b) after obtaining the consent of the master of the vessel; or
 - (c) in circumstances of seriousness and urgency, in accordance with section 137E .
- (4) A person who contravenes subsection (2) is guilty of an offence and is liable on summary conviction to a fine not exceeding 50 penalty units.

137D. Search warrants

- (1) Where any information on oath is laid before a magistrate alleging that there are reasonable grounds to believe that a vessel has been used, is being used, or is about to be used in contravention of section 119 and the information sets out those grounds and identifies the vessel, a magistrate may issue a warrant authorizing an authorized person named in the warrant, with such assistance as the authorized person thinks necessary, to exercise all or any of the powers referred to in section 137C (1) (a) , (b) , and (e) in relation to that vessel.
- (2) A magistrate shall not issue a warrant unless –
- (a) the informant or some other person has given to the magistrate either orally or by affidavit such further information (if any) as the magistrate requires concerning the ground on which the issue of the warrant is being sought; and
 - (b) the magistrate is satisfied that there are reasonable grounds for issuing the warrant.
- (3) A warrant shall –

- (a) specify the purpose for which the warrant is issued; and
- (b) set out a description of the vessel in relation to which the warrant is issued; and
- (c) specify a day, not being later than 7 days after the day on which the warrant is issued, as being the day on which the warrant ceases to have effect.

(4) In this section, magistrate includes a justice.

137E. Exercise of powers in serious circumstances

An authorized person may exercise, in relation to a vessel, all or any of the powers referred to in section 137C

(1) (a) , (b) , and (c) where –

(a) the authorized person has reasonable grounds to believe that –

(i) the vessel has been used, is being used, or is about to be used in contravention of section 119 ;
or

(ii) the exercise of those powers is necessary to prevent damage being caused to any well,
pipeline, structure, or equipment in a safety zone; and

(b) the circumstances are of such a serious nature as to require and justify the immediate exercise of those powers without the authority of a warrant issued under section 137D .

Division 7 - Fees and royalties

138. Permit fees

There is payable to the Minister by a permittee, in respect of each year of the term of the permit –

(a) a fee of \$300; or

(b) a fee calculated at the rate of \$15 for each of the blocks to which the permit relates at the commencement of that year –

whichever is the greater.

139. Licence fees

There is payable to the Minister by a licensee, in respect of each year of the term of the licence, a fee calculated at the rate of \$9 000 for each of the blocks to which the licence relates at the beginning of that year.

140. Pipeline licence fees

There is payable to the Minister by a pipeline licensee, in respect of each year of the term of the pipeline licence, a fee of \$80 in respect of each kilometre or portion of a kilometre of the length of the pipeline at the beginning of that year.

140A. Lease fees

There is payable to the Minister by a lessee, in respect of each year of the term of the lease, a fee calculated at the rate of \$4 500 for each of the blocks to which the lease relates at the commencement of that year.

141. Time of payment of fees

A fee payable under section 138 , 139 , 140 , or 140A is required to be paid within 1 month after –

(a) in the case of the first year of the term of the permit, lease, licence, or pipeline licence – the day on which that term began; and

(b) in the case of a year of the term of the permit, lease, licence, or pipeline licence other than the first – the anniversary of that day.

142. Royalty

(1) A permittee, lessee, or licensee shall, subject to this Division, pay to the Minister royalty at the prescribed rate in respect of all petroleum recovered by the permittee, lessee, or licensee in the permit area, lease area, or licence area.

(2) Subject to subsections (3) to (8) and to section 143, the prescribed rate in respect of petroleum recovered under a permit, lease, or licence is 10 per cent of the value at the well-head of the petroleum.

(3) The prescribed rate in respect of petroleum recovered under a secondary licence is the percentage determined by the Minister in accordance with section 41 (1) in respect of petroleum so recovered.

(4) Where a secondary licence is granted to the holder of a primary licence, the prescribed rate in respect of petroleum recovered under the primary licence is, as from the beginning of the next royalty period after the day from which the secondary licence has effect, the same percentage as is applicable in respect of petroleum recovered under the secondary licence.

(5) Where –

(a) a licence is granted on an application under section 46 ; and

(b) the instrument served on the applicant under section 48 contains a statement that the applicant will be required to pay, in respect of petroleum recovered under that licence, royalty at the rate specified in that instrument –

the prescribed rate in respect of petroleum recovered under that licence is the percentage specified in that statement.

(6) Where a licence is granted on an application under subsection (2) of section 50, the prescribed rate in respect of petroleum recovered under that licence is the same percentage as was applicable in respect of petroleum recovered under the original licence as defined by subsection (1) of that section.

(7) The prescribed rate in respect of petroleum recovered in the licence area referred to in a licence granted by way of renewal of a licence is the percentage that would be the prescribed rate if the immediately preceding licence has not expired.

(8) A reference in this section or in a permit, lease, or licence to royalty at the prescribed rate or royalty at the rate that is for the time being the prescribed rate is a reference to royalty at the rate that is or was the prescribed rate applicable in accordance with the provisions of this Act as in force from time to time.

143. Reduction of royalty in certain cases

(1) Where the Minister is satisfied that the rate of recovery of petroleum from a well has become so reduced that, having regard to the rate or rates of royalty applicable under section 142, further recovery of petroleum from that well would be uneconomic, the Minister may, by instrument in writing, determine that the royalty in respect of all or any of the petroleum recovered from that well on or after a date specified in the determination shall be at such rate, being a rate lower than the rate that would be applicable under section 142, as the Minister specifies.

(2) The prescribed rate in respect of petroleum to which a determination under subsection (1) is applicable is the rate specified in the determination.

144. Royalty not payable in certain cases

(1) A royalty under this Act –

(a) is not payable in respect of petroleum that the Minister is satisfied was unavoidably lost before the quantity of that petroleum was ascertained; and

(b) is not payable in respect of petroleum that is used by the permittee, lessee, or licensee, as approved by the Minister, for the purposes of petroleum exploration operations or operations for the recovery of petroleum; and

(c) is not payable in respect of petroleum that, with the approval of the Minister, is flared or vented in connection with operations for the recovery of petroleum.

(2) Where petroleum that has been recovered by a permittee, lessee, or licensee is, with the approval of the Minister, returned to a natural reservoir, a royalty under this Act is not payable in respect of that petroleum by reason of that recovery, but this subsection does not affect the liability of that or any other permittee, lessee, or licensee to pay a royalty in respect of petroleum that is recovered from that natural reservoir.

145. Ascertainment of well-head

For the purposes of this Act, the well-head, in relation to any petroleum, is –

- (a) such valve station as is agreed between the permittee, lessee, or licensee and the Minister; or
- (b) in default of agreement within such period as the Minister allows, such valve stations as is determined by the Minister, by instrument in writing, as being that well-head.

146. Ascertainment of value

For the purposes of this Act, the value at the well-head of any petroleum is –

- (a) such amount as is agreed between the permittee, lessee, or licensee and the Minister; or
- (b) in default of agreement within such period as the Minister allows, is such amount as is determined by the Minister, by instrument in writing –

as being that value.

147. Ascertainment of quantity of petroleum recovered

For the purposes of this Act, the quantity of petroleum recovered by a permittee, lessee, or licensee from a well during a period shall be taken to be –

- (a) the quantity measured during that period by a measuring device approved by the Minister, by instrument in writing, and installed at the well-head or at such other place as the Minister approves; or
- (b) where no such measuring device is so installed, or the Minister is not satisfied that the quantity of petroleum recovered by the permittee, lessee, or licensee from that well has been properly or accurately measured by such a measuring device – the quantity determined by the Minister, by instrument in writing, as being the quantity recovered by the permittee, lessee, or licensee from that well during that period.

148. Payment of royalty

A royalty under this Act in respect of petroleum recovered during a royalty period is payable not later than the last day of the next succeeding royalty period.

149. Penalty for late payment

(1) Where a fee or an amount of royalty under this Act is not paid under this Division at or before the time when the fee or the amount of royalty is payable there is payable to the Minister by the permittee, lessee, licensee, or pipeline licensee an additional amount calculated at the rate of one-third of 1 per cent per day upon the amount of the fee or royalty from time to time remaining unpaid to be computed from the time when the amount became payable until it is paid.

(2) An additional amount in respect of royalty is not payable under subsection (1) in respect of any period before the expiration of 7 days after the value of the petroleum was agreed or determined under section 146 .

150. Fees and penalties debts due to the Crown

A fee, royalty, or other amount payable under this Division is a debt due by the permittee, lessee, licensee, or pipeline licensee, as the case may be, to the Crown and is recoverable in a court of competent jurisdiction.

PART IIIA - Occupational health and safety

Division 1 - Preliminary

150A. Interpretation

In this Part –

Board means the National Offshore Petroleum Safety Authority Board established by the Commonwealth Act;

CEO means the Chief Executive Officer of the Safety Authority;

facility has the same meaning as in Schedule 5 ;

offshore petroleum operations means any operations (including diving operations) that –

- (a) relate to –
 - (i) the exploration for petroleum; or
 - (ii) the recovery, processing, storage, offloading or piped conveyance of petroleum; and
- (b) if the operations are diving operations, take place in the adjacent area; and
- (c) if the operations are not diving operations, take place at a facility.

150B. Occupational health and safety

Schedule 5 has effect.

150C. Listed OHS laws

The following provisions are the "listed OHS laws" for the purposes of this Act:

- (a) section 124A , to the extent to which that section relates to –
 - (i) damage to, or interference with, a facility; or
 - (ii) interference with any operations or activities being carried out, or any works being executed, on, or by means of, or in connection with, a facility;
- (b) Schedule 5 ;
- (c) regulations made for the purposes of Schedule 5 ;
- (d) regulations made for the purposes of section 150D ;
- (e) any other regulations relating to occupational health and safety matters that are prescribed for the purposes of this paragraph.

150D. Regulations relating to occupational health and safety

- (1) The regulations may make provision in relation to the occupational health and safety of persons at or near a facility who are under the control of a person who is carrying on an operation.
- (2) Without limiting subsection (1) , regulations for the purpose of that subsection may –
 - (a) require a person who is carrying on an operation to establish and maintain a system of management to secure the occupational health and safety of persons referred to in that subsection; and
 - (b) specify requirements with which the system must comply.

Division 2 - Functions and powers of Safety Authority

150E. Safety Authority's functions

The Safety Authority has the following functions:

- (a) the functions conferred on it by or under this Act in relation to offshore petroleum operations;
- (b) to promote the occupational health and safety of persons engaged in offshore petroleum operations;
- (c) to develop and implement effective monitoring and enforcement strategies to secure compliance by persons with their occupational health and safety obligations under this Act;
- (d) to –
 - (i) investigate accidents, occurrences and circumstances that affect, or have the potential to affect, the occupational health and safety of persons engaged in offshore petroleum operations; and
 - (ii) to report, as appropriate, to the Minister and the Commonwealth Minister on those investigations;
- (e) to advise persons, either on its own initiative or on request, on occupational health and safety matters relating to offshore petroleum operations;
- (f) to make reports, including recommendations, to –
 - (i) the Minister; and
 - (ii) the Commonwealth Minister –on issues relating to the occupational health and safety of persons engaged in offshore petroleum operations;
- (g) to cooperate with –
 - (i) the Minister and State agencies having functions relating to offshore petroleum operations; and
 - (ii) other Commonwealth agencies having functions relating to offshore petroleum operations.

150F. Safety Authority's ordinary powers

- (1) The Safety Authority has power to do all things necessary or convenient to be done for or in connection with the performance of its functions.
- (2) The Safety Authority's powers include, but are not limited to, the following powers:
 - (a) the power to acquire, hold and dispose of real and personal property;
 - (b) the power to enter into contracts;
 - (c) the power to lease the whole or any part of any land or building for the purposes of the Safety Authority;
 - (d) the power to occupy, use and control any land or building owned or held under lease by the Commonwealth and made available for the purposes of the Safety Authority;
 - (e) the power to conduct research and development projects and to cooperate with others in such projects;
 - (f) the power to apply for and hold patents and exploit patents;
 - (g) the power to do anything incidental to any of its functions.

150G. Judicial notice of seal

All courts, judges and persons acting judicially must –

- (a) take judicial notice of the imprint of the seal of the Safety Authority appearing on a document; and
- (b) presume that the document was duly sealed.

Division 3 - Safety Authority Board

150H. Functions of Board

(1) The Board has the following functions:

(a) to give advice, and make recommendations, to the CEO about the operational policies and strategies to be followed by the Safety Authority in the performance of its functions;

(b) to give advice, and make recommendations, to –

(i) the Minister; and

(ii) the Commonwealth Minister; and

(iii) interstate Ministers; and

(iv) the body known as the Ministerial Council on Mineral and Petroleum Resources –

about either or both of the following:

(v) policy or strategic matters relating to the occupational health and safety of persons engaged in offshore petroleum operations;

(vi) the performance by the Safety Authority of its functions;

(c) any other functions specified in a written notice given by the Commonwealth Minister to the Chair of the Board.

(2) As soon as practicable after the Board gives advice, or makes recommendations, under subsection (1)(b) to –

(a) the Minister; or

(b) an interstate Minister; or

(c) the body known as the Ministerial Council on Mineral and Petroleum Resources –

the Board must give the Commonwealth Minister a written copy of that advice or those recommendations.

150I. Powers of Board

The Board has power to do all things necessary or convenient to be done for or in connection with the performance of its functions.

150J. Validity of decisions

The performance of the functions, or the exercise of the powers, of the Board is not affected only because of there being a vacancy or vacancies in the membership of the Board.

Division 4 - Chief Executive Officer and staff of Safety Authority

150K. CEO acts for Safety Authority

Anything done by the CEO in the name of the Safety Authority or on the Safety Authority's behalf is taken to have been done by the Safety Authority.

150L. Working with Board

(1) The CEO must request the Board's advice on strategic matters relating to the performance of the Safety Authority's functions.

(2) The CEO must have regard to the advice given to him or her by the Board (whether or not the advice was given in response to a request).

(3) The CEO must –

(a) keep the Board informed of the Safety Authority's operations; and

(b) give the Board any reports, documents and information in relation to those operations that the Chair of the Board requires.

150M. Delegation

(1) A State Service officer or a State Service employee, or a person employed by a State authority, within the meaning of the State Service Act 2000 , may perform any function and exercise any power delegated to him or her by the CEO under the Commonwealth Act.

(2) In performing a function or exercising a power under the delegation, the delegate must comply with any directions of the CEO.

150N. Assistance to Safety Authority

A State Service officer or a State Service employee, or a person employed by a State authority, within the meaning of the State Service Act 2000 , may assist the Safety Authority in connection with the performance of any of its functions or the exercise of any of its powers under this Act, the Commonwealth Act or a corresponding law.

Division 5 - Other Safety Authority provisions

150O. Minister may require Safety Authority to prepare reports or give information

(1) The Minister may, by written notice given to the Safety Authority, require the Safety Authority to –

(a) prepare a report about one or more specified matters relating to the performance of the Safety Authority's functions or the exercise of the Safety Authority's powers; and

(b) give a copy of the report to –

(i) the Minister; and

(ii) each interstate Minister; and

(iii) the Commonwealth Minister –

within the period specified in the notice.

(2) The Minister may, by written notice given to the Safety Authority, require the Safety Authority to –

(a) prepare a document setting out specified information relating to the performance of the Safety Authority's functions or the exercise of the Safety Authority's powers; and

(b) give a copy of the report to –

(i) the Minister; and

(ii) each interstate Minister; and

(iii) the Commonwealth Minister –

within the period specified in the notice.

(3) The Safety Authority must comply with a requirement under subsection (1) or (2) .

150P. Directions to Safety Authority

(1) The Minister may request the Commonwealth Minister to give a direction to the Safety Authority that relates wholly or principally to the Safety Authority's operations in the adjacent area.

(2) The Commonwealth Minister must use his or her best endeavours to make a decision on the request within 30 days after receiving the request.

(3) If the Commonwealth Minister refuses the request, the Commonwealth Minister must give the Minister a written statement setting out the reasons for the refusal.

(4) The Safety Authority must comply with any direction given by the Commonwealth Minister under this section.

150Q. Reviews of operations of Safety Authority

- (1) The Minister must cause reviews to be conducted of the operations of the Safety Authority in relation to the adjacent area.
- (2) The Minister must cause to be prepared a report of a review under subsection (1) .
- (3) The first review is to relate to the 3-year period beginning on 1 January 2005, and is to be completed within 6 months, or the longer period that the Minister allows, after the end of that 3-year period.
- (4) Subsequent reviews are to relate to successive 3-year periods, and must be completed within 6 months, or the longer period that the Minister allows, after the end of the 3-year period to which the review relates.
- (5) A review under this section may be conducted in conjunction with a review under the Commonwealth Act or a corresponding law (or both).
- (6) Without limiting the matters to be covered by a review under subsection (1) , the review must include an assessment of the effectiveness of the Safety Authority in bringing about improvements in the occupational health and safety of persons engaged in offshore petroleum operations.
- (7) The Minister must cause a copy of the report of a review under subsection (1) to be tabled in each House of Parliament within 15 sitting-days of that House after the report of the review is completed.
- (8) For the purposes of this section, a review is completed when the report of the review is made available to the Minister.

150R. Liability for acts and omissions

- (1) This section applies to the following persons:
 - (a) the Safety Authority;
 - (b) the CEO;
 - (c) an OHS inspector;
 - (d) a person acting under the direction or authority of the Safety Authority or the CEO.
- (2) A person to whom this section applies is not personally liable for anything done or omitted to be done in good faith –
 - (a) in the performance of a function under a listed OHS law; or
 - (b) in the reasonable belief that the act or omission was in the performance of a function under a listed OHS law.

PART IV - Miscellaneous

151. Regulations

- (1) The Governor may make regulations under this Act.
- (2) In particular, but without limiting the generality of subsection (1), the regulations may make provision for securing, regulating, controlling, or restricting all or any of the following matters:
 - (a) the exploration for petroleum and the carrying on of operations, and the execution of works, for that purpose;
 - (b) the recovery of petroleum and the carrying on of operations, and the execution of works, for that purpose;
 - (c) conserving and preventing the waste of the natural resources, whether petroleum or otherwise, of the adjacent area;
 - (d) the construction and operation of pipelines, water lines, secondary lines, pumping stations, tank stations, or valve stations, and the carrying on of operations, and the execution of works, for any of those purposes;
 - (e) the construction, erection, maintenance, operation, or use of installations or equipment;
 - (f) the control of the flow or discharge, and the prevention of the escape, of petroleum, water, or drilling fluid, or a mixture of water or drilling fluid with petroleum or any other matter;
 - (g) the clean-up or other remedying of the effects of the escape of petroleum;
 - (h) the prevention of damage to petroleum-bearing strata in an area, whether within the adjacent area or not, in respect of which a permit, lease, or licence is not in force;
 - (i) the keeping separate of –
 - (i) each petroleum pool discovered in a permit area, lease area, or licence area; and
 - (ii) each source of water discovered in a permit area, lease area, or licence area;
 - (j) the prevention of water or other matter from entering a petroleum pool through wells;
 - (k) the prevention of the waste or escape of petroleum or water from a pipeline, water line, secondary line, pumping station, tank station, or valve station;
 - (l) the maintaining in good condition and repair of all structures, equipment, and other property in the adjacent area used or intended to be used for or in connection with the exploration for, or the exploitation of, petroleum in the adjacent area;
 - (m) the removal from the adjacent area of structures, equipment, and other property brought into the adjacent area for or in connection with exploration for, or the exploitation of, petroleum that are not used or intended to be used in connection with exploration for or the exploitation of, petroleum in the adjacent area.
- (2A) The regulations may make provision in relation to a matter by applying, adopting, or incorporating, with or without modification, a code of practice or standard contained in an instrument (including an instrument issued or made outside Tasmania), as in force or existing at the time when the regulations take effect or as in force or existing from time to time, being a code of practice or standard that is relevant to that matter.
- (2B) Regulations under this section may prohibit the doing of an act or thing either unconditionally or subject to conditions, including conditions requiring the grant, as prescribed by the regulations, of the consent or approval of a person specified in the regulations.
- (3) The regulations may prescribe, in relation to the exploration for, and the exploitation of, the natural resources (being petroleum) of the adjacent area, matters for carrying out or giving effect to the Convention.

(3A) The regulations may differ according to differences in time, place or circumstances.

(4) The regulations may provide for a contravention of or a failure to comply with any of the regulations to be an offence and may provide, in respect of any such offence, for the imposition of –

- (a) a fine not exceeding 100 penalty units; or
- (b) a daily fine not exceeding 100 penalty units.

152. Transitional provisions

(1) The scheme agreed on between the Government of the Commonwealth, the States, and the Northern Territory, being the scheme set out in Schedule 3 , so far as that scheme relates to the operation of this Act, has effect by virtue of this section.

(2) For the purposes of the scheme set out in Schedule 3 in relation to its application to Tasmania –

- (a) a reference to the State Act is a reference to this Act; and
- (b) a reference to the designated authority is a reference to the Minister.

(3) A reference to the designated authority in a new permit (within the meaning of the scheme set out in Schedule 3) or a new pipeline licence (within the meaning of that scheme) shall for the purposes of that permit or pipeline licence and this Act be read as a reference to the Minister.

(3A) The regulations may make provision for any transitional matters arising out of the amendments made to this Act by the Petroleum (Submerged Lands) Amendment Act 2004 .

(4) The transitional provisions set out in Schedule 4 have effect by virtue of this section.

153. Repeal of Act No. 63 of 1967

The Petroleum (Submerged Lands) Act 1967 is repealed.

SCHEDULE 1 - Convention on the Continental Shelf

Section 3

Form

The State Parties to this Convention have agreed as follows:—

Article 1

For the purpose of these articles, the term "continental shelf" is used as referring—

- (a) to the seabed and subsoil of the submarine areas adjacent to the coast but outside the area of the territorial sea, to a depth of 200 metres or, beyond that limit, to where the depth of the superjacent waters admits of the exploitation of the natural resources of the said areas;
- (b) to the seabed and subsoil of similar submarine areas adjacent to the coasts of islands.

Article 2

1—The coastal State exercises over the continental shelf sovereign rights for the purpose of exploring it and exploiting its natural resources.

2—The rights referred to in paragraph 1 of this article are exclusive in the sense that if the coastal State does not explore the continental shelf or exploit its natural resources, no one may undertake these activities, or make a claim to the continental shelf, without the express consent of the coastal State.

3—The rights of the coastal State over the continental shelf do not depend on occupation, effective or notional, or on any express proclamation.

4—The natural resources referred to in these articles consist of the mineral and other non-living resources of the seabed and subsoil together with living organisms belonging to sedentary species, that is to say, organisms which, at the harvestable stage, either are immobile on or under the seabed or are unable to move except in constant physical contact with the seabed or the subsoil.

Article 3

The rights of the coastal State over the continental shelf do not affect the legal status of the superjacent waters as high seas, or that of the airspace above those waters.

Article 4

Subject to its right to take reasonable measures for the exploration of the continental shelf and the exploitation of its natural resources, the coastal State may not impede the laying or maintenance of submarine cables or pipelines on the continental shelf.

Article 5

1—The exploration of the continental shelf and the exploitation of its natural resources must not result in any unjustifiable interference with navigation, fishing or the conservation of the living resources of the sea, nor result in any interference with fundamental oceanographic or other scientific research carried out with the intention of open publication.

2—Subject to the provisions of paragraphs 1 and 6 of this article, the coastal State is entitled to construct and maintain or operate on the continental shelf installations and other devices necessary for its exploration and the exploitation of its natural resources, and to establish safety zones around such installations and devices and to take in those zones measures necessary for their protection.

3—The safety zones referred to in paragraph 2 of this article may extend to a distance of 500 metres around the installations and other devices which have been erected, measured from each point of their outer edge. Ships of all nationalities must respect these safety zones.

4—Such installations and devices, though under the jurisdiction of the coastal State, do not possess the status of islands. They have no territorial sea of their own, and their presence does not affect the delimitation of the territorial sea of the coastal State.

5—Due notice must be given of the construction of any such installations, and permanent means for giving warning of their presence must be maintained. Any installations which are abandoned or disused must be entirely removed.

6—Neither the installations or devices, nor the safety zones around them, may be established where interference may be caused to the use of recognized sea lanes essential to international navigation.

7—The coastal State is obliged to undertake, in the safety zones, all appropriate measures for the protection of the living resources of the sea from harmful agents.

8—The consent of the coastal State shall be obtained in respect of any research concerning the continental shelf and undertaken there. Nevertheless the coastal State shall not normally withhold its consent if the request is submitted by a qualified institution with a view to purely scientific research into the physical or biological characteristics of the continental shelf, subject to the proviso that the coastal State shall have the right, if it so desires, to participate or to be represented in the research, and that in any event the results shall be published.

Article 6

1—Where the same continental shelf is adjacent to the territories of two or more States whose coasts are opposite each other, the boundary of the continental shelf appertaining to such States shall be determined by agreement between them. In the absence of agreement, and unless another boundary line is justified by special circumstances, the boundary is the median line, every point of which is equidistant from the nearest points of the baselines from which the breadth of the territorial sea of each State is measured.

2—Where the same continental shelf is adjacent to the territories of two adjacent States, the boundary of the continental shelf shall be determined by agreement between them. In the absence of agreement, and unless another boundary line is justified by special circumstances, the boundary shall be determined by application of the principle of equidistance from the nearest points of the baselines from which the breadth of the territorial sea of each State is measured.

3—In delimiting the boundaries of the continental shelf, any lines which are drawn in accordance with the principles set out in paragraphs 1 and 2 of this article should be defined with reference to charts and geographical features as they exist at a particular date, and reference should be made to fixed permanent identifiable points on the land.

Article 7

The provisions of these articles shall not prejudice the right of the coastal State to exploit the subsoil by means of tunnelling irrespective of the depth of water above the subsoil.

Article 8

This Convention shall, until 31st October 1958, be open for signature by all States Members of the United Nations or of any of the specialized agencies, and by any other State invited by the General Assembly of the United Nations to become a party to the Convention.

Article 9

This Convention is subject to ratification. The instruments of ratification shall be deposited with the Secretary-General of the United Nations.

Article 10

This Convention shall be open for accession by any States belonging to any of the categories mentioned in article 8. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article 11

1—This Convention shall come into force on the thirtieth day following the date of deposit of the twenty-second instrument of ratification or accession with the Secretary-General of the United Nations.

2—For each State ratifying or acceding to the Convention after the deposit of the twenty-second instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after deposit by such State of its instrument of ratification or accession.

Article 12

1—At the time of signature, ratification or accession, any State may make reservations to articles of the Convention other than to articles 1 to 3 inclusive.

2—Any Contracting State making a reservation in accordance with the preceding paragraph may at any time withdraw the reservation by a communication to that effect addressed to the Secretary-General of the United Nations.

Article 13

1—After the expiration of a period of 5 years from the date on which this Convention shall enter into force, a request for the revision of this Convention may be made at any time by any Contracting Party by means of a notification in writing addressed to the Secretary-General of the United Nations.

2—The General Assembly of the United Nations shall decide upon the steps, if any, to be taken in respect of such request.

Article 14

The Secretary-General of the United Nations shall inform all States Members of the United Nations and the other States referred to in article 8—

- (a) of signatures to this Convention and of the deposit of instruments of ratification or accession, in accordance with articles 8, 9, and 10;
- (b) of the date on which this Convention will come into force, in accordance with article 11;
- (c) of requests for revision in accordance with article 13;
- (d) of reservations to this Convention, in accordance with article 12.

Article 15

The original of this Convention, of which the Chinese, English, French, Russian, and Spanish Texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall send certified copies thereof to all States referred to in article 8.

In witness whereof the undersigned Plenipotentiaries, being duly authorized thereto by their respective Governments, have signed this Convention.

Done at Geneva, this twenty-ninth day of April, one thousand nine hundred and fifty-eight.

SCHEDULE 2 - Area That Includes The Adjacent Area

Section 3

Form

The area the boundary of which commences at a point of Latitude $39^{\circ} 12'$ South, Longitude $142^{\circ} 30'$ East and runs thence easterly along the parallel of Latitude $39^{\circ} 12'$ South to its intersection by the meridian of Longitude 150° East, thence south-easterly along the geodesic to a point of Latitude $41^{\circ} 30'$ South, Longitude $158^{\circ} 13'$ East, thence south-westerly along the geodesic to a point of Latitude 45° South, Longitude 150° East, thence south-easterly along the geodesic to a point of Latitude 56° South, Longitude 165° East, thence westerly along the parallel of Latitude 56° South to its intersection by the meridian of Longitude 155° East, thence north-westerly along the geodesic to a point of Latitude 45° South Longitude 140° East, thence north-westerly along the geodesic to a point of Latitude 44° South, Longitude $136^{\circ} 29'$ East, thence north-easterly along the geodesic to a point of Latitude $39^{\circ} 50'$ South, Longitude 142° East, thence north-easterly along the geodesic to the point of commencement.

SCHEDULE 3 - Scheme For Transitional Arrangements

Section 152

1. Interpretation

(1) In this scheme –

adjacent area under the Commonwealth Act means –

(a) if the Petroleum (Submerged Lands) Act 1967 of the Commonwealth is in force, an adjacent area in respect of a State determined in accordance with section 5A of that Act; or

(b) if the Petroleum (Submerged Lands) Act 1967 of the Commonwealth has been repealed and been re-enacted (with or without modifications), an area that, under the re-enacted Act of the Commonwealth, corresponds to an adjacent area in respect of a State determined in accordance with section 5A of the repealed Act.

altered arrangements means the arrangements agreed on between the Commonwealth, the States, and the Northern Territory with respect to the exploration for, and the exploitation of, the petroleum resources of certain submerged lands instead of the arrangements provided for by the agreement between the Commonwealth and the States dated 16th October 1967;

commencing day means the day on which the Petroleum (Submerged Lands) Amendment Act 1980 of the Commonwealth or that Act as amended comes into operation;

Commonwealth jurisdiction means the areas comprised in the adjacent areas under the Commonwealth Act, as amended to give effect to the altered arrangements;

new permit means a permit that is to be deemed, under clause 2 of this scheme, to be in force on and after the commencing day;

new pipeline licence means a pipeline licence that is to be deemed, under clause 4 of this scheme, to be in force on and after the commencing day;

pipeline includes pumping stations, tank stations, or valve stations related to a pipeline;

State Act, in relation to a State, means the Act of that State that deals with the exploration for, and the exploitation of, the petroleum resources of submerged lands and contains a Schedule substantially corresponding to this Schedule and includes that Act as amended from time to time;

State jurisdiction, in relation to a State, means the area comprised in the adjacent area under the State Act of that State;

subsisting permit means an exploration permit for petroleum subsisting under the Commonwealth Act immediately before the commencing day, being a permit in respect of an area that is partly in the Commonwealth jurisdiction and partly in a State jurisdiction;

subsisting pipeline licence means a pipeline licence subsisting under the Commonwealth Act immediately before the commencing day, being a pipeline licence in respect of a pipeline that is, or is to be, partly in the Commonwealth jurisdiction and partly in the State jurisdiction.

(2) Reference in this scheme to a State shall, unless the contrary intention appears, be read as including reference to the Northern Territory.

2. Subsisting permits to be deemed to be 2 permits

(1) On and after the commencing day but subject to the law relating to surrender, cancellation, variation, or suspension of permits, each subsisting permit shall be deemed to comprise 2 permits, being –

(a) a permit under the Commonwealth Act, in respect of the portion of the permit area that is within the Commonwealth jurisdiction, for the balance of the period of the subsisting permit but

otherwise in the same terms as the subsisting permit; and

(b) a permit under the State Act, in respect of the portion of the permit area that is within the State jurisdiction of a State, for the balance of the period of the subsisting permit but otherwise in the same terms as the subsisting permit.

(2) The carrying out of work or the expenditure of money by the permittee in or in relation to the permit area of either of the new permits, whether before or after the commencing day, is to be taken into account as performance to the extent of that work or expenditure of the conditions of both the new permits.

(3) For the purposes of any condition of a new permit relating to the carrying out of work or the expending of money by the permittee –

(a) a reference in that condition to a year of the permit shall be read as a reference to a year that was, or would have been, that year of the subsisting permit; and

(b) the new permits shall be deemed to have been in force during the whole of the year of the subsisting permit that is current on the commencing day.

(4) A variation or suspension of, or an exemption from compliance with, any of the conditions of a new permit arising out of a subsisting permit shall not have effect unless the same variation, suspension, or exemption is effected in respect of the other new permit arising out of the same subsisting permit.

(5) In a matter arising under a State Act in relation to a new permit, being a matter of a kind that, if it arose under the Commonwealth Act, would be a matter for decision by, or could be referred to, a Joint Authority established under the Commonwealth Act, the Designated Authority under the State Act shall not take action except after consultation with the Commonwealth Minister.

3. Renewal of permits

(1) A person who holds 2 new permits arising out of a subsisting permit may apply under the Commonwealth Act for renewal of the new permit under that Act and may apply under the State Act for renewal of the new permit under that Act, or may make either of such applications.

(2) If a person who was the holder of 2 new permits arising out of a subsisting permit has ceased to be the holder of one of those permits, he may apply under the Commonwealth Act or the State Act, whichever is appropriate, for renewal of the other new permit, and the relevant Act shall apply in relation to such an application as if the new permit had been a permit granted under that Act in respect of the blocks that are comprised in the new permit.

(3) Where the holder of 2 new permits arising out of a subsisting permit wishes to apply for renewal of either or both of the new permits, the blocks that were comprised in the subsisting permit that may be included, in whole or in part, in the application or applications shall be selected in accordance with the Commonwealth Act as if the new permits were one permit under the Commonwealth Act and the application or applications were an application under that Act for renewal of that permit.

(4) For the purposes of subclause (3) of this clause, the Designated Authority under the Commonwealth Act may exercise his powers under subsections (5) and (6) of section 31 of the Commonwealth Act as in force before 7 March 2000.

(5) An application referred to in subclause (3) of this clause under the Commonwealth Act shall relate to the blocks selected in accordance with that subclause, and parts of those blocks, that are within the Commonwealth jurisdiction and an application referred to in that subclause under the State Act shall relate to the blocks so selected, and parts of those blocks, that are within the State jurisdiction.

(6) Subject to the foregoing provisions of this clause, an application under the Commonwealth Act made in accordance with this clause shall be dealt with under the Commonwealth Act and an application under the State Act made in accordance with this clause shall be dealt with under the State Act.

(7) For the purposes of the application, in accordance with this clause, of the provisions of the Commonwealth Act, or of a State Act, relating to the renewal of permits, a reference in those provisions

to compliance with the conditions to which the permit is subject shall be read as including a reference to compliance with the conditions to which the subsisting permit was subject before the commencing day.

4. Subsisting pipeline licences to be deemed to be 2 licences

(1) On and after the commencing day but subject to the law relating to surrender, cancellation, or variation of pipeline licences, each subsisting pipeline licence shall be deemed to comprise 2 pipeline licences, being –

(a) a pipeline licence under the Commonwealth Act , in respect of the portion of the pipeline that is, or is to be, within the Commonwealth jurisdiction, for the balance of the period of the subsisting pipeline licence, but otherwise in the same terms as the subsisting pipeline licence, but so that those terms shall have effect only to the extent that they are applicable to or in relation to the portion of the pipeline that is, or is to be, within the Commonwealth jurisdiction; and

(b) a pipeline licence under the State Act, in respect of the portion of the pipeline that is, or is to be, within the State jurisdiction of a State, for the balance of the period of the subsisting pipeline licence but otherwise in the same terms as the subsisting pipeline licence, but so that those terms shall have effect only to the extent that they are applicable to or in relation to the portion of the pipeline that is, or is to be, within that State jurisdiction.

(2) For the purposes of the application, in relation to a new pipeline licence, of the provisions of the Commonwealth Act or of a State Act relating to the renewal of pipeline licences, a reference in those provisions to compliance with the conditions to which the pipeline licence is subject shall be read as including a reference to compliance with the conditions to which the subsisting pipeline licence was subject before the commencing day.

5. Transfer of permits and pipeline licences

A transfer of a new permit arising out of a subsisting permit, or of a new pipeline licence arising out of a subsisting pipeline licence, shall not be made unless a transfer to the same transferee of the other new permit or new pipeline licence arising out of that subsisting permit or subsisting pipeline licence (if that other permit or licence is still in force) is made at the same time and neither of such transfers has effect before the other transfer has been approved in accordance with the Commonwealth Act , or the relevant State Act, as the case requires.

6. Preservation of existing interests and rights

All legal and equitable interests and rights that existed immediately before the commencing day in or in relation to a subsisting permit or subsisting pipeline licence, to the extent that those interests or rights were applicable, in relation to the permit area of a new permit arising out of that subsisting permit, or to the portion of the pipeline to which a new pipeline licence arising out of the subsisting pipeline licence relates, shall be deemed to continue in or in relation to that new permit or new licence.

7. Saving of approvals, &c.

Every approval, consent, or direction given before the commencing day under or in relation to a subsisting permit or subsisting pipeline licence has effect, on and after the commencing day, in relation to each new permit or new pipeline licence arising out of that subsisting permit or subsisting pipeline licence, as if it were a corresponding approval, consent, or direction given under or in relation to that new permit or new pipeline licence.

8. Existing register

The register kept and maintained by the Designated Authority for the purposes of the Commonwealth Act immediately before the commencing day shall continue to be the register for the purposes of the Commonwealth Act and, except as provided in clause 9 , shall cease on that day to be the register for the purposes of a State Act.

9. Registration of and of instruments relating to, subsisting permits and pipeline licences

(1) This clause applies to –

(a) every instrument being a subsisting permit or subsisting pipeline licence; and

(b) any instrument by which such a permit or licence has been transferred or by which a legal or equitable interest in or affecting such a permit or licence has or may have been created, assigned, affected, or dealt with, being an instrument in respect of which an entry or notation has been made before the commencing day in the register kept for the purposes of the Commonwealth Act

(2) On the commencing day, the designated authority under the Commonwealth Act shall forthwith make such entries in the register referred to in subclause (1) and on copies of instruments to which this clause applies that are kept by him as he thinks appropriate to indicate that instruments to which this clause applies have effect subject to the provisions of this scheme.

(3) For the purposes of a State Act but subject to subclause (4), the Commonwealth register shall be deemed to be the State register in relation to instruments to which this clause applies to the extent that they have effect under a State Act in accordance with this scheme, transfers of interests under such instruments, and instruments by which legal or equitable interests in or affecting interests under such instruments are or may be created.

(4) The designated authority under a State Act may, if he thinks fit to do so, make entries in the register kept by him under the State Act, in accordance with the State Act, in respect of a subsisting permit or subsisting pipeline licence that has effect, in accordance with this scheme, under the law of the State, and if he does so –

(a) he shall make an appropriate entry of the kind referred to in subclause (2); and

(b) the Commonwealth register shall cease to be deemed to be the State register in relation to that permit or licence to the extent that it has effect under the State Act in accordance with this scheme, or in relation to instruments of the kind referred to in subclause (3) affecting that permit or licence as so having effect.

10. Fees

In the application in relation to, or to transactions in respect of, a new permit or new pipeline licence of the laws of the Commonwealth and of the States relating to fees –

(a) a reference to a year of the term of the permit or pipeline licence shall be read as a reference to a year that would have been a year of the term of the subsisting permit or subsisting pipeline licence commencing on or after the commencing day; and

(b) fees in respect of a year of the term of the subsisting permit or subsisting pipeline licence that commenced before the commencing day and not paid before the commencing day shall be payable in accordance with the law that was in force immediately before that day; and

(c) a person is not liable to pay by way of such fees in respect of any year or transaction, a greater total amount than would have been payable if the subsisting permit or subsisting pipeline licence had continued in force and the whole of the permit area, or the whole of the pipeline, had been within the Commonwealth jurisdiction.

SCHEDULE 4 - Transitional Provisions

Section 152

1. Preservation of certain applications

(1) This clause applies to –

(a) an application for an exploration permit for petroleum which immediately before the commencement of this Act was subsisting under section 23 of the Commonwealth Act in respect of blocks all of which are within the adjacent area (within the meaning of this Act); and

(b) an application for a production licence for petroleum which immediately before the commencement of this Act was subsisting under section 40 or 47 of the Commonwealth Act in respect of blocks all of which are within the adjacent area (within the meaning of this Act); and

(c) an application for a pipeline licence which immediately before the commencement of this Act was subsisting under section 64 of the Commonwealth Act in respect of a pipeline no part of which is, or is to be, beyond the outer limits of the adjacent area (within the meaning of this Act).

(2) An application to which this clause applies continues to have effect under and subject to this Act.

(3) An application to which this clause applies shall be dealt with by the Minister as an application under the relevant provision of this Act as if it had been addressed to the Minister.

(4) Anything done before the commencement of this Act under or pursuant to a provision of the Commonwealth Act as then in force, and in accordance with that provision, for the purposes of or in relation to an application to which this clause applies shall be as effectual for the purposes of this Act as it would be for the purposes of the Commonwealth Act if that Act had continued to be in force in the adjacent area (within the meaning of this Act).

2. Application of sections 46-49 to certain blocks

Where, before the commencement of this Act, an exploration permit for petroleum under the Commonwealth Act as then in force was surrendered, cancelled, or determined under that Act as to an area –

(a) which is, or part of which is, within the adjacent area (within the meaning of this Act); and

(b) that, at the time of the surrender, cancellation, or determination was, or was included in, a location under the Commonwealth Act as then in force; and

(c) in which, in the opinion of the Minister, there is petroleum –

sections 46 , 47 , 48 , and 49 apply in respect of each block constituted as provided by section 16 comprised in that area or that part of that area, as the case may be.

3. Pipelines, &c., illegally constructed, &c.

Where, in the adjacent area (within the meaning of this Act) –

(a) the construction of a pipeline, waterline, pumping station, tank station, valve station, or secondary line was, before the commencement of this Act, commenced, continued, or completed in contravention of the Commonwealth Act as then in force; or

(b) a pipeline, water line, pumping station, tank station, valve station, or secondary line was, before the commencement of this Act, altered or reconstructed in contravention of the Commonwealth Act as then in force –

the contravention of the Commonwealth Act shall, for the purposes of section 61 of this Act, be deemed to be a contravention of this Act.

4. Powers of Minister in respect of certain wells

Where, before the commencement of this Act, the registered holder of an exploration permit for petroleum or a production licence for petroleum under the Commonwealth Act as then in force made a well any part of which is less than 300 metres from the boundary of the permit area or licence area without the consent in writing of the designated authority in respect of the adjacent area in respect of Tasmania under section 100 of that Act as then in force, or without complying with the conditions (if any) specified in an instrument of consent under that section, the registered holder shall, if the well is within the adjacent area (within the meaning of this Act), for the purposes of section 100 (2) of this Act, be deemed to have failed to comply with section 100 (1) of this Act, and the Minister may take action accordingly.

5. Cancellation of certain new permits and new pipeline licences

(1) If, in respect of a subsisting permit or subsisting pipeline licence, being a permit or licence in respect of an area or route that is partly within the adjacent area (within the meaning of this Act), a circumstance referred to in paragraph (a) , (b) , (c) , or (d) of section 105 (1) of the Commonwealth Act existed immediately before the commencement of this Act, section 105 of this Act applies in relation to the new permit or new pipeline licence arising out of that subsisting permit or subsisting pipeline licence as if the grounds upon which, under subsection (1) of that section, the new permit or new pipeline licence may be cancelled, in whole or in part, included the existence, immediately before the commencement of this Act, of that circumstance in relation to that subsisting permit or subsisting pipeline licence.

(2) For the purposes of this clause, *subsisting permit* and *subsisting licence* have the meanings assigned to those expressions by clause 1 (1) of Schedule 3 .

6. Application of section 107 to certain areas

Where, before the commencement of this Act –

- (a) an exploration permit for petroleum; or
- (b) a pipeline licence –

under the Commonwealth Act was wholly or partly cancelled or determined under the Commonwealth Act , as then in force, or expired by virtue of that Act, as then in force, and the relinquished area is wholly or partly within the adjacent area (within the meaning of this Act), the cancellation or determination, or the expiration, of the permit, licence, or pipeline licence shall, in so far as it relates to the relinquished area, or the part of the relinquished area that is within the adjacent area (within the meaning of this Act), as the case may be, be deemed for the purposes of section 107 of this Act to have occurred under or by virtue of this Act.

7. Applications of section 113 (2), (3), and (4) to certain property

Where, before the commencement of this Act, the designated authority in respect of the adjacent area in respect of Tasmania exercised a power conferred upon him by section 113 (1) of the Commonwealth Act , as then in force, in relation to property which is, or was, within the adjacent area (within the meaning of this Act), the power shall, for the purposes of section 113 (2) , (3) , and (4) of this Act, be deemed to have been exercised by the Minister under and in accordance with section 113 (1) of this Act.

SCHEDULE 5 - Occupational health and safety

Section 150B

PART 1 - Preliminary

1. Objects

The objects of this Schedule are, in relation to facilities located in the adjacent area –

- (a) to secure the occupational health and safety and welfare of persons at or near those facilities; and
- (b) to protect persons at or near those facilities from risks to occupational health and safety arising out of activities being conducted at those facilities; and
- (c) to ensure that expert advice is available on occupational health and safety matters in relation to those facilities; and
- (d) to promote an occupational environment for members of the workforce at those facilities that is adapted to their needs relating to health and safety; and
- (e) to foster a consultative relationship between all relevant persons concerning the health, safety and welfare of members of the workforce at those facilities.

2. Definitions

In this Schedule –

accident includes the contraction of a disease;

associated offshore place, in relation to a facility, means any offshore place near the facility where activities (including diving activities) relating to the construction, installation, operation, maintenance or decommissioning of the facility take place, but does not include –

- (a) another facility; or
- (b) a supply vessel, offtake tanker, anchor handler or tugboat; or
- (c) a vessel, or structure, that is declared by the regulations not to be an associated offshore place;

contract includes an arrangement or understanding;

contractor has the meaning given by clause 6 ;

dangerous occurrence means an occurrence declared by the regulations to be a dangerous occurrence for the purposes of this definition;

designated work group means –

- (a) a group of members of the workforce at a facility that is established as a designated work group under clause 16 or 17 ; or
- (b) that group as varied in accordance with clause 18 or 19 ;

employee, in relation to an employer, means an employee of that employer;

employer means an employer who carries on an activity at a facility;

facility means a facility within the meaning of clause 3 , and –

- (a) includes a facility (within the meaning of clause 3) that is being constructed or installed; and
- (b) except in the definition of "**associated offshore place**", includes an associated offshore place in relation to a facility (within the meaning of clause 3);

group member, in relation to a designated work group at a facility, means a person who is –

- (a) a member of the workforce at that facility; and
- (b) included in that designated work group;

improvement notice means an improvement notice issued under clause 58(1) ;

inspection means an inspection conducted under Part 4 of this Schedule and includes an investigation or inquiry;

master, in relation to a vessel, means the person having command or charge of the vessel;

member of the workforce, in relation to a facility, means a natural person who does work at the facility, whether –

- (a) as an employee of the operator of the facility or of another person; or
- (b) as a contractor of the operator or of another person;

offshore petroleum operations has the same meaning as in Part IIIA ;

operator, in relation to a facility or proposed facility, means the person who, under the regulations, is taken to be the operator of that facility or proposed facility;

operator's representative at a facility means a person present at the facility in compliance with the obligations imposed on the operator by clause 4 ;

own includes own jointly and own in part;

plant includes any machinery, equipment or tool, or any component;

premises includes the following:

- (a) a structure or building;
- (b) a place (whether or not enclosed or built on);
- (c) a part of a thing referred to in paragraph (a) or (b) ;

prohibition notice means a prohibition notice issued under clause 56(1) ;

proposed facility means a facility proposed to be constructed, installed or operated;

recovery, in relation to petroleum, includes all processes directly or indirectly associated with its recovery;

registered organisation means an organisation within the meaning of the Workplace Relations Act 1996 of the Commonwealth;

regulated business premises means –

- (a) a facility; or
- (b) premises that are –
 - (i) occupied by a person who is the operator of a facility; and
 - (ii) used, or proposed to be used, wholly or principally in connection with offshore petroleum operations;

regulations means regulations made for the purposes of this Schedule;

reviewing authority means the Australian Industrial Relations Commission;

work means work offshore that is directly or indirectly related to the construction, installation, operation, maintenance or decommissioning of a facility;

work group employer, in relation to a designated work group at a facility, means an employer of one or more group members, but does not include the operator of the facility;

workplace, in relation to a facility, means the whole facility or any part of the facility;

workplace representative means –

- (a) in relation to a person who is a member of the workforce at a facility, a registered organisation of which that person is a member, if the person is qualified to be a member of that

organisation because of the work the person performs at the facility; or

(b) in relation to a designated work group or a proposed designated work group, a registered organisation of which a person who is, or who is likely to be, in the work group is a member, if the person is qualified to be a member of that organisation because of the work the person performs, or will perform, at a facility as a member of the group.

3. Facilities

(1) A vessel or structure is taken to be a facility for the purposes of this Schedule while that vessel or structure –

(a) is located at a site in the adjacent area; and

(b) is being used, or prepared for use, at that site –

(i) for the recovery of petroleum, for the processing of petroleum, for the storage and offloading of petroleum, or for any combination of those activities; or

(ii) for the provision of accommodation for persons working on another facility, whether connected by a walkway to that other facility or not; or

(iii) for drilling or servicing a well for petroleum or doing work associated with the drilling or servicing process; or

(iv) for laying pipes for petroleum, including any manufacturing of such pipes, or for doing work on an existing pipe; or

(v) for the erection, dismantling or decommissioning of a vessel or structure referred to in a previous subparagraph of this paragraph; or

(vi) for any other purpose related to offshore petroleum operations that is prescribed for the purposes of this subparagraph.

(2) Subclause (1) applies to a vessel or structure –

(a) whether it is floating or fixed; and

(b) whether or not it is capable of independent navigation.

(3) Subclause (1) has effect subject to subclause (6) or (7) .

(4) A vessel or structure used for a purpose referred to in subclause (1)(b)(i) includes –

(a) any wells and associated plant and equipment by means of which petroleum processed or stored at the vessel or structure is recovered; and

(b) any pipe or system of pipes through which petroleum is conveyed from a well to the vessel or structure; and

(c) any secondary line associated with the vessel or structure.

(5) For the purposes of subclause (1) , a vessel or structure that is located offshore for the purpose of laying pipes as described in subclause (1)(b)(iv) is taken to be located at a site, despite the fact that the vessel or structure moves as the pipe-laying process proceeds.

(6) Despite subclause (1) , a vessel or structure is taken not to be a facility for the purposes of this Schedule if the vessel or structure is –

(a) an offtake tanker; or

(b) a tug or an anchor handler; or

(c) a vessel or structure used for supplying a facility or otherwise travelling between a facility and the shore; or

(d) a vessel or structure used for any purpose such that it is declared by the regulations not to be a facility.

(7) In determining when a vessel or structure that has the potential to be used for one or more of the purposes referred to in subclause (1)(b) is in fact being so used, the vessel or structure is taken –

(a) to commence to be so used only at the time when it arrives at the site where it is to be so used and any activities necessary to make it operational at that site are begun; and

(b) to cease to be so used when operations cease, and the vessel or structure has been returned either to a navigable form or to a form in which it can be towed to another place.

(8) Each of the following is taken to be a facility for the purposes of this Schedule:

(a) a pipeline subject to a pipeline licence;

(b) if a pipeline subject to a pipeline licence conveys petroleum recovered from a well without the petroleum having passed through another facility, that pipeline, together with –

(i) that well and associated plant and equipment; and

(ii) any pipe or system of pipes through which petroleum is conveyed from that well to that pipeline.

(9) In subclause (8)(b) –

facility does not include a pipeline.

4. Operator must ensure presence of operator's representative

(1) The operator of a facility must ensure that, at all times when one or more natural persons are present at a facility, there is also present a natural person (the "**operator's representative at the facility**") who has day-to-day management and control of operations at the facility.

Penalty: In the case of –

(a) a body corporate, a fine not exceeding 275 penalty units; or

(b) an individual, a fine not exceeding 55 penalty units.

(2) The operator of a facility must ensure that the name of the operator's representative at the facility is displayed in a prominent place at the facility.

Penalty: In the case of –

(a) a body corporate, a fine not exceeding 275 penalty units; or

(b) an individual, a fine not exceeding 55 penalty units.

(3) Subclause (1) does not imply that, if the operator is a natural person, the operator's representative at the facility may not be, from time to time, the operator.

5. Health and safety of persons using an accommodation facility

For the avoidance of doubt, a reference in this Schedule to the occupational health and safety of a person includes a reference to the health and safety of a person using an accommodation facility provided for the accommodation of persons working on another facility.

6. Contractor

For the purposes of this Schedule, a natural person is taken to be a "**contractor**" of another person (the "**relevant person**") if the natural person does work at a facility under a contract for services between –

(a) the relevant person; and

(b) either –

(i) the natural person; or

(ii) the employer of the natural person.

PART 2 - Occupational health and safety

Division 1 - Duties relating to occupational health and safety

7. Duties of operator

(1) The operator of a facility must take all reasonably practicable steps to ensure that –

- (a) the facility is safe and without risk to the health of any person at or near the facility; and
- (b) all work and other activities carried out on the facility are carried out in a manner that is safe and without risk to the health of any person at or near the facility.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 5 500 penalty units; or
- (b) an individual, a fine not exceeding 1 100 penalty units.

(2) Without limiting the generality of subclause (1) , the operator of a facility must –

- (a) provide and maintain a physical environment at the facility that is safe and without risk to health; and
- (b) provide and maintain adequate facilities for the welfare of all members of the workforce at the facility; and
- (c) ensure that any plant, equipment, materials and substances at the facility are safe and without risk to health; and
- (d) implement and maintain systems of work at the facility that are safe and without risk to health; and
- (e) implement and maintain appropriate procedures and equipment for the control of, and response to, emergencies at the facility; and
- (f) provide all members of the workforce, in appropriate languages, with the information, instruction, training and supervision necessary for them to carry out their activities in a manner that does not adversely affect the occupational health and safety of persons at the facility; and
- (g) monitor the occupational health and safety of all members of the workforce and keep records of that monitoring; and
- (h) provide appropriate medical and first aid services at the facility; and
- (i) develop, in consultation with members of the workforce and workforce representatives, a policy relating to occupational health and safety that –
 - (i) will enable the operator and the members of the workforce to cooperate effectively in promoting and developing measures to ensure the occupational health and safety of persons at the facility; and
 - (ii) will provide adequate mechanisms for reviewing the effectiveness of the measures; and
 - (iii) provides for the making of an agreement that complies with subclauses (4) and (5) .

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 5 500 penalty units; or
- (b) an individual, a fine not exceeding 1 100 penalty units.

(3) Subclause (2)(i) does not require the operator of a facility to engage in consultations with a workforce representative unless a member of the workforce at the facility has requested the workforce representative to be involved in those consultations.

(4) The agreement referred to in subclause (2)(i)(iii) must be between –

(a) on the one hand, the operator; and

(b) on the other hand –

(i) the members of the workforce; and

(ii) if a member of the workforce at the facility has requested a workforce representative in relation to the member to be a party to that agreement, that workforce representative.

(5) The agreement referred to in subclause (2)(i)(iii) must provide appropriate mechanisms for continuing consultation between –

(a) on the one hand, the operator; and

(b) on the other hand –

(i) the members of the workforce; and

(ii) if a member of the workforce at the facility has requested a workforce representative in relation to the member to be involved in consultations on a particular occasion, that workforce representative.

(6) The agreement may provide for any other matters agreed between the parties to it.

8. Duties of persons in control of parts of facility or particular work

(1) A person who is in control of any part of a facility, or of any particular work carried out at a facility, must take all reasonably practicable steps to ensure that –

(a) that part of the facility, or the place where that work is carried out, is safe and without risk to health; and

(b) if the person is in control of particular work, the work is carried out in a manner that is safe and without risk to health.

Penalty: In the case of –

(a) a body corporate, a fine not exceeding 5 500 penalty units; or

(b) an individual, a fine not exceeding 1 100 penalty units.

(2) Without limiting the generality of subclause (1), a person who is in control of any part of a facility, or of any particular work carried out at a facility, must –

(a) ensure that the physical environment at that part of the facility, or at the place where the work is carried out, is safe and without risk to health; and

(b) ensure that any plant, equipment, materials and substances at or near that part of the facility or that place, or used in that work, are safe and without risk to health; and

(c) implement and maintain systems of work at that part of the facility, or in carrying out work at that place, that are safe and without risk to health; and

(d) ensure a means of access to, and egress from, that part of the facility or that place that is safe and without risk to health; and

(e) provide all members of the workforce located at that part of the facility or engaged on that work, in appropriate languages, with the information, instruction, training and supervision necessary for them to carry out their work in a manner that is safe and without risk to health.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 5 500 penalty units; or
- (b) an individual, a fine not exceeding 1 100 penalty units.

9. Duties of employers

(1) An employer must take all reasonably practicable steps to protect the health and safety of employees at a facility.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 5 500 penalty units; or
- (b) an individual, a fine not exceeding 1 100 penalty units.

(2) Without limiting the generality of subclause (1) , an employer must –

- (a) provide and maintain a working environment that is safe for employees and without risk to their health; and
- (b) ensure that any plant, equipment, materials and substances used in connection with the employees' work are safe and without risk to health; and
- (c) implement and maintain systems of work that are safe and without risk to health; and
- (d) provide a means of access to, and egress from, the employees' work location that is safe and without risk to health; and
- (e) provide the employees, in appropriate languages, with the information, instruction, training and supervision necessary for them to carry out their work in a manner that is safe and without risk to health.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 5 500 penalty units; or
- (b) an individual, a fine not exceeding 1 100 penalty units.

(3) A person has, in respect of a contractor of that person, the same obligations that an employer has under subclauses (1) and (2) in respect of an employee of that employer, but only in relation to –

- (a) matters over which the first-mentioned person has control; or
- (b) matters over which –
 - (i) the first-mentioned person would have had control apart from express provision to the contrary in a contract; and
 - (ii) the first-mentioned person would, in the circumstances, usually be expected to have had control.

(4) An employer must take all reasonable steps to –

- (a) monitor the health and safety of employees; and
- (b) keep records of that monitoring.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 5 500 penalty units; or
- (b) an individual, a fine not exceeding 1 100 penalty units.

10. Duties of manufacturers in relation to plant and substances

(1) A manufacturer of any plant that the manufacturer ought reasonably to expect will be used by members of the workforce at a facility must take all reasonably practicable steps –

- (a) to ensure that the plant is so designed and constructed as to be, when properly used, safe and without risk to health; and
- (b) to carry out, or cause to be carried out, the research, testing and examination necessary in order to discover, and to eliminate or minimise, any risk to health and safety that may arise from the use of the plant; and
- (c) to make available, in connection with the use of the plant at a facility, adequate written information about –
 - (i) the use for which it is designed and has been tested; and
 - (ii) details of its design and construction; and
 - (iii) any conditions necessary to ensure that, when put to the use for which it was designed and tested, it will be safe and without risk to health.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 1 100 penalty units; or
- (b) an individual, a fine not exceeding 220 penalty units.

(2) A manufacturer of any substance that the manufacturer ought reasonably to expect will be used by members of the workforce at a facility must take all reasonably practicable steps –

- (a) to ensure that the substance is so manufactured as to be, when properly used, safe and without risk to health; and
- (b) to carry out, or cause to be carried out, the research, testing and examination necessary to discover, and to eliminate or minimise, any risk to health and safety that may arise from the use of the substance; and
- (c) to make available, in connection with the use of the substance at a facility, adequate written information concerning –
 - (i) the use for which it is manufactured and has been tested; and
 - (ii) details of its composition; and
 - (iii) any conditions necessary to ensure that, when put to the use for which it was manufactured and tested, it will be safe and without risk to health; and
 - (iv) the first aid and medical procedures that should be followed if the substance causes injury.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 1 100 penalty units; or
- (b) an individual, a fine not exceeding 220 penalty units.

(3) If –

- (a) plant or a substance is imported into Australia by a person who is not its manufacturer; and
- (b) at the time of the importation, the manufacturer of the plant or substance does not have a place of business in Australia –

the first-mentioned person is taken, for the purposes of this clause, to be the manufacturer of the plant or substance.

(4) This clause does not affect the operation of any other law of this State that imposes an obligation on a manufacturer in respect of defective goods or in respect of information to be supplied in relation to goods.

11. Duties of suppliers of facilities, plant and substances

(1) A supplier of a facility, or of any plant or substance that the supplier ought reasonably to expect will be used by members of the workforce at a facility, must take all reasonably practicable steps –

(a) to ensure that, at the time of supply, the facility, or the plant or substance, is in such condition as to be, when properly used, safe and without risk to health; and

(b) to carry out, or cause to be carried out, the research, testing and examination necessary to discover, and to eliminate or minimise, any risk to health or safety that may arise from the condition of the facility, plant or substance; and

(c) to make available –

(i) in the case of a facility, to the operator of a facility; and

(ii) in the case of plant or substance, to the person to whom the plant or substance is supplied –

adequate written information, in connection with the use of the facility, plant or substance (as the case requires) about –

(iii) the condition of the facility, plant or substance at the time of supply; and

(iv) any risk to the health and safety of members of the workforce at the facility to which the condition of the facility, plant or substance may give rise unless it is properly used; and

(v) the steps that need to be taken in order to eliminate that risk; and

(vi) in the case of a substance, the first aid and medical procedures that should be followed if the condition of the substance causes injury to a member of the workforce at the facility.

Penalty: In the case of –

(a) a body corporate, a fine not exceeding 1 100 penalty units; or

(b) an individual, a fine not exceeding 220 penalty units.

(2) For the purposes of subclause (1), if a person (the "**ostensible supplier**") supplies to a person either a facility, or any plant or substance that is to be used by members of the workforce at a facility, and the ostensible supplier –

(a) carries on the business of financing the acquisition or the use of goods by other persons; and

(b) has, in the course of that business, acquired an interest in the facility, or in the plant or substance, from another person (the "**actual supplier**"), solely for the purpose of financing its acquisition by, or its provision to, the person to whom it is finally supplied; and

(c) has not taken possession of the facility, plant or substance, or has taken possession of the facility, plant or substance solely for the purpose of passing possession of the facility, plant or substance to the person to whom it is finally supplied –

a reference in subclause (1) to a supplier is, in relation to the facility, plant or substance referred to in this subclause, to be read as a reference to the actual supplier and not as a reference to the ostensible supplier.

(3) This clause does not affect the operation of any other law of this State that imposes an obligation in respect of the sale or supply of goods or in respect of the information to be supplied in relation to goods.

12. Duties of persons erecting facilities or installing plant

(1) A person who erects or installs a facility, or erects or installs any plant at a facility, must take all reasonably practicable steps to ensure that the facility or plant is not erected or installed in such a way that it is unsafe or constitutes a risk to health.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 1 100 penalty units; or
- (b) an individual, a fine not exceeding 220 penalty units.

(2) This clause does not affect the operation of any other law of this State that imposes an obligation in respect of the erection or installation of structures or goods or the supply of services.

13. Duties of persons in relation to occupational health and safety

(1) A person at a facility must, at all times, take all reasonably practicable steps –

(a) to ensure that the person does not take any action, or make any omission, that creates a risk, or increases an existing risk, to the occupational health and safety of that person or of any other person at or near the facility; and

(b) in respect of any obligation imposed on the operator or on any other person by or under a listed OHS law, to cooperate with the operator or that other person to the extent necessary to enable the operator or that other person to fulfil that obligation; and

(c) to use equipment that is –

(i) supplied to the person by the operator, an employer of the person or any other person having control of work at a facility (the "**equipment supplier**"); and

(ii) necessary to protect the occupational health and safety of the person, or of any other person at or near the facility –

in accordance with any instructions given by the equipment supplier, consistent with the safe and proper use of the equipment.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 275 penalty units; or
- (b) an individual, a fine not exceeding 55 penalty units.

(2) Despite subclause (1), the choice or manner of use, or choice and manner of use, of equipment of the kind referred to in subclause (1)(c)(ii) is a matter that may be, consistently with each listed OHS law –

(a) agreed on between the equipment supplier and any relevant health and safety representative;
or

(b) agreed on by a health and safety committee.

(3) If an agreement of the kind referred to in subclause (2)(a) or (b) provides a process for choosing equipment of a particular kind that is to be provided by the equipment supplier, action must not be taken against a person for failure to use equipment of that kind that is so provided unless the equipment has been chosen in accordance with that process.

(4) If an agreement of the kind referred to in subclause (2)(a) or (b) provides a process for determining the manner of use of equipment of a particular kind, action must not be taken against a person for failure to use, in the manner required by the equipment supplier, equipment of that kind that is so provided unless the manner has been determined in accordance with that process.

14. Reliance on information supplied or results of research

(1) For the purpose of the application of clause 7 , 8 or 9 to the use of plant or a substance, a person on whom an obligation is imposed under any of those clauses is regarded as having taken reasonably practicable steps as required by the relevant clause, in relation to the use of the plant or substance, to the extent that –

(a) the person ensured, so far as practicable, that its use was in accordance with the information supplied by the manufacturer or the supplier of the plant or substance relating to occupational health and safety in its use; and

(b) it was reasonable for the person to rely on that information.

(2) For the purpose of the application of clause 10 or 11 to carrying out research, testing and examining a facility, or any plant or substance, a person on whom an obligation is imposed under either of those clauses is regarded as having taken reasonably practicable steps as required by the relevant clause, in relation to carrying out research, testing and examining the facility, plant or substance, to the extent that –

(a) the research, testing or examination has already been carried out by or on behalf of someone else; and

(b) it was reasonable for the person to rely on that research, testing or examination.

(3) For the purpose of the application of clause 12 to the erection of a facility or the erection or installation of plant at a facility, a person on whom an obligation is imposed under that clause is regarded as having taken reasonably practicable steps as required by that clause to the extent that –

(a) the person ensured, so far as is reasonably practicable, that the erection of the facility, or the erection or installation of the plant, was –

(i) in accordance with information supplied by the manufacturer or supplier of the facility or plant relating to its erection or its installation; and

(ii) consistent with the occupational health and safety of persons at the facility; and

(b) it was reasonable for the person to rely on that information.

(4) Nothing in this clause limits the generality of what constitutes reasonably practicable steps as required by clause 7 , 8 , 9 , 10 , 11 or 12 .

Division 2 - Regulations relating to occupational health and safety

15. Regulations relating to occupational health and safety

(1) The regulations may make provision relating to any matter affecting, or likely to affect, the occupational health and safety of persons at a facility.

(2) Regulations made for the purposes of subclause (1) may make provision for any or all of the following:

(a) prohibiting or restricting the performance of all work or specified work at a facility;

(b) prohibiting or restricting the use of all plant or specified plant at a facility;

(c) prohibiting or restricting the carrying out of all processes or a specified process at a facility;

(d) prohibiting or restricting the storage or use of all substances or specified substances at a facility;

(e) specifying the form in which information required to be made available under clause 10(1)(c) or clause 11(1)(c) is to be so made available;

(f) prohibiting, except in accordance with licences granted under the regulations, the use of specified plant or specified substances at a facility;

(g) providing for –

- (i) the issue, variation, renewal, transfer, suspension and cancellation of those licences;
and
- (ii) the conditions to which the licences may be subject;
- (h) regulating the maintenance and testing of plant used at a facility;
- (i) regulating the labelling or marking of substances used at a facility;
- (j) regulating the transport of specified plant or specified substances for use at a facility;
- (k) prohibiting the performance, at a facility, of specified activities or work except –
 - (i) by persons who satisfy requirements of the regulations as to qualifications, training or experience; or
 - (ii) under the supervision specified in the regulations;
- (l) requiring specified action to avoid accidents or dangerous occurrences;
- (m) providing for, or prohibiting, specified action in the event of accidents or dangerous occurrences;
- (n) providing for the employment at a facility of persons to perform specified duties relating to the maintenance of occupational health and safety at the facility;
- (o) regulating the provision and use, at a facility, of protective clothing and equipment, safety equipment and rescue equipment;
- (p) providing for monitoring the health of members of the workforce at a facility and the conditions at the facility;
- (q) requiring employers to keep records of matters related to the occupational health and safety of employees;
- (r) providing for the provision of first aid equipment and facilities at facilities.

PART 3 - Workplace arrangements

Division 1 - Designated work groups

Subdivision 1 - Establishment of designated work groups

16. Establishment of designated work groups by request

(1) A request to the operator of a facility to enter into consultations to establish designated work groups in relation to the members of the workforce at the facility may be made by –

- (a) any member of the workforce; or
- (b) if a member of the workforce requests a workforce representative in relation to the member to make the request to the operator, that workforce representative.

(2) The operator of a facility must, within 14 days after receiving a request under subclause (1), enter into consultations with –

- (a) if any member of the workforce made a request to establish designated work groups –
 - (i) that member of the workforce; and
 - (ii) if that member requests that the operator enter into consultations with a workforce representative in relation to the member, that workforce representative; and
 - (iii) each employer (if any) of members of the workforce; and
- (b) if a workforce representative made a request to establish designated work groups –
 - (i) if a member of the workforce requests that the operator enter into consultations with that workforce representative, that workforce representative; and
 - (ii) each employer of members of the workforce.

(3) Within 14 days after the completion of consultations about the establishment of the designated work groups, the operator must, by notifying the members of the workforce, establish the designated work groups in accordance with the outcome of the consultations.

17. Establishment of designated work groups at initiative of operator

(1) If, at any time, the operator of a facility considers that designated work groups should be established, the operator must enter into consultations with –

- (a) all members of the workforce; and
- (b) if a member of the workforce requests that the operator enter into consultations with a workforce representative in relation to the member, that workforce representative; and
- (c) each employer (if any) of members of the workforce.

(2) Within 14 days after the completion of consultations about the establishment of the designated work groups, the operator must, by notifying the members of the workforce, establish the designated work groups in accordance with the outcome of the consultations.

Subdivision 2 - Variation of designated work groups

18. Variation of designated work groups by request

(1) A request to the operator of a facility to enter into consultations to vary designated work groups that have already been established in relation to the members of the workforce at the facility may be made by –

- (a) any member of the workforce; or

(b) if a member of the workforce requests a workforce representative in relation to the member to make the request to the operator, that workforce representative.

(2) The operator of a facility must, within 14 days after receiving a request under subclause (1) , enter into consultations with –

(a) if any member of the workforce made a request to vary designated work groups –

(i) that member of the workforce; and

(ii) the health and safety representative of each designated work group affected by the proposed variation; and

(iii) each work group employer (if any) in relation to each designated work group affected by the proposed variation; and

(b) if a workforce representative made a request to vary designated work groups –

(i) if a member of a designated work group affected by the proposed variation requests that the operator enter into consultations with that workforce representative in relation to the group, that workforce representative; and

(ii) the health and safety representative of each designated work group affected by the proposed variation; and

(iii) each work group employer (if any) in relation to each designated work group affected by the proposed variation.

(3) If –

(a) consultations take place about the variation of designated work groups that have already been established; and

(b) as a result of the consultations, it has been determined that the variation of some or all of those designated work groups is justified –

then, within 14 days after the completion of the consultations, the operator must, by notifying the members of the workforce who are affected by the variation, vary the designated work groups in accordance with the outcome of the consultations.

19. Variation of designated work groups at initiative of operator

(1) If the operator of a facility believes the designated work groups should be varied, the operator may, at any time, enter into consultations about the variations with –

(a) the health and safety representative of each of the designated work groups affected by the proposed variation; and

(b) if a member of a designated work group affected by the proposed variation requests that the operator enter into consultations with the workforce representative in relation to the group, that workforce representative; and

(c) each work group employer (if any) in relation to each designated work group affected by the proposed variation.

(2) If –

(a) consultations take place about the variation of designated work groups that have already been established; and

(b) as a result of the consultations, it has been determined that the variation of some or all of those designated work groups is justified –

then, within 14 days after the completion of the consultations, the operator must, by notifying the members of the workforce who are affected by the variation, vary the designated work groups in accordance with the outcome of the consultations.

Subdivision 3 - General

20. Referral of disagreement to reviewing authority

- (1) If, in the course of consultation under clause 16 , 17 , 18 or 19 , there is a disagreement between any of the parties to the consultation about the manner of establishing or varying a designated work group, any party may, for the purpose of facilitating that consultation, refer the matter of disagreement to the reviewing authority.
- (2) If the matter of a disagreement is referred to the reviewing authority, the parties to the disagreement must complete the consultation in accordance with the resolution of that matter by the reviewing authority.

21. Manner of grouping members of the workforce

- (1) Consultations about the establishment or variation of a designated work group must be directed principally at the determination of the manner of grouping members of the workforce –
 - (a) that best and most conveniently enables their interests relating to occupational health and safety to be represented and safeguarded; and
 - (b) that best takes account of the need for any health and safety representative selected for that designated work group to be accessible to each group member.
- (2) The parties to the consultations must have regard, in particular, to –
 - (a) the number of members of the workforce at the facility to which the consultation relates; and
 - (b) the nature of each type of work performed by those members; and
 - (c) the number and grouping of those members who perform the same or similar types of work; and
 - (d) the workplaces where each type of work is performed; and
 - (e) the nature of any risks to health and safety at each of those workplaces; and
 - (f) any overtime or shiftworking arrangement at the facility.
- (3) The designated work groups must be established or varied in such a way that, so far as practicable, each of the members of the workforce at a facility is in a designated work group.
- (4) All the members of the workforce at a facility may be in one designated work group.

Division 2 - Health and safety representatives

Subdivision 1 - Selection of health and safety representatives

22. Selection of health and safety representatives

- (1) One health and safety representative may be selected for each designated work group.
- (2) A person is not eligible for selection as the health and safety representative for a designated work group unless the person is a member of the workforce included in the group.
- (3) A person is taken to have been selected as the health and safety representative for a designated work group if –
 - (a) all the members of the workforce in the group unanimously agree to the selection; or
 - (b) the person is elected as the health and safety representative of the group in accordance with clause 23 .

23. Election of health and safety representatives

- (1) If –

- (a) there is a vacancy in the office of health and safety representative for a designated work group; and
- (b) within a reasonable time after the vacancy occurs, a person has not been selected under clause 22(3)(a) –

the operator of the facility must invite nominations from all group members for election as the health and safety representative of the group.

(2) If the office of health and safety representative is vacant and the operator has not invited nominations within a further reasonable time that is no later than 6 months after the vacancy occurred, the Safety Authority may direct the operator to do so.

(3) If there is more than one candidate for election at the close of the nomination period, the operator must conduct, or arrange for the conduct of, an election at the operator's expense.

(4) An election conducted or arranged to be conducted under subclause (3) must be conducted in accordance with regulations made for the purposes of this subclause if this is requested by the lesser of –

- (a) 100 members of the workforce normally in the designated work group; or
- (b) a majority of the members of the workforce normally in the designated work group.

(5) If there is only one candidate for election at the close of the nomination period, that person is taken to have been elected.

(6) A person cannot be a candidate in the election if he or she is disqualified under clause 29 .

(7) All the members of the workforce in the designated work group are entitled to vote in the election.

(8) An operator conducting or arranging for the conduct of an election under this clause must comply with any relevant directions issued by the Safety Authority.

24. List of health and safety representatives

The operator of a facility must –

- (a) prepare and keep up to date a list of all the health and safety representatives of designated work groups comprising members of the workforce performing work at the facility; and
- (b) ensure that the list is available for inspection, at all reasonable times, by –
 - (i) the members of the workforce at the facility; and
 - (ii) OHS inspectors.

25. Members of designated work group must be notified of selection, &c., of health and safety representative

The operator of a facility must –

- (a) notify members of a designated work group in relation to the facility of a vacancy in the office of health and safety representative for the designated work group within a reasonable time after the vacancy arises; and
- (b) notify those members of the name of any person selected (whether under clause 22(3)(a) or (b)) as health and safety representative for the designated work group within a reasonable time after the selection is made.

26. Term of office

(1) A health and safety representative for a designated work group holds office –

- (a) if, in consultations that took place under clause 16 , 17 , 18 or 19 , the parties to the consultations agreed to the period for which the health and safety representative for the group was to hold office, for that period; or
- (b) if paragraph (a) does not apply, for 2 years.

(2) The term of office of a health and safety representative begins at the start of the day on which he or she was selected.

(3) Nothing in this clause prevents a health and safety representative from being selected for further terms of office.

27. Training of health and safety representatives

(1) A health and safety representative for a designated work group must undertake a course of training relating to occupational health and safety that is accredited by the Safety Authority for the purposes of this clause.

(2) The operator of the facility concerned must permit the representative to take any time off work, without loss of remuneration or other entitlements, that is necessary to undertake the training.

(3) If a person other than the operator is the employer of the representative, that person must permit the representative to take any time off work, without loss of remuneration or other entitlements, that is necessary to undertake the training.

28. Resignation, &c., of health and safety representatives

(1) A person ceases to be the health and safety representative for the designated work group if –

(a) the person resigns as the health and safety representative; or

(b) the person ceases to be a group member of that designated work group; or

(c) the person's term of office expires without the person having been selected, under clause 22 , to be the health and safety representative for the designated work group for a further term; or

(d) the person is disqualified under clause 29 .

(2) A person may resign as the health and safety representative for a designated work group by notice in writing delivered to the operator and to each work group employer.

(3) If a person resigns as the health and safety representative for a designated work group, the person must notify the resignation to the group members.

(4) If a person has ceased to be the health and safety representative for a designated work group because of subclause (1)(b) , the person must notify in writing –

(a) the group members; and

(b) the operator and each work group employer –

that the person has ceased to be the health and safety representative for that designated work group.

29. Disqualification of health and safety representatives

(1) An application for the disqualification of a health and safety representative for a designated work group may be made to the Safety Authority by –

(a) the operator; or

(b) a work group employer; or

(c) at the request of a group member of the designated work group, a workforce representative in relation to the designated work group.

(2) An application under subclause (1) may be made on either or both of the following grounds:

(a) that action taken by the representative in the exercise or purported exercise of a power under clause 31(1) or any other provision of this Schedule was taken –

(i) with the intention of causing harm to the operator or work group employer or to an undertaking of the operator or work group employer; or

(ii) unreasonably, capriciously or not for the purpose for which the power was conferred on the representative;

(b) that the representative has intentionally used, or disclosed to another person, for a purpose that is not connected with the exercise of a power of a health and safety representative, information acquired from the operator or work group employer.

(3) On an application under subclause (1) , the Safety Authority may disqualify the representative, for a specified period not exceeding 5 years, from being a health and safety representative for any designated work group, if the Safety Authority is satisfied that the representative has acted in a manner referred to in subclause (2) .

(4) In making a decision under subclause (3) , the Safety Authority must have regard to –

- (a) the harm (if any) that was caused to the operator or work group employer or to an undertaking of the operator or work group employer as a result of the action of the representative; and
- (b) the past record of the representative in exercising the powers of a health and safety representative; and
- (c) the effect (if any) on the public interest of the action of the representative; and
- (d) any other matters as the Safety Authority thinks relevant.

30. Deputy health and safety representatives

(1) One deputy health and safety representative may be selected for each designated work group for which a health and safety representative has been selected.

(2) A deputy health and safety representative is to be selected in the same way as a health and safety representative under clause 22 .

(3) If the health and safety representative for a designated work group –

- (a) ceases to be the health and safety representative; or
- (b) is unable (because of absence or for any other reason) to exercise the powers of a health and safety representative –
then –
- (c) the powers may be exercised by the deputy health and safety representative (if any) for the group; and
- (d) this Schedule (other than this clause) applies in relation to the deputy health and safety representative accordingly.

Subdivision 2 - Powers of health and safety representatives

31. Powers of health and safety representatives

(1) A health and safety representative for a designated work group may, for the purpose of promoting or ensuring the health and safety at a workplace of the group members –

- (a) do all or any of the following:
 - (i) inspect the whole or any part of the workplace if there has, in the immediate past, been an accident or a dangerous occurrence at the workplace, or if there is an immediate threat of such an accident or dangerous occurrence;
 - (ii) inspect the whole or any part of the workplace if the health and safety representative has given reasonable notice of the inspection to the operator's representative at the facility and to any other person having immediate control of the workplace;

(iii) make a request to an OHS inspector or to the Safety Authority that an inspection be conducted at the workplace;

(iv) accompany an OHS inspector during any inspection at the workplace by the OHS inspector (whether or not the inspection is being conducted as a result of a request made by the health and safety representative);

(v) if there is no health and safety committee in respect of the members of the workforce at the facility, represent group members in consultations with the operator and any work group employer about the development, implementation and review of measures to ensure the health and safety of those members at the workplace;

(vi) if a health and safety committee has been established in respect of the members of the workforce at the facility, examine any of the records of that committee; and

(b) investigate complaints made by any group member to the health and safety representative about the health and safety of any of the members of the workforce (whether in the group or not); and

(c) with the consent of a group member, be present at any interview about health and safety at work between that member and –

(i) an OHS inspector; or

(ii) the operator or a person representing the operator; or

(iii) a work group employer or a person representing that employer; and

(d) obtain access to any information under the control of the operator or any work group employer –

(i) relating to risks to the health and safety of any group member; and

(ii) relating to the health and safety of any group member; and

(e) issue provisional improvement notices in accordance with clause 35 .

(2) Subclause (1)(d)(ii) has effect subject to clause 33 .

32. Assistance by consultant

(1) A health and safety representative for a designated work group is entitled, in the exercise of his or her powers, to be assisted by a consultant.

(2) A health and safety representative for a designated work group may –

(a) be assisted by a consultant at a workplace at which work is performed; or

(b) provide to a consultant information that has been provided to the health and safety representative about a group member under clause 31(1)(d) –

only if the operator or the Safety Authority has, in writing, agreed to the provision of that assistance at that workplace or the provision of that information, as the case may be.

(3) Neither the operator nor any workplace employer becomes, because of the agreement under subclause (2) to the provision of assistance by a consultant, liable for any remuneration or other expenses incurred in connection with the consultant's activities.

(4) If a health and safety representative for a designated work group is being assisted by a consultant, the consultant is entitled to be present with the representative at any interview, about health and safety at work, between a group member and –

(a) an OHS inspector; or

(b) the operator or any work group employer or a person representing the operator or that employer –

if, and only if, the group member consents to the presence of the consultant.

33. Information

(1) Neither –

- (a) a health and safety representative; nor
- (b) a consultant assisting a health and safety representative –

is entitled, under clause 31(1)(d)(ii), to have access to information in respect of which a group member is entitled to claim, and does claim, legal professional privilege.

(2) Neither –

- (a) a health and safety representative; nor
- (b) a consultant assisting a health and safety representative –

is entitled, under clause 31(1)(d)(ii), to have access to information of a confidential medical nature relating to a person who is or was a group member unless –

- (c) the person has delivered to the operator or any work group employer a written authority permitting the health and safety representative, or the health and safety representative and the consultant, as the case requires, to have access to the information; or
- (d) the information is in a form that does not identify the person or enable the identity of the person to be discovered.

34. Obligations and liability of health and safety representatives

This Schedule does not –

- (a) impose an obligation on a person to exercise any power conferred on the person because the person is a health and safety representative; or
- (b) render a person liable in civil proceedings because of –
 - (i) a failure to exercise such a power; or
 - (ii) the way such a power was exercised.

35. Provisional improvement notices

(1) If –

- (a) a health and safety representative for a designated work group believes, on reasonable grounds, that a person –
 - (i) is contravening a provision of a listed OHS law; or
 - (ii) has contravened a provision of a listed OHS law and is likely to contravene that provision again; and
- (b) the contravention affects or may affect one or more group members –

the representative must consult with the person supervising the relevant activity in an attempt to reach agreement on rectifying the contravention or preventing the likely contravention.

(2) If, in the health and safety representative's opinion, agreement is not reached within a reasonable time, the health and safety representative may issue a provisional improvement notice to any or all of the persons (each of whom is in this clause called a "**responsible person**") responsible for the contravention.

(3) If a responsible person is the operator, the improvement notice may be issued to the operator by giving it to the operator's representative at the facility.

(4) If it is not practicable to issue the notice to a responsible person (other than the operator or the supervisor) by giving it to that responsible person –

(a) the notice may be issued to that responsible person by giving it to the person who for the time being is, or may reasonably be presumed to be, on behalf of the responsible person, in charge of the activity to which the notice relates; and

(b) if the notice is so issued, a copy of the notice must be given to the responsible person as soon as practicable afterwards.

(5) The notice must –

(a) specify the contravention that, in the health and safety representative's opinion, is occurring or is likely to occur, and set out the reasons for that opinion; and

(b) specify a period that –

(i) is not less than 7 days beginning on the day after the notice is issued; and

(ii) is, in the representative's opinion, reasonable –

within which the responsible person is to take action necessary to prevent any further contravention or to prevent the likely contravention, as the case may be.

(6) The notice may specify action that the responsible person is to take during the period specified in the notice.

(7) If, in the health and safety representative's opinion, it is appropriate to do so, the representative may, in writing and before the end of the period, extend the period specified in the notice.

(8) On issuing the notice, the health and safety representative must give a copy of the notice to –

(a) if the operator is not a responsible person, the operator; and

(b) each work group employer other than a work group employer who is a responsible person; and

(c) if the supervisor is not a responsible person, the supervisor; and

(d) if the notice relates to any plant, substance or thing that is owned by a person other than a responsible person or a person to whom a copy of the notice is given under paragraph (a), (b) or (c), that owner.

36. Effect of provisional improvement notice

(1) Within 7 days after a provisional improvement notice is issued under clause 35 –

(a) the responsible person; or

(b) any other person, to whom a copy of the notice has been given under clause 35(8) –

may request the Safety Authority or an OHS inspector for an inspection of the matter to be conducted.

(2) On the request being made, the operation of the notice is suspended pending the determination of the matter by an OHS inspector.

(3) As soon as possible after a request is made, an inspection must be conducted of the work that is the subject of the disagreement, and the OHS inspector conducting the inspection must –

(a) confirm, vary or cancel the notice and notify the responsible person and any person to whom a copy of the notice has been given under clause 35(8) accordingly; and

(b) make decisions, and exercise powers, under Part 4, as the OHS inspector considers necessary in relation to the work.

(4) If the OHS inspector varies a notice, the notice as so varied has effect –

(a) so far as the notice concerns obligations imposed on the responsible person that are unaffected by the variation, as if the notice as so varied resumed effect on the day of the variation; and

- (b) so far as the notice concerns new obligations imposed by virtue of the variation, as if the notice as so varied were a new notice issued on the day of the variation.
- (5) If the notice is issued to a responsible person, the responsible person must –
- (a) notify each group member who is affected by the notice of the fact of the issue of the notice; and
 - (b) until the notice ceases to have effect, cause a copy of the notice to be displayed at or near each workplace at which the work that is the subject of the notice is being performed.
- (6) The notice ceases to have effect if –
- (a) it is cancelled by an OHS inspector or by the health and safety representative; or
 - (b) the responsible person –
 - (i) takes the action, if any, specified in the notice; or
 - (ii) if no action is so specified, takes the action necessary to prevent the further contravention, or likely contravention, concerned.
- (7) The responsible person –
- (a) must ensure that, to the extent that the notice relates to any matter over which the person has control, the notice is complied with; and
 - (b) must take reasonable steps to inform the health and safety representative who issued the notice of the action taken to comply with the notice.
- (8) For the purposes of clause 62 , if the OHS inspector confirms or varies the notice, the OHS inspector is taken to have decided, under clause 58 , to issue an improvement notice in those terms.

Subdivision 3 - Duties of operator and other employers in relation to health and safety representatives

37. Duties of operator and other employers in relation to health and safety representatives

- (1) The operator of a facility, in relation to which a designated work group having a health and safety representative has been established, must –
- (a) on being requested to do so by the representative, consult with the representative on the implementation of changes at any workplace at which some or all of the group members perform work, being changes that may affect their health and safety; and
 - (b) in relation to a workplace at which some or all of the group members perform work –
 - (i) permit the representative to make any inspection of the workplace that the representative is entitled to make in accordance with clause 31(1)(a)(i) and to accompany an OHS inspector during an inspection at the workplace by the OHS inspector; and
 - (ii) if there is no health and safety committee in respect of the members of the workforce, on being requested to do so by the representative, consult with the representative about the development, implementation and review of measures to ensure the health and safety of group members; and
 - (c) permit the representative to be present at any interview at which the representative is entitled to be present under clause 31(1)(c) ; and
 - (d) provide to the representative access to any information to which the representative is entitled to obtain access under clause 31(1)(d)(i) or (ii) and to which access has been requested; and
 - (e) permit the representative to take any time off work, without loss of remuneration or other entitlements, that is necessary to exercise the powers of a health and safety representative; and
 - (f) provide the representative with access to any facilities that are –

- (i) prescribed for the purposes of this paragraph; or
 - (ii) necessary for the purposes of exercising the powers of a health and safety representative.
- (2) Subclause (1)(d) has effect subject to subclauses (3) and (4) .
- (3) The operator must not permit a health and safety representative in relation to a designated work group to have access to information that –
 - (a) is of a confidential medical nature under the control of the operator; and
 - (b) relates to a person who is or was a group member –
unless –
 - (c) the person has delivered to the employer a written authority permitting the representative to have access to the information; or
 - (d) the information is in a form that does not identify the person or enable the identity of the person to be discovered.
- (4) The operator is not required to give a health and safety representative access to any information in respect of which the operator is entitled to claim, and does claim, legal professional privilege.
- (5) The duties imposed by this clause on the operator in respect of the health and safety representative for a designated work group apply equally, to the extent that the matters to which the duties relate are within the control of a work group employer or of a supervisor of particular work, to that employer and to that supervisor.

Division 3 - Health and safety committees

38. Health and safety committees

- (1) A health and safety committee must be established in relation to the members of the workforce at a facility if –
 - (a) the number of those members normally present at the facility is not less than 50 (whether or not those members are all at work at the facility at the same time); and
 - (b) the members of the workforce are included in one or more designated work groups; and
 - (c) the operator is requested to establish the committee by the health and safety representative for the designated work group or for one of the designated work groups.
- (2) The health and safety committee consists of –
 - (a) the number of members specified in an agreement reached between the operator and the members of the workforce; or
 - (b) if there is no such agreement, an equal number of –
 - (i) members, chosen by the members of the workforce, to represent the interests of members of the workforce; and
 - (ii) members, chosen by the operator, to represent the interests of the operator and employers (other than the operator) of members of the workforce.
- (3) The agreement referred to in subclause (2)(a) may –
 - (a) specify the persons who are to be members to represent the interests of the operator and employers (other than the operator) of members of the workforce; and
 - (b) provide for the way in which persons who are to be members to represent the interests of members of the workforce are to be chosen.

(4) If regulations made for the purposes of this clause specify procedures for the selection of persons as members of health and safety committees, to represent the interests of members of the workforce, an agreement referred to in subclause (2)(a) must not provide for members to be chosen in a way inconsistent with the regulations.

(5) A health and safety committee must hold a meeting at least once every 3 months.

(6) The procedure at meetings of a health and safety committee must, except to the extent provided for by the regulations, be the procedure agreed upon by the committee.

(7) A health and safety committee must cause minutes of its meetings to be kept, and must retain those minutes for a period of not less than 3 years.

(8) This clause does not prevent an operator from establishing, in consultation with registered unions or any other persons, committees concerned with occupational health and safety in relation to undertakings carried on by the operator.

39. Functions of health and safety committees

(1) A health and safety committee has the following functions:

(a) to assist the operator of the facility concerned –

(i) to develop and implement measures designed to protect; and

(ii) to review and update measures used to protect –

the health and safety at work of members of the workforce;

(b) to facilitate cooperation between the operator of the facility, employers (other than the operator) of members of the workforce, and members of the workforce, in relation to occupational health and safety matters;

(c) to assist the operator to disseminate among members of the workforce, in appropriate languages, information relating to health and safety at work;

(d) any prescribed functions;

(e) any other functions that are agreed between the operator and the health and safety committee.

(2) A health and safety committee has power to do all things necessary or convenient to be done for, or in connection with, the performance of its functions.

(3) This Schedule does not –

(a) impose an obligation on a person to do any act, because the person is a member of a health and safety committee, in connection with the performance of a function conferred on the committee; or

(b) render such a person liable in civil proceedings because of –

(i) a failure to do such an act; or

(ii) the manner in which such an act was done.

40. Duties of the operator and other employers in relation to health and safety committees

(1) If there is a health and safety committee, the operator and any employer (other than the operator) of a member of the workforce must –

(a) make available to the committee any information possessed by the operator or that employer relating to risks to health and safety to members of the workforce; and

(b) permit any member of the committee who is a member of the workforce to take time off work, without loss of remuneration or other entitlements, as is necessary for the member adequately to participate in the performance by the committee of its functions.

(2) Subclause (1)(a) has effect subject to subclauses (3) and (4) .

(3) The operator or any employer (other than the operator) of a member of the workforce must not make available to a health and safety committee information of a confidential nature relating to a person who is or was a member of the workforce, unless –

- (a) the person has authorised the information to be made available to the committee; or
- (b) the information is in a form that does not identify the person or enable the identity of the person to be discovered.

(4) The operator or any employer (other than the operator) of a member of the workforce is not required to make available to a health and safety committee any information in respect of which the operator or employer is entitled to claim, and does claim, legal professional privilege.

Division 4 - Emergency procedures

41. Action by health and safety representatives

(1) If a health and safety representative for a designated work group has reasonable cause to believe that there is an imminent and serious danger to the health or safety of any person at or near the facility unless a group member or group members cease to perform particular work, the representative must –

- (a) inform a person (a "**supervisor**") supervising the group member or group members in the performance of the work of the danger; or
- (b) if no supervisor can be contacted immediately –
 - (i) direct the group member or group members to cease, in a safe manner, to perform the work; and
 - (ii) as soon as practicable, inform a supervisor that the direction has been given.

(2) If a supervisor is informed under subclause (1)(a) of a danger to the health or safety of any person at or near the facility, the supervisor must take the action he or she thinks appropriate to remove that danger, which may include directing a group member or group members to cease, in a safe manner, to perform the work.

(3) If –

- (a) a health and safety representative has informed a supervisor under subclause (1)(a) of a danger; and
- (b) the representative has reasonable cause to believe that, despite any action taken by the supervisor in accordance with subclause (2), there continues to be an imminent and serious danger to the health or safety of any person at or near the facility unless the group member or group members ceases to perform particular work –
the representative must –
- (c) direct the group member or group members to cease, in a safe manner, to perform the work; and
- (d) as soon as practicable, inform the supervisor that the direction has been given.

(4) If –

- (a) a health and safety representative gives a direction under subclause (1)(b), but is unable to agree with a supervisor whom the representative has informed under that subclause that there is a need for a direction under that subclause; or
- (b) a health and safety representative gives a direction under subclause (3)(c) –

the representative or the supervisor may request the Safety Authority or an OHS inspector that an inspection be conducted of the work that is the subject of the direction.

(5) As soon as possible after a request is made, an inspection must be conducted of the work that is the subject of the direction, and the OHS inspector conducting the inspection must make decisions, and exercise powers, under Part 4 as the OHS inspector considers necessary in relation to the work.

(6) This clause does not limit the power of a health and safety representative under clause 31(1)(a)(iii) to request an OHS inspector or the Safety Authority that an inspection be conducted at the workplace.

42. Directions to perform other work

This clause applies if –

(a) a group member who is an employee has ceased to perform work, in accordance with the direction of a health and safety representative under clause 41(1)(b) or clause 41(3)(c) ; and

(b) the cessation of work does not continue after –

(i) the health and safety representative has agreed with a person supervising work at the workplace where the work was being performed that the cessation of work was not, or is no longer, necessary; or

(ii) an OHS inspector has, under clause 41(5) , made a decision to the effect that the employee should perform the work –

the employer may direct the employee to perform suitable alternative work, and the employee is to be taken, for all purposes, to be required to perform that other work under the terms and conditions of the employee's employment.

Division 5 - Exemptions

43. Exemptions

(1) The Safety Authority may, in accordance with the regulations, make a written order exempting a specified person or class of person from any or all of the provisions of this Part (other than this clause).

(2) The Safety Authority must not make an order under subclause (1) unless it is satisfied on reasonable grounds that it is impracticable for the person to comply with the provision or provisions.

PART 4 - Inspections

Division 1 - Powers, functions and duties of OHS inspectors

44. Powers, functions and duties of OHS inspectors

- (1) An OHS inspector has the powers, functions and duties conferred or imposed by the listed OHS laws.
- (2) The Safety Authority may give written directions specifying the manner in which, and the conditions subject to which, powers conferred on OHS inspectors by a listed OHS law are to be exercised. If it does so, the powers of OHS inspectors must be exercised in accordance with those directions.
- (3) The Safety Authority may, by notice in writing, impose restrictions, not inconsistent with any direction in force under subclause (2), on the powers that are conferred on a particular OHS inspector by a listed OHS law. If it does so, the powers of the OHS inspector are taken to have been restricted accordingly.

Division 2 - Inspections

45. Inspections

- (1) An OHS inspector may, at any time, conduct an inspection –
 - (a) to ascertain whether the requirements of, or any requirements properly made under, a listed OHS law are being complied with; or
 - (b) concerning a contravention or a possible contravention of a listed OHS law; or
 - (c) concerning an accident or dangerous occurrence that has happened at a facility.
- (2) The Safety Authority may direct an OHS inspector to conduct an inspection –
 - (a) to ascertain whether the requirements of, or any requirements properly made under, a listed OHS law are being complied with; or
 - (b) concerning a contravention or a possible contravention of a listed OHS law; or
 - (c) concerning an accident or dangerous occurrence that has happened at a facility –and the OHS inspector must, unless the Safety Authority revokes the direction, conduct an inspection accordingly.

Division 3 - Powers of OHS inspectors in relation to conduct of inspections

Subdivision 1 - General powers of entry and search

46. Powers of entry and search – facilities

- (1) An OHS inspector may, for the purposes of an inspection, at any reasonable time during the day or night –
 - (a) enter the facility to which the inspection relates and do all or any of the following:
 - (i) search the facility;
 - (ii) inspect, examine, take measurements of, or conduct tests concerning, any workplace at the facility or any plant, substance or thing at the facility;
 - (iii) take photographs of, make video recordings of, or make sketches of, any workplace at the facility or any plant, substance or thing at the facility;

(iv) inspect, take extracts from, or make copies of, any documents at the facility that the OHS inspector has reasonable grounds to believe relate, or are likely to relate, to the subject matter of the inspection; and

(b) inspect the seabed and subsoil in the vicinity of the facility to which the inspection relates.

(2) Immediately on entering a facility for the purposes of an inspection, an OHS inspector must take reasonable steps to notify the purpose of entering the facility to –

(a) the operator's representative at the facility; and

(b) if there is a health and safety representative for a designated work group having a group member likely to be affected by the matter the subject of the inspection, that representative –

and must, on being requested to do so by the person referred to in paragraph (a) or (b), produce for inspection by that person –

(c) the OHS inspector's identity card; and

(d) a copy of the Safety Authority's written direction (if any) to conduct the inspection; and

(e) a copy of the restrictions (if any) imposed on the powers of the OHS inspector under clause 44(3).

(3) If there is a health and safety representative for a designated work group having a group member likely to be affected by the matter the subject of the inspection, the OHS inspector must afford the health and safety representative a reasonable opportunity to consult on the matter the subject of the inspection.

47. Powers of entry and search – regulated business premises (other than facilities)

(1) An OHS inspector may, for the purposes of an inspection –

(a) at any reasonable time, enter any regulated business premises (other than a facility) if the OHS inspector has reasonable grounds to believe that there are likely to be at those premises documents that relate to a facility that is, or to facility operations that are, the subject of the inspection; and

(b) search for, inspect, take extracts from, or make copies of, any such documents at those premises.

(2) Immediately on entering premises referred to in subclause (1), an OHS inspector must take reasonable steps to notify the purpose of the entry to the occupier of those premises, and must, on being requested to do so by the occupier, produce for inspection by the occupier –

(a) the OHS inspector's identity card; and

(b) a copy of the Safety Authority's written direction (if any) to conduct the inspection; and

(c) a copy of the restrictions (if any) imposed on the powers of the OHS inspector under clause 44(3).

48. Powers of entry and search – premises (other than regulated business premises)

(1) An OHS inspector may, for the purposes of an inspection –

(a) enter any premises (other than regulated business premises) if the OHS inspector has reasonable grounds to believe that there are likely to be at those premises documents that relate to a facility that is, or to facility operations that are, the subject of the inspection; and

(b) search for, inspect, take extracts from, or make copies of, any such documents at those premises.

(2) An OHS inspector may exercise the powers referred to in subclause (1) to enter premises only –

(a) if the premises are not a residence –

(i) in accordance with a warrant under clause 49; or

- (ii) with the consent of the occupier of the premises; or
 - (b) if the premises are a residence, with the consent of the occupier of the premises.
- (3) Immediately on entering premises referred to in subclause (1) , an OHS inspector must –
 - (a) take reasonable steps to notify the purpose of the entry to the occupier of those premises; and
 - (b) take reasonable steps to produce, for inspection by the occupier, the OHS inspector's identity card; and
 - (c) on being requested to do so by the occupier, produce, for inspection by the occupier –
 - (i) a copy of the Safety Authority's written direction (if any) to conduct the inspection; and
 - (ii) a copy of the restrictions (if any) imposed on the powers of the OHS inspector under clause 44(3) .
- (4) If –
 - (a) an OHS inspector enters premises in accordance with a warrant under clause 49 ; and
 - (b) the occupier of the premises is present at the premises –the OHS inspector must make a copy of the warrant available to the occupier.
- (5) Before obtaining the consent of a person as mentioned in subclause (2)(a) or (b) , an OHS inspector must inform the person that –
 - (a) the person may refuse consent; and
 - (b) the consent may be withdrawn.
- (6) The consent of a person is not effective for the purposes of subclause (2) unless the consent is voluntary.

49. Warrant to enter premises (other than regulated business premises)

- (1) An OHS inspector may apply to a magistrate for a warrant authorising the OHS inspector, with any assistance as the OHS inspector thinks necessary, to exercise the powers referred to in clause 48(1) in relation to particular premises (other than a residence).
- (2) The application must be supported by evidence on oath (whether oral or by affidavit) that sets out the grounds on which the OHS inspector is applying for the warrant.
- (3) If the magistrate is satisfied that there are reasonable grounds for issuing the warrant, the magistrate may issue the warrant.
- (4) A warrant issued under subclause (3) must state –
 - (a) the name of the OHS inspector; and
 - (b) whether the inspection may be carried out at any time or only during specified hours of the day; and
 - (c) the day on which the warrant ceases to have effect; and
 - (d) the purposes for which the warrant is issued.
- (5) The day specified under subclause (4)(c) is not to be more than 7 days after the day on which the warrant is issued.
- (6) The purposes specified under subclause (4)(d) must include the identification of the premises in relation to which the warrant is issued.
- (7) The rules to be observed with respect to search warrants under the Search Warrants Act 1997 extend and apply to warrants under this clause except to the extent of any inconsistency with this clause.

50. Obstructing or hindering OHS inspector

A person must not, without reasonable excuse, obstruct or hinder an OHS inspector in the exercise of an OHS inspector's powers under clause 46 , 47 or 48 .

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 275 penalty units; or
- (b) an individual, a fine not exceeding 55 penalty units.

Subdivision 2 - Other powers

51. Power to require assistance and information

(1) An OHS inspector may, to the extent that it is reasonably necessary to do so in connection with the conduct of an inspection, require –

- (a) the operator of a facility; or
- (b) the person in charge of operations at a workplace in relation to a facility; or
- (c) a member of the workforce at a facility; or
- (d) any person representing a person referred to in paragraph (a) or (b) –
to provide the OHS inspector with reasonable assistance and facilities –
- (e) that is or are reasonably connected with the conduct of the inspection at or near the facility;
or
- (f) for the effective exercise of the OHS inspector's powers under this Schedule in connection with the conduct of the inspection at or near the facility.

(2) The reasonable assistance referred to in subclause (1) includes, so far as the operator of the facility is concerned –

- (a) appropriate transport to or from the facility for the OHS inspector and for any equipment required by the OHS inspector, or any article of which the OHS inspector has taken possession;
and
- (b) reasonable accommodation and means of subsistence while the OHS inspector is at the facility.

(3) A person must not fail, without reasonable excuse, to comply with a requirement under this clause.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 165 penalty units; or
- (b) an individual, a fine not exceeding 33 penalty units or imprisonment for a term not exceeding 6 months, or both.

52. Power to require the answering of questions and the production of documents or articles

(1) If –

- (a) an OHS inspector believes on reasonable grounds that a person is capable of answering a question that is reasonably connected with the conduct of an inspection; and
- (b) the person is –
 - (i) the operator of a facility; or
 - (ii) the person in charge of operations at a workplace in relation to a facility; or
 - (iii) a member of the workforce at a facility; or
 - (iv) any person representing a person referred to in subparagraph (i) or (ii) –

the OHS inspector may, to the extent that it is reasonably necessary to do so in connection with the conduct of the inspection, require the person to answer the question put by the OHS inspector.

(2) If, at the time when a requirement under subclause (1) is imposed on a person, the person is not physically present on regulated business premises, the person is not obliged to comply with the requirement unless the requirement –

- (a) is in writing; and
- (b) specifies the day on or before which the question is to be answered (being at least 14 days after the day on which the requirement is imposed); and
- (c) is accompanied by a statement to the effect that a failure to comply with the requirement is an offence.

(3) If –

- (a) an OHS inspector believes on reasonable grounds that a person is capable of producing a document or article that is reasonably connected with the conduct of an inspection; and
- (b) the person is –
 - (i) the operator of a facility; or
 - (ii) the person in charge of operations at a workplace in relation to a facility; or
 - (iii) a member of the workforce at a facility; or
 - (iv) any person representing a person referred to in subparagraph (i) or (ii) –

the OHS inspector may, to the extent that it is reasonably necessary to do so in connection with the conduct of the inspection, require the person to produce the document or article.

(4) If, at the time when a requirement under subclause (3) is imposed on a person, the person is not physically present on regulated business premises, the person is not obliged to comply with the requirement unless the requirement –

- (a) is in writing; and
- (b) specifies the day on or before which the document or article is to be produced (being at least 14 days after the day on which the requirement is imposed); and
- (c) is accompanied by a statement to the effect that a failure to comply with the requirement is an offence.

(5) A person must not –

- (a) fail, without reasonable excuse, to comply with a requirement under this clause; or
- (b) in purported compliance with a requirement under this clause, give information that is false or misleading in a material particular.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 165 penalty units; or
- (b) an individual, a fine not exceeding 33 penalty units or imprisonment for a term not exceeding 6 months, or both.

53. Privilege against self-incrimination

(1) A person is not excused from answering a question or producing a document or article when required to do so under clause 52 on the ground that the answer to the question, or the production of the document or article, may tend to incriminate the person or make the person liable to a penalty.

(2) However –

- (a) the answer given or document or article produced; or
- (b) answering the question or producing the document or article; or
- (c) any information, document or thing obtained as a direct or indirect consequence of the answering of the question or the production of the document or article –
is not admissible in evidence against the person –
- (d) in any civil proceedings; or
- (e) in any criminal proceedings other than proceedings for an offence against clause 52 .

54. Power to take possession of plant, take samples of substances, &c.

(1) In conducting an inspection, an OHS inspector may, to the extent that it is reasonably necessary for the purposes of inspecting, examining, taking measurements of or conducting tests concerning any plant, substance or thing at a facility in connection with the inspection –

- (a) take possession of the plant, substance or thing and remove it from the facility; or
- (b) take a sample of the substance or thing and remove that sample from the facility.

(2) On taking possession of plant, a substance or a thing, or taking a sample of a substance or thing, the OHS inspector must, by notice in writing, inform –

- (a) the operator of the facility; and
- (b) if the plant, substance or thing is used for the performance of work by an employer of a member or members of the workforce at the facility other than the operator of the facility, that employer; and
- (c) if the plant, substance or thing is owned by a person other than a person mentioned in paragraph (a) or (b) , that person; and
- (d) if there is a health and safety representative for a designated work group that includes a member of the workforce who is affected by the matter to which the inspection relates, that representative –

of the taking of possession or the taking of the sample, as the case may be, and the reasons for it.

(3) If the OHS inspector gives the notice to the operator of the facility to which the inspection relates, the operator's representative at the facility must cause the notice to be displayed in a prominent place at the workplace from which the plant, substance or thing was removed.

(4) If the OHS inspector takes possession of plant, a substance or a thing at a workplace for the purpose of inspecting, examining, taking measurements of or conducting tests concerning the plant, substance or thing, the OHS inspector must –

- (a) ensure that the inspection, examination, measuring or testing is conducted as soon as practicable; and
- (b) return it to the workplace as soon as practicable afterwards.

(5) As soon as practicable after completing any such inspection, examination, measurement or testing, the inspector must give a written statement setting out the results to each person whom the inspector is required to notify under subclause (2) .

55. Power to direct that workplace, &c., not be disturbed

(1) An OHS inspector may give a direction under subclause (2) if, in conducting an inspection, the OHS inspector has reasonable grounds to believe that it is reasonably necessary to do so in order to –

- (a) remove an immediate threat to the health or safety of any person; or
- (b) allow the inspection, examination or taking of measurements of, or conducting of tests concerning, a facility or any plant, substance or thing at the facility.

(2) If subclause (1) applies, the OHS inspector may direct, by written notice given to the operator's representative at the facility, that the operator must ensure that –

(a) a particular workplace; or

(b) particular plant, or a particular substance or thing –

not be disturbed for a period specified in the direction.

(3) The period specified in the direction must be a period that the OHS inspector has reasonable grounds to believe is necessary in order to remove the threat or to allow the inspection, examination, measuring or testing to take place.

(4) The direction may be renewed by another direction in the same terms.

(5) If an OHS inspector gives a notice to the operator's representative under subclause (2), the operator's representative must cause the notice to be displayed in a prominent place at the workplace –

(a) that is to be left undisturbed; or

(b) where the plant, substance or thing that is to be left undisturbed is located.

(6) As soon as practicable after giving the direction, the OHS inspector must take reasonable steps to notify –

(a) if the workplace, plant, substance or thing to which the direction relates is owned by a person other than the operator of the facility, that person; and

(b) if there is a health and safety representative for a designated work group that includes a group member performing work –

(i) at a workplace; or

(ii) involving the plant, substance or thing –

to which the direction relates, that representative –

of the direction and the reasons for giving it.

(7) The operator of a facility to which a direction concerning a workplace, plant, substance or a thing relates must ensure that the direction is complied with.

Penalty: In the case of –

(a) a body corporate, a fine not exceeding 1 375 penalty units; or

(b) an individual, a fine not exceeding 275 penalty units.

(8) A direction under subclause (2) must be accompanied by a statement setting out the reasons for the direction.

56. Power to issue prohibition notices

(1) If, having conducted an inspection, an OHS inspector is satisfied on reasonable grounds that it is reasonably necessary to issue a prohibition notice to the operator of a facility in order to remove an immediate threat to the health or safety of any person, the OHS inspector may issue a prohibition notice, in writing, to the operator.

(2) The notice must be issued to the operator by giving it to the operator's representative at the facility.

(3) The notice must –

(a) specify the activity in respect of which, in the OHS inspector's opinion, the threat to health or safety has arisen, and set out the reasons for that opinion; and

(b) either –

(i) direct the operator to ensure that the activity is not engaged in; or

(ii) direct the operator to ensure that the activity is not engaged in in a specified manner.

(4) A specified manner may relate to any one or more of the following:

- (a) any workplace, or part of a workplace, at which the activity is not to be engaged in;
- (b) any plant or substance that is not to be used in connection with the activity;
- (c) any procedure that is not to be followed in connection with the activity.

(5) The notice may specify action that may be taken to satisfy an OHS inspector that adequate action has been taken to remove the threat to health and safety.

(6) The operator's representative at the facility must –

- (a) give a copy of the notice to each health and safety representative (if any) for any designated work group having group members performing work that is affected by the notice; and
- (b) cause a copy of the notice to be displayed at a prominent place at or near each workplace at which that work is performed.

(7) If the notice relates to any workplace, plant, substance or thing that is owned by a person other than the operator, the OHS inspector must, upon issuing the notice, give a copy of the notice to that person.

57. Compliance with prohibition notice

(1) An operator must ensure that a prohibition notice issued to the operator is complied with.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 1 375 penalty units; or
- (b) an individual, a fine not exceeding 275 penalty units.

(2) If an OHS inspector is satisfied that action taken by the operator to remove the threat to health and safety in respect of which the notice was issued is not adequate, the OHS inspector must inform the operator accordingly.

(3) A prohibition notice ceases to have effect when an OHS inspector notifies the operator that the OHS inspector is satisfied that the operator has taken adequate action to remove the threat to health or safety.

(4) In making a decision under subclause (2) , an OHS inspector may exercise any of the powers of an OHS inspector conducting an inspection that the OHS inspector considers necessary for the purposes of making the decision.

58. Power to issue improvement notices

(1) If, in conducting an inspection, an OHS inspector believes on reasonable grounds that a person –

- (a) is contravening a provision of a listed OHS law; or
- (b) has contravened a provision of a listed OHS law and is likely to contravene that provision again –

the OHS inspector may issue an improvement notice, in writing, to the person (the "**responsible person**").

(2) If the responsible person is the operator, the improvement notice may be issued to the operator by giving it to the operator's representative at the facility.

(3) If the responsible person is an employer (other than the operator) of members of the workforce, but it is not practicable to give the notice to that employer –

- (a) the improvement notice may be issued to the employer by giving it to the operator's representative at the facility; and

(b) if the notice is so issued, the operator must ensure that a copy of the notice is given to the employer as soon as practicable afterwards.

(4) The notice –

(a) must specify the contravention that the OHS inspector believes is occurring or is likely to occur, and set out the reasons for that belief; and

(b) must specify a reasonable period within which the responsible person is to take the action necessary to prevent any further contravention or to prevent the likely contravention, as the case may be; and

(c) may specify action that the responsible person is to take during the period specified in the notice.

(5) If the OHS inspector believes on reasonable grounds that it is appropriate to do so, the OHS inspector may, in writing and before the end of the period, extend the period specified in the notice.

(6) If an improvement notice is issued to an employer (other than the operator) of members of the workforce in circumstances other than the circumstance referred to in subclause (3), the employer must immediately ensure that a copy of the notice is given to the operator's representative at the facility.

(7) If a notice is issued to the operator or to an employer (other than the operator) of members of the workforce, the operator's representative at the facility must –

(a) give a copy of the notice to each health and safety representative for a designated work group having group members performing work that is affected by the notice; and

(b) cause a copy of the notice to be displayed in a prominent place at or near each workplace at which the work is being performed.

(8) On issuing a notice, the OHS inspector must give a copy of the notice to –

(a) if the notice is –

(i) given to a member of the workforce who is an employee; and

(ii) in connection with work performed by the employee –

the employer of that employee; and

(b) if the notice relates to any workplace, plant, substance or thing that is owned by a person other than –

(i) a responsible person; or

(ii) a person who is an employer referred to in paragraph (a) –

that owner; and

(c) if the notice is issued to a person who owns any workplace, plant, substance or thing, because of which a contravention of a listed OHS law has occurred or is likely to occur –

(i) the operator of the facility; and

(ii) if the employer of employees who work in that workplace or who use that plant, substance or thing is a person other than the operator, that employer.

59. Compliance with improvement notice

A person to whom an improvement notice is issued must comply with it to the extent that the notice relates to any matter over which the person has control.

Penalty: In the case of –

(a) a body corporate, a fine not exceeding 550 penalty units; or

(b) an individual, a fine not exceeding 110 penalty units.

60. Notices not to be tampered with or removed

(1) A person must not, without reasonable excuse, tamper with any notice that has been displayed under clause 54(3) , clause 55(5) , clause 56(6) or clause 58(7) while that notice is so displayed.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 550 penalty units; or
- (b) an individual, a fine not exceeding 110 penalty units.

(2) If a notice has been displayed under clause 54(3) , a person must not, without reasonable excuse, remove the notice until the plant or thing to which the notice relates is returned to the workplace from which it was removed.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 550 penalty units; or
- (b) an individual, a fine not exceeding 110 penalty units.

(3) If a notice has been displayed under clause 55(5) , clause 56(6) or clause 58(7) , a person must not, without reasonable excuse, remove the notice before it has ceased to have effect.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 550 penalty units; or
- (b) an individual, a fine not exceeding 110 penalty units.

Division 4 - Reports on inspections

61. Reports on inspections

(1) If an OHS inspector has conducted an inspection, the OHS inspector must, as soon as practicable, prepare a written report relating to the inspection and give the report to the Safety Authority.

(2) The report must include –

- (a) the OHS inspector's conclusions from conducting the inspection and the reasons for those conclusions; and
- (b) any recommendations that the OHS inspector wishes to make arising from the inspection; and
- (c) any other prescribed matters.

(3) As soon as practicable after receiving the report, the Safety Authority must give a copy of the report, together with any written comments that it wishes to make –

- (a) to the operator of the facility to which the report relates; and
- (b) if the report relates to activities performed by an employee of another person, that other person; and
- (c) if the report relates to any plant, substance or thing owned by another person, that other person.

(4) The Safety Authority may, in writing, request the operator or any other person to whom the report is given to provide to the Safety Authority, within a reasonable period specified in the request, details of –

- (a) any action proposed to be taken as a result of the conclusions or recommendations contained in the report; and

(b) if a notice has been issued under clause 56 or 58 in relation to work being performed for the operator or that other person, any action taken, or proposed to be taken, in respect of that notice – and the operator or that other person must comply with the request.

(5) As soon as practicable after receiving a report, the operator of a facility must give a copy of the report, together with any written comment made by the Safety Authority on the report –

(a) if there is at least one health and safety committee in respect of some or all of the members of the workforce, to each such committee; and

(b) if there is no such committee in respect of some or all of the members of the workforce, but some or all of those members (in respect of which there is no such committee) are in at least one designated work group for which there is a health and safety representative, to each such health and safety representative.

Division 5 - Appeals

62. Appeals

(1) If an OHS inspector, in conducting an inspection or having conducted an inspection –

(a) decides, under clause 36 , to confirm or vary a provisional improvement notice; or

(b) decides, under clause 54 , to take possession of plant, a substance or a thing at a workplace;
or

(c) decides, under clause 55 , to direct that a workplace, a part of a workplace, plant, a substance or a thing not be disturbed; or

(d) decides, under clause 56 , to issue a prohibition notice; or

(e) decides, under clause 57 , that the operator of a facility to whom a prohibition notice has been issued has not taken adequate action to remove the threat to health and safety that caused the notice to be issued; or

(f) decides, under clause 58 , to issue an improvement notice –

a person referred to in subclause (2) may appeal to the reviewing authority against the decision, by giving notice in writing to the reviewing authority.

(2) The following persons may appeal, as applicable:

(a) the operator of the facility or any employer (other than the operator) who is affected by the decision;

(b) a person to whom a notice has been issued under clause 35(2) or clause 58(1) ;

(c) the health and safety representative for a designated work group having a group member affected by the decision;

(d) a workforce representative in relation to the designated work group that includes a group member who is affected by the decision and who has requested the workforce representative to make the appeal;

(e) if there is no such designated work group, and a member of the workforce affected by the decision has requested a workforce representative in relation to the member to make the appeal, that workforce representative;

(f) a person who owns any workplace, plant, substance or thing to which the decision referred to in subclause (1)(a) , (b) , (c) or (f) relates.

(3) If an OHS inspector, having conducted an inspection –

(a) decides under clause 36 to cancel a provisional improvement notice; or

(b) decides under clause 57 that the operator of a facility to whom a prohibition notice has been issued has taken adequate action to remove the threat to health and safety that caused the notice to be issued –

an appeal against a decision may be made, by notice in writing, to the reviewing authority by –

(c) the health and safety representative for a designated work group having a group member affected by the decision; or

(d) a workforce representative in relation to the designated work group that includes a group member who is affected by the decision and who has requested the workforce representative to make the appeal; or

(e) if there is no such designated work group, and a member of the workforce affected by the decision has requested a workforce representative in relation to the member to make the appeal, that workforce representative.

(4) Subject to this clause, giving notice of an appeal does not affect the operation of the decision appealed against or prevent the taking of action to implement that decision, except to the extent that the reviewing authority makes an order to the contrary.

(5) If the decision appealed against is a decision, under clause 58 , to issue an improvement notice, the operation of the decision is suspended pending determination of the appeal, except to the extent that the reviewing authority makes an order to the contrary.

(6) If the decision appealed against is a decision of an OHS inspector, under clause 36 , to confirm or vary a provisional improvement notice whose operation has been suspended pending the inspection of the matter to which the notice relates, the operation of the notice is further suspended pending determination of the appeal, except to the extent that the reviewing authority makes an order to the contrary.

63. Powers of reviewing authority on appeal

(1) On an appeal, the reviewing authority may –

(a) affirm or revoke the decision appealed against; and

(b) if it revokes the decision, substitute any other decision of the kind appealed against that it thinks appropriate.

(2) If the decision is –

(a) varied; or

(b) revoked; or

(c) revoked with the substitution of another decision –

the decision is taken to have effect, and always to have had effect, accordingly.

(3) If –

(a) the decision appealed against is a decision, under clause 54 , to take possession of plant, substance or a thing at a workplace; and

(b) the decision is not affirmed –

the OHS inspector who made the decision must ensure that, to the extent that the decision is not affirmed, the plant, substance or thing is returned to the workplace as soon as practicable.

PART 5 - General

64. Notifying and reporting accidents and dangerous occurrences

(1) If, at or near a facility, there is –

- (a) an accident that causes the death of, or serious personal injury to, any person; or
- (b) an accident that causes a member of the workforce to be incapacitated from performing work for a period prescribed for the purposes of this paragraph; or
- (c) a dangerous occurrence –

the operator must, in accordance with the regulations, give the Safety Authority notice of, and a report about, the accident or dangerous occurrence.

(2) Regulations made for the purposes of subclause (1) (other than regulations made for the purpose of subclause (1)(b)) may prescribe –

- (a) the time within which, and the manner in which, notice of an accident or dangerous occurrence is to be given, and the form of the notice; and
- (b) the time within which, and the manner in which, a report of an accident or dangerous occurrence is to be given, and the form of the report.

(3) Subclause (2) does not limit regulations that may be made for the purposes of subclause (1) .

65. Records of accidents and dangerous occurrences to be kept

(1) The operator of a facility must maintain, in accordance with the regulations, a record of each accident or dangerous occurrence in respect of which the operator is required by clause 64 to notify the Safety Authority.

(2) Regulations made for the purposes of subclause (1) may prescribe –

- (a) the nature of the contents of a record maintained under this clause; and
- (b) the period for which the record must be retained.

(3) Subclause (2) does not limit regulations that may be made for the purposes of subclause (1) .

66. Code of practice

(1) The regulations may prescribe codes of practice for the purpose of providing practical guidance to operators of facilities and employers (other than operators) of members of the workforce at facilities.

(2) A person is not liable to any civil or criminal proceedings for contravening a code of practice.

67. Use of codes of practice in proceedings

(1) This clause applies if, in any proceedings for an offence against a listed OHS law, it is alleged that a person contravened a provision of a listed OHS law in relation to which a code of practice was in effect at the time of the alleged contravention.

(2) The code of practice is admissible in evidence in those proceedings.

(3) If the court is satisfied, in relation to any matter which it is necessary for the prosecution to prove in order to establish the alleged contravention, that –

- (a) any provision of the code of practice is relevant to that matter; and
- (b) the person failed at any material time to comply with that provision of the code of practice –

that matter is treated as proved unless the court is satisfied that in respect of that matter the person complied with that provision of a listed OHS law otherwise than by complying with the code of practice.

68. Interference, &c., with equipment, &c.

A person must not, without reasonable excuse, do anything that results in the interference with, or the rendering ineffective of, any protective equipment or safety device provided for the occupational health and safety or welfare of members of the workforce at a facility if the person knew (or ought reasonably to have known) that the equipment or device was protective equipment or a safety device.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 165 penalty units; or
- (b) a natural person, a fine not exceeding 33 penalty units or imprisonment for a term not exceeding 6 months, or both.

69. Members of workforce not to be levied

The operator of a facility or an employer (other than the operator) of members of the workforce at a facility must not levy, or permit to be levied, on a member of the workforce any charge in respect of anything done or provided in accordance with a listed OHS law in order to ensure the occupational health and safety or welfare of persons at or near the facility.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 1 375 penalty units; or
- (b) an individual, a fine not exceeding 275 penalty units.

70. Victimisation

(1) An employer (whether the operator or another person) must not –

- (a) dismiss an employee; or
- (b) perform an act that results in injury to an employee in his or her employment; or
- (c) perform an act that prejudicially alters the employee's position (whether by deducting or withholding remuneration or by any other means); or
- (d) threaten to do any of those things –
because the employee –
 - (e) has complained or proposes to complain about a matter concerning the health, safety or welfare of employees at work; or
 - (f) has assisted or proposes to assist, by giving information or otherwise, the conduct of an inspection; or
 - (g) has ceased, or proposes to cease, to perform work, in accordance with a direction by a health and safety representative under clause 41(1)(b) or clause 41(3)(c) , and the cessation or proposed cessation does not continue after –
 - (i) the health and safety representative has agreed with a person supervising the work that the cessation or proposed cessation was not, or is no longer, necessary; or
 - (ii) an OHS inspector has, under clause 41(5) , made a decision that has the effect that the employee should perform the work.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 1 375 penalty units; or
- (b) an individual, a fine not exceeding 275 penalty units.

(2) In proceedings for an offence against subclause (1) , if all the relevant facts and circumstances, other than the reason for an action alleged in the charge, are proved, the defendant has the onus of establishing

that the action was not taken for that reason.

71. Institution of prosecutions

(1) Proceedings for an offence against a listed OHS law may be instituted by the Safety Authority or by an OHS inspector.

(2) A health and safety representative for a designated work group may request the Safety Authority to institute proceedings for an offence against a listed OHS law in relation to the occurrence of an act or omission if –

- (a) a period of 6 months has elapsed since the act or omission occurred; and
- (b) the health and safety representative considers that the occurrence of the act or omission constitutes an offence against a listed OHS law; and
- (c) proceedings in respect of the offence have not been instituted.

(3) A workforce representative in relation to a designated work group may request the Safety Authority to institute proceedings for an offence against a listed OHS law in relation to the occurrence of an act or omission if –

- (a) a period of 6 months has elapsed since the act or omission occurred; and
- (b) the workforce representative considers that the occurrence of the act or omission constitutes an offence against a listed OHS law; and
- (c) proceedings in respect of the offence have not been instituted; and
- (d) a group member included in the group requests the workforce representative to request the Safety Authority to institute the proceedings.

(4) A request under subclause (2) or (3) must be in writing.

(5) The Safety Authority must, within 3 months after receiving the request, advise the health and safety representative or the workforce representative, as the case may be, whether proceedings under subclause (1) have been or will be instituted, and, if not, give reasons why not.

72. Role of Commonwealth DPP

The Commonwealth Director of Public Prosecutions has the same functions and powers in respect of an offence against a listed OHS law as he or she would have if that offence were an offence against a law of the Commonwealth, including the power to institute and carry on an appeal arising out of a prosecution for that offence.

73. Conduct of directors, employees and agents

(1) This clause has effect for the purposes of a proceeding for an offence against a listed OHS law.

(2) If it is necessary to establish the state of mind of a body corporate in relation to particular conduct, it is sufficient to show –

- (a) that the conduct was engaged in by a director, employee or agent of the body corporate within the scope of actual or apparent authority; and
- (b) that the director, employee or agent had the state of mind.

(3) Any conduct engaged in on behalf of a body corporate by a director, employee or agent of the body corporate within the scope of actual or apparent authority is taken to have been engaged in also by the body corporate unless it establishes that it took reasonable precautions and exercised due diligence to avoid the conduct.

(4) If it is necessary to establish the state of mind of a natural person in relation to particular conduct, it is sufficient to show –

- (a) that the conduct was engaged in by an employee or agent of the natural person within the scope of actual or apparent authority; and

(b) that the employee or agent had the state of mind.

(5) Any conduct engaged in on behalf of a natural person by an employee or agent of the natural person within the scope of actual or apparent authority is taken to have been engaged in also by the natural person unless the natural person establishes that he or she took reasonable precautions and exercised due diligence to avoid the conduct.

(6) If –

(a) a natural person is convicted of an offence; and

(b) he or she would not have been convicted of the offence if subclauses (4) and (5) had not been enacted –

he or she is not liable to be punished by imprisonment for that offence.

(7) A reference in subclause (2) or (4) to the state of mind of a person includes a reference to –

(a) the person's knowledge, intention, opinion, belief or purpose; and

(b) the person's reasons for the intention, opinion, belief or purpose.

74. Act not to give rise to other liabilities, &c.

This Schedule does not –

(a) confer a right of action in any civil proceeding in respect of any contravention of a provision of a listed OHS law; or

(b) confer a defence to an action in any civil proceeding or otherwise affect a right of action in any civil proceeding.

75. Circumstances preventing compliance may be defence to prosecution

It is a defence to a prosecution for refusing or failing to do anything required by a listed OHS law if the defendant proves that it was not practicable to do it because of an emergency prevailing at the relevant time.

76. Regulations – general

(1) The regulations may prescribe –

(a) procedures for the selection of persons, under clause 38, as members of health and safety committees, to represent the interests of members of the workforce at a facility; and

(b) procedures to be followed at meetings of health and safety committees; and

(c) the manner in which notices are to be served under this Schedule or the regulations; and

(d) forms for the purposes of this Schedule or the regulations.

(2) If the Minister is satisfied that –

(a) a power, function or duty is conferred or imposed on a person under a law of this State or the Commonwealth; and

(b) the proper exercise of the power or performance of the function or duty is or would be prevented by this Schedule or a provision of this Schedule –

regulations made for the purposes of this subclause may declare that this Schedule, or the provision, as the case may be, does not apply to that person, or does not apply to that person in the circumstances specified in the regulations.

(3) Regulations made for the purposes of subclause (2) do not remain in force for longer than 5 years after they commence, but this subclause does not prevent the making of further regulations of the same substance.

(4) In subclause (2) –

this Schedule includes regulations made for the purposes of this Schedule.

